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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/942,625	09/16/2004	Dale A. Stover	26.2.D37/USA	9105

61145 7590 01/16/2009
JAMES W. MILLER, ATTORNEY
527 MARQUETTE AVENUE
SUITE 1960, RAND TOWER
MINNEAPOLIS, MN 55402

EXAMINER
FABIAN-KOVACS, ARPAD

ART UNIT	PAPER NUMBER
3671	

MAIL DATE	DELIVERY MODE
01/16/2009	PAPER

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

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

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JAN 16 2009

JAMES W. MILLER, ESQ.
RAND TOWER, SUITE 1960
527 MARQUETTE AVENUE
MINNEAPOLIS, MN 55402

In re application of: Stover et al.

Serial Number: 10/942,625	:	PETITION UNDER 37 CFR 1.144
FILED: September 16, 2004	:	FOR SUPERVISORY REVIEW
DOCKET # 26.2.D37/USA	:	OF A RESTRICTION REQUIREMENT

FOR: GROUND SPEED CONTROL SYSTEM
WITH CRUISE CONTROL AND LOCKOUT LEVER

This is in response to the petition filed on August 23, 2007 for review of the restriction requirement mailed on February 6, 2007 and made final on April 23, 2007.

Applicant petitions for review of the restriction requirement between Groups I and III, set forth in the Restriction Requirement mailed on February 6, 2007 and made final on April 23, 2007. Applicant does not wish review of the restriction requirement dated September 28, 2006 or the restriction requirement of Group II in the Restriction Requirement mailed on February 6, 2007. The effect of the Grant of this petition would be the reinstatement of claims 19-27.

The petition is **GRANTED**.

On February 6, 2007 a requirement for restriction was mailed between Group I, claims 1-12, drawn to a control, handle grip movable in the speed increasing direction and Group III, claims 19-27, a toothed rack on a handle grip and rotatable or pivotal lever. The examiner provided reasons for restriction between Groups I and III as being related as subcombinations disclosed as usable together. For the record, this restriction requirement also included a Group II, but that group is not a subject of this petition as set forth above.

Applicants response filed on April 6, 2007 traversed the restriction requirement with the following arguments: 1.) The groups I and III are not distinct from one another because they overlap in scope, i.e. they are directed to a single invention; 2.) The dependent claims from claim 1 recite many of the features found in independent claims 19 and 24 of Group III; and 3.) the restriction requirement did not set forth a distinction between Groups I and II and 4.) the search for any one group of claims would encompass a search for the subject matter of the remaining claims.

With respect to these points, the examiner responded to the traversal by indicating that the table presented in applicant's traversal did not take into account the slide means found in claim 24. The examiner did not provide any significant arguments with respect to arguments 2-4 above.

Applicant's arguments in the petition and traversal center around whether the claims involved are actually all related to a single invention and that the claims merely vary in scope. After reviewing the claims and arguments, it is agreed that applicant positions is correct. It is further noted that since many claims that depend from claim 1 include subject matter that is found in the claims of Group III, the examiner has failed to show why a serious search burden would exist.

As a result, the restriction requirement between Groups I and III is withdrawn and claims 19-27 are reinstated. The application is being returned to the examiner for consideration of claims 19-27 on the merits.

Any question concerning this decision should be referred to SPE Thomas B. Will at (571) 272-6998.

Frederick Schmidt
Director, Technology Center 3600
(571) 272-5150

Tbw/: 1/6/09
TL

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LAKE ZURICH IL 60047

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OFFICE OF PETITIONS

In re Application of	:	
Giugliano et al.	:	
Application No. 10/942,634	:	ON PETITION
Filed: September 16, 2004	:	
Attorney Docket No. TE10	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed November 27, 2006, to revive the above-identified application.

The petition is **GRANTED.**

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

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

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Meredith & Keyhani, PLLC
330 Madison Avenue, 6th Floor
New York, NY 10017

In re Application of	:	
Michael MEYHOEFER	:	
Application No. 10/942,649	:	DECISION ON PETITION
Filed: September 16, 2004	:	TO WITHDRAW
Attorney Docket No. 371-005	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 17, 2006 and re-submitted on May 21, 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 Jennifer Meredith 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 Michael Meyhoefer at the address indicated below.

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

David Bucci
Petitions Examiner
Office of Petitions

cc: Michael Meyhoefer
64 Triangle Street, Unit H-1
Danbury, CT 06810

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500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

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JAN 30 2009

OFFICE OF PETITIONS

In re Application of
Patariu, et al.
Application No. 10/942,657
Filed: September 16, 2004
Attorney Docket No. 15494US02

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

This is a decision on petition filed September 22, 2008, which is being treated as petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the 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, a 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.

With respect to (3) above: 37 CFR § 1.78(a)(6) requires a statement that the entire delay between the date the claim was due under 37 CFR § 1.78(a)(5)(ii) and the date the claim was filed was unintentional. Since the statement appearing in the petition varies from the required language (it only addresses the added nonprovisional application), the statement is being construed as the statement required by 37 CFR §1.78(a)(6). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

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

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3230. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2436 for consideration by the examiner of the claim under 35 U.S.C. § §120 and 119(e) of the prior-filed nonprovisional and provisional applications and for consideration of the September 22, 2008 amendment filed in response to the May 21, 2008 non-final Office action.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

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CHARLES E. BAXLEY, ESQ.
90 JOHN STREET
THIRD FLOOR
NEW YORK NY 10038

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MAY 27 2008

In re Application of	:	
Frank **CATALLO** et al.	:	
Application No. 10/942,670	:	DECISION ON PETITION
Filed: September 16, 2004	:	
Attorney Docket No. **R 14048 B**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 30, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before December 26, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed September 26, 2007. Accordingly, the date of abandonment of this application is December 27, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $720 and the publication fee of $300, (2) the petition fee of $770; and (3) a proper statement of unintentional delay. Accordingly, the Issue Fee and the Publication Fee payment is accepted as having been unintentionally delayed.

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

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

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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NEW BRUNSWICK, NJ 08933-7003

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MAY 0 5 2005

OFFICE OF PETITIONS

In re Application of	:	
Michael Tokarski, James Peck, Edward	:	
Dzwill, George Brock, Roger Smith, Michael	:	
D. Schulte and Michael Scott Ulrich	:	
Application No. 10/942,676	:	DECISION REFUSING STATUS
Filed: September 16, 2004	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. VTN-5029USPN	:	

This is in response to the "Petition Under 37 CFR 1.47(a)," filed April 11, 2005 (Certificate of Mailing date: April 7, 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 16, 2004 without an executed oath or declaration and naming Michael Tokarski, James Peck, Edward Dzwill, George Brock, Roger Smith, Michael D. Schulte and Michael Scott Ulrich as joint inventors.

Accordingly, on November 8, 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 April 11, 2005 (Certificate of Mailing date: April 7, 2005), the instant petition and a three (3) 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 (2), as set forth above.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. The signature block for each joint inventor notes that the inventor is the "sole or first inventor." However, see MPEP 602:

> "When joint inventors execute separate oaths or declarations, each oath or declaration should make reference to the fact that the affiant is a joint inventor together with each of the other inventors indicating them by name. This may be done by stating that he or she does verily believe himself or herself to be the original, first and joint inventor together with 'A' or 'A & B, etc.' as the facts may be."

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

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

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

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

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

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

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OFFICE OF PETITIONS

In re Application of Michael Tokarski, James Peck, Edward Dzwill, George Brock, Roger Smith, Michael D. Schulte and Michael Scott Ulrich Application No. 10/942,676 Filed: September 16, 2004 Attorney Docket No. VTN-5029USPN	: : : : : : :	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 June 30, 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 3700 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

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JAMES PECK
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APT. 1406
MAPLE GROVE, MN 55369

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OFFICE OF PETITIONS

In re Application of
Michael Tokarski, James Peck, Edward Dzwill,
George Brock, Roger Smith, Michael D. Schulte
and Michael Scott Ulrich
Application No. 10/942,676
Filed: September 16, 2004
Attorney Docket No. VTN-5029USPN

Dear JAMES PECK:

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

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Patent No. : 7,141,830 B2
Serial No. : 10/942,697
Inventor(s) : Huang et al.
Issued : November 28, 2006
Title : **SEMICONDUCTOR LIGHT EMITTING DEVICE AND METHOD OF MAKING THE SAME**
Docket No. : IPTEC-0003

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.

A petition under 37 CFR 1.182 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 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.

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).

Ernest C. White, *LIE*
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) **308-9390 x 122**

HOFFMAN WARNICK & D'ALESSANDRO, LLC
75 STATE STREET
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ALBANY NY 12207

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HOFFMAN WARNICK LLC
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ALBANY NY 12207

In re Patent No. 7,141,830 :
Issue Date: November 28, 2006 :
Application No. 10/942,697 : DECISION ON PETITION
Filed: September 16, 2004 :
Attorney Docket No. IPTEC-0003 :

This is a decision on the Petition For Certificate Of Correction Under 37 CFR 1.323, filed August 14, 2008, requesting correction on the Title Page of the subject patent, via issuance of a Certificate of Correction under 37 CFR 1.323, to identify the name of assignee. The Request has been treated as a Petition under 37 CFR 3.81. A completed Certificate of Correction Form (PTO/SB/44) was accompanied the petition.

The petition under 37 CFR 3.81 is **GRANTED**.

Petitioner urges that the present Petition was submitted to correct the assignee's name on the previously submitted PTOL-85B and that such error was inadvertently inserted incorrect on form PTOL-85B. Accordingly, petitioner requests, in effect, that the Title Page of the above-identified patent be corrected, via issuance of a Certificate of Correction (PTO/SB/44), to correct the name of the assignee identified thereon from "Mediatek, Incorporated" to:

-Epistar Corporation-

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.

As such, the requisite $100.00 fee (Fee Code 1811) as set forth under 37 CFR 1.20(a), and the requisite $130.00 processing fee (Fee Code 1464) as set forth under 37 CFR 1.17(i) have been previously submitted. Further, Office assignment records are consistent with the requested correction. Accordingly, as the Petition complies with the provisions of 37 CFR 3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form PTO/SB/44 accompanied the petition.

Inquiries related this communication should be directed to Cheryl Gibson-Baylor at (571)272-3213.

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

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,141,830.

Brian W. Brown
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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CARLSON, GASKEY & OLDS, P.C.
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM MI 48009

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OFFICE OF PETITIONS

In re Application of

Tomaz Dopico Varela

Application No. 10/942,709

Filed: September 16, 2004

Attorney Docket No. 60,130-2190

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), November 6, 2007, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee and publication fee as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed July 2, 2007. The Notice set forth a three (3) month statutory period for reply. No response was received within the allowable period. Accordingly, this application became abandoned on October 2, 2007. The Notice of Abandonment was mailed on October 26, 2007.

The issue fee and publication fee were received on November 6, 2007.

Form PTOL-85B, filed November 6, 2007, is noted and made of record.

The application is being directed to the Office of Patent Publications for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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.
10/942,714	09/16/2004	Hyeung-Yun Kim	ASM-P002	2394

21839 7590 05/31/2007
BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

EXAMINER
BARAN, MARY C

ART UNIT	PAPER NUMBER
2857	

MAIL DATE	DELIVERY MODE
05/31/2007	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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In re KIM, HYEUNG-YUN
Appl No.: 10/942,714
Filed: September 16, 2004
For: **METHODS FOR MONITORING STRUCTURAL HEALTH CONDITIONS**

DECISION ON PETITION
37 CFR 1.84

The following is a decision on the January 30, 2007 petition entitled "PETITION TO ACCEPT COLOR DRAWING".

The petition is GRANTED.

Petitioner's submission of color drawings labeled 14D and 14E have been retained in an artifact folder and upon review of these figures the following comment is made.

The text of the pertinent section of 37 CFR 1.84 is here reproduced:

> 37 CFR 1.84. (a) (2) Color. On rare occasions, color drawings may be necessary as the only practical medium by which to disclose the subject matter sought to be patented in a utility or design patent application or the subject matter of a statutory invention registration. The color drawings must be of sufficient quality such that all details in the drawings are reproducible in black and white in the printed patent. Color drawings are not permitted in international applications (see PCT Rule 11.13), or in an application, or copy thereof, submitted under the Office electronic filing system. The Office will accept color drawings in utility or design patent applications and statutory invention registrations only after granting a petition filed under this paragraph explaining why the color drawings are necessary. Any such petition must include the following:
>
> (i) The fee set forth in § 1.17(h);
>
> (ii) Three (3) sets of color drawings;
>
> (iii) An amendment to the specification to insert (unless the specification contains or has been previously amended to contain) the following language as the first paragraph of 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.

As petitioner's submission met all the requirements of § 1.84(a)(2), the drawings are accepted into the record.

The amendment to the first paged of the specification shall be entered. The application is forwarded to the examiner in charge thereof for further action.

John E. Barlow
Supervisory Patent Examiner
Art Unit 2863
Technology Center 2800

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

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GENERAL ELECTRIC COMPANY (PCPI)
C/O FLETCHER YODER
P. O. BOX 692289
HOUSTON TX 77269-2289

In re Application of: Saia, Richard Joseph et al Serial No. 10/942,717 Filed: Sep. 16, 2004 Docket: 155022-1/YOD (GERD:0290) Title: CONTROL VALVE ASSEMBLY FOR CONTROLLING GAS FLOW IN GAS COMBUSTION SYSTEMS	DECISION ON PETITION UNDER 37 CFR § 1.181

This is a decision on the petition filed Oct. 19, 2007 under 37 CFR 1.181 requesting withdrawal of the communication regarding non-compliant appeal brief issued on Sep. 24, 2007.

The petition is **granted.**

In the petition, petitioner argues that the examiner's communication mailed on September 24, 2007 requiring the applicant to file a corrected appeal brief in compliance with 37 C.F.R. 41.37(c)(1)(v) is in error. In particular, the examiner found the brief filed on Jul. 19, 2007 does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number, and to the drawing, if any, by reference characters; and/or does not identify the structure, material, or acts described in the specification as corresponding to each claimed function for every means plus function and step plus function for each independent claim involved in the appeal and for each dependent claim argued separately by reference to the specification by page and line number, and to the drawing, if any, by reference characters, as required by 37 CFR 41.37(c)(1)(v). Correction is required. Specifically, paragraph numbers must be replaced with line numbers from the specification.

Petitioner disputed the request, mailed on Sep. 24, 2007, to use page and line numbers of the specification in the appeal brief. Petitioner is of the opinion that the brief in its present form should have been admitted. In particular, the original application was filed in accordance with 37 CFR 1.52(b)(6) which calls for the use of page and paragraph numbers, *and not* line numbers in the specification as is required by 37 CFR 41.37(c)(1)(v). Petitioner believes the MPEP 1205.03 provides significant flexibility for Examiners to deal with such extremely minor compliance issues.

Under the circumstances, the examiner contacted an administrator at the Patent Board of Appeals, (Mr. Dale Shaw), who stated that the rule could be waived if it was clear in the brief which sections of the specification the appellant was referring to. The examiner agreed in this case to disregard the previous notice requesting usage of line numbers, and to enter the appeal brief as is.

In finding petitioner's points of argument persuasive and after consultation with the examiner, the requested relief is granted. However, it must be pointed out that the examiner was correct in finding the brief filed on Jul. 19, 2007 defective for failure to contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number as required by 37 CFR 41.37(c)(1)(v).

The examiner's communication mailed on September 24, 2007 requiring the applicant to file a corrected appeal brief in compliance with 37 C.F.R. 41.37(c)(1)(v) is hereby withdrawn. The examiner entered the appeal brief filed on Jul. 19, 2007 and issued an examiner's answer on Oct. 31, 2007.

Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner at (571) 272-4856.

PETITION GRANTED.

Karen M. Young

Karen M. Young, Director
Technology Center 3700

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Kenyon & Kenyon LLP
One Broadway
New York, NY 10004

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JUL 23 2008

In re Application of	:	
Shrirang Netke, et al.	:	
Application No. 10/942,723	:	DECISION ON PETITION
Filed: September 15, 2004	:	TO WITHDRAW
Attorney Docket No. 11957/73	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 5, 2008.

The request is **APPROVED**.

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

The request was signed by John Resek 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 February 13, 2008 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: **Netke Shrirang**
Evergreen Ridge Apt., J10
San Bruno, CA 94066

cc: **Ali Kamarei, Esq.**
280 Colorado Avenue
Palo Alto, CA 94301

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/942,723	09/15/2004	Shrirang Netke	11957/73

CONFIRMATION NO. 2397

POWER OF ATTORNEY NOTICE

26646
KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

OC000000031105396

Date Mailed: 07/22/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/05/2008.

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

/tswilliams/

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

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SQUIRE SANDERS & DEMPSEY LLP
TWO RENAISSANCE SQUARE, 40 NORTH
CENTRAL AVENUE
SUITE 2700
PHOENIX AZ 85004-4498

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OCT 15 2007
OFFICE OF PETITIONS

In re Application of	:	
Mark D. Smith et al	:	
Application No. 10/942,727	:	DECISION GRANTING PETITION
Filed: September 15, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 50847.00124	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 15, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 7, 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 3662 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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Townsend Townsend And Crew, LLP
Two Embarcadero Center, Eighth Floor
San Francisco, CA 94111-3834

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SEP 1 1 2006
OFFICE OF PETITIONS

In re Application of	:	
ZHU, et al.	:	
Application No. 10/942,733	:	DECISION ON PETITION
Filed: September 15, 2004	:	TO WITHDRAW
Attorney Docket No. 021390-004042US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 9, 2006.

The request is **APPROVED**.

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

The request was signed by William B. Kezer on behalf of all attorneys of record who are associated with customer No. 20350. All attorneys/agents associated with the Customer Number 20350 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 Monica A. Graves at 571-272-7253.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: **Bing-Yan ZHU**
3325 Adelaide Way
Belmont, CA 94002

cc: Gerald F. Swiss
FOLEY & LARDNER
1530 Page Mill Road
Palo Alto, CA 94304-1125

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San Francisco, CA 94111-3834

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SEP 1 1 2006
OFFICE OF PETITIONS

In re Application of

ZHU, et al.
Application No. 10/942,733
Filed: September 15, 2004
Attorney Docket No. 021390-004042US

DECISION ON REQUEST FOR REVOCATION OF POWER OF ATTORNEY

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

The request is **NOT APPROVED**.

A power of attorney, pursuant to § 1.32(b), may be revoked at any stage in the proceeding of a case by an applicant for patent (§ 1.41(b)) or an assignee of the entire interest of the applicant under § 3.71(b). Fewer than all of the applicants (or by fewer than the assignee of the entire interest of the applicant) may only revoke the power of attorney upon a showing of sufficient cause, and payment of the petition fee set forth § 1.17(h). For the assignee to take action a proper statement under § 3.73(b) is required.

The request cannot be approved because the statement under 3.73(b) is not proper in that the reel and frame number provided does not match that of record.

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

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

Denise Pothier
Petitions Examiner
Office of Petitions

cc: Lorna L. Tanner
FOLEY & LARDNER LLP
1530 Page Mill Road
Palo Alto, CA 94304

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MERCHANT & GOULD
ATTN: ALAN R. STEWART
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

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FEB 22 2006

OFFICE OF PETITIONS

In re Application of	:	
Curtis Lee Puetz et al	:	
Application No. 10/942,734	:	ON PETITION
Filed: September 15, 2004	:	
Attorney Docket No. 2316.1011USC2	:	

This is a decision on the petition, filed February 21, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on December 27, 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 2839 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. _____

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FEB 22 2006
OFFICE OF PETITIONS

Date : February 22, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Curtis Lee Puetz et al
Application No. :10/942,734
Filed :September 15, 2004

The above-identified application has been assigned Patent No. 7,010,209 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. 7,010,209 to Curtis Lee Puetz et al of Minnesota for OPTICAL FIBER DISTRIBUTION FRAME WITH OUTSIDE PLANT ENCLOSURE 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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Fenwick & West LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041

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DEC 2 0 2007

OFFICE OF PETITIONS

In re Application of	:	
Anand Iyengar et al.	:	
Application No. 10/942,762	:	DECISION ON PETITION
Filed: September 15, 2004	:	TO WITHDRAW
Attorney Docket No. 23313-08795	:	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 1, 2007.

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

A review of the file record indicates that the power of attorney to Fenwick & West LLP has been revoked by the assignee of the patent application on September 21, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

T. Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **Beyer Weaver LLP**
P.O. Box 70250
Oakland, CA 94612-0250

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ANILKUMAR DOMINIC
5240 ARNO COURT
SAN JOSE CA 95138

MAILED

APR 26 2010

OFFICE OF PETITIONS

In re Application of	:	
Anilkumar DOMINIC	:	
Application No. 10/942,763	:	DECISION ON PETITION
Filed: September 15, 2004	:	
Attorney Docket No. **23951-08542**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 21, 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 May 18, 2009. 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 obtained. Accordingly, the date of abandonment of this application is November 19, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2444 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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

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MAR 12 2008

OFFICE OF PETITIONS

In re Application of :
Pai-Chou Liu, et. al. :
Application No. 10/942,789 : ON PETITION
Filed: September 17, 2004 :
Attorney Docket No. BHT-3183-91 :

This is a decision on the petition under 37 CFR 1.137(b), filed on February 21, 2008, to revive the above-identified application.

The application became abandoned for failure to timely respond to the Notice of Allowance and Fee(s) Due mailed September 25, 2007. A Notice of Abandonment was mailed on February 12, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of $1,440 for payment of the issue fee and $300 for payment of the publication fee; (2) the petition fee of $1,540; 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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FOR: TYCO FIRE SUPPRESSION & BUILDING PRODUCTS
PERKINS COIE LLP
607 Fourteenth Street, NW
Washington DC 20005-2003

MAILED
JUN 14 2010
OFFICE OF PETITIONS

In re Application of Flax, et al. Application No. 10/942,817 Filed: September 17, 2004 Attorney Docket No. 34013:E/3 (-8003.US00)	: : : : : :	DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed February 8, 2010, to change the order of the names of the inventors.

The instant petition bears a illegible handwritten signature and registration number, but does not provide the name of the individual making the signature. Thus, the petition under 37 CFR 1.182 is not properly signed within the meaning of 37 CFR 1.34. See, also, 1283 OG 148 (June 22, 2004). Therefore, a decision on the merits of the petition under 37 CFR 1.182 is not forthcoming.

Accordingly, the petition is **DISMISSED**.

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

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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA VA 22314

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JUL 15 2008

OFFICE OF PETITIONS

In re Application of
Matsuki, et al.
Application No. 10/942,818
Filed: September 17, 2004
Attorney Docket No. MATS3017/FJD

DECISION ON PETITION

This is a decision on the petition under the unavoidable standard of 37 CFR 1.137(a), filed April 30, 2008, to revive the above-identified application.

The application became abandoned for failure to timely reply to a non-final Office action, mailed August 1, 2007, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 2, 2007. A Notice of Abandonment was mailed on March 6, 2008.

Petitioners have submitted an amendment in reply to the August 1, 2007 non-final Office action, an acceptable showing of the unavoidable nature of the delay in responding to the August 1, 2007 non-final Office action, and the petition fee.

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

After the mailing of this decision, the application will be returned to Technology Center A.U. 3676 for consideration of the amendment, filed April 30, 2008.

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

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APR 16 2008

In re Application of	:	
Toshihiko Ikeda	:	
Application No. 10/942,827	:	ON PETITION
Filed: September 17, 2004	:	
Attorney Docket No. 121169	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 28, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed July 5, 2007. This decision precedes the mailing of a Notice of Abandonment. On January 28, 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 a Request for Continued Examination (RCE). including the fee of $810 and the submission required by 37 CFR 1.114; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay[1].

This application is being referred to Technology Center AU 2861 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[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. Although the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement will be construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

UNITED STATES PATENT AND TRADEMARK OFFICE

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MCDERMOTT WILL & EMERY LLP
600 13TH STREET, NW
WASHINGTON DC 20005-3096

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MAR 13 2008

OFFICE OF PETITIONS

In re Application of	:	
Naoki Okamoto et al	:	
Application No. 10/942,844	:	DECISION GRANTING PETITION
Filed: September 17, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 69804-031	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 13, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 23, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2618 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

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SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN 2041 AU AUSTRALIA

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OCT 0 9 2008

OFFICE OF PETITIONS

In re Application of	:
Silverbrook & Walmsley	:
Application No. 10/942,858	: DECISION ON PETITION
Filed: September 17, 2004	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. AUTH28US	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 29, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **GRANTED**.

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

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

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

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

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

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3230. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3694 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.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/942,858	09/17/2004	3694	824	AUTH28US	23	2

CONFIRMATION NO. 2482

CORRECTED FILING RECEIPT

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

OC000000032418404

Date Mailed: 10/03/2008

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)

Kia Silverbook, Balmain, AUSTRALIA;
Simon Robert Walmsley, Balmain, AUSTRALIA;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CIP of 09/517,541 03/02/2000 PAT 7,249,109
which is a DIV of 09/113,223 07/10/1998 PAT 6,442,525

Foreign Applications

AUSTRALIA PO7991 07/15/1997

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 **US 10/942,858**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Method and apparatus for reducing optical emissions in an integrated circuit

Preliminary Class

705

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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ARLINGTON, VA 22209-3873

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JUL 19 2006

Technology Center 2100

In re Application of: Iwamura, et al.
Application No. 10/942,936
Filed: September 17, 2004
For: REMOTE COPYING SYSTEM WITH CONSISTENCY GUARANTEED BETWEEN A PAIR

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 November 4, 2005.

The Petition is **GRANTED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

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

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

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

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

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

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

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

The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

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OFFICE OF PETITIONS

In re Application of	:	
Isoya, et al.	:	
Application No. 10/942,937	:	DECISION ON PETITION
Filed: 17 September, 2004	:	
Attorney Docket No. 255481US	:	

This is a decision on the petition under 37 C.F.R. §1.53, filed on 4 January, 2005, requesting that the above-identified application be accorded a filing date of 17 September, 2004.

The petition is **GRANTED in part** and **DISMISSED in part**.

The application was deposited on 17 September, 2004.

On 4 November, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Incomplete Nonprovisional Application" (the 4 November Notice) stating, *inter alia*, that no filing date had been assigned because the application was deposited without drawings,[1] and requiring drawings be filed if necessary.

The 4 November Notice informed Petitioner that the alternatives available were to: (a) petition contending that the application was deposited with drawings; (b) petition contending that the application did not require drawing for the understanding of the subject matter sought to be patented; or (c) submit the missing drawings and accept the date of that submission as the filing date of the application.

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

In response, Petitioner filed the instant petition on 20 December, 2004.

Petitioner states that the instant application as filed contains the following statement: "[t]he present application is based on Japanese patent application No. 129758/2004 . . . incorporated therein by reference[,]" and that a copy of that Japanese application contained the Fig. 1, in question and was deposited with the instant application on 17 September, 2004. Thus, Petitioner contends, the Fig. 1 also submitted with the petition does not constitute new matter and should be entered.

What Petitioner does not state, but is obvious from an inspection of the record, is that the application contains at least one method or process claim (e.g., Claim 12).

It has been Office practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. §113 (first sentence).[2]

As indicated above, a review of the record reveals that at least one claim (e.g., Claim 12) is a method claim. Therefore, the present application is deemed to be an application which does not require a drawing for an understanding of the invention.

Accordingly, the application, as filed, is entitled to a filing date.

The petition is **granted** to the extent that the application shall be accorded a filing date of 17 September, 2004, without drawings as an application containing one or more method/process claims; in all other respects the petition is **dismissed**.

The Office should have mailed a "Notice of Missing Parts."

The "Notice of Incomplete Nonprovisional Application" mailed on 4 November, 2004, was sent in error and is hereby **vacated** to the extent that it stated that the application was incomplete.

The application will be processed and examined using only the application papers filed on 17 September, 2004.

While Petitioner seeks to depend upon the incorporation by reference to bring into the application the single drawing (Fig. 1) referenced from the Japanese application deposited with the instant application, that is a matter for amendment–properly a preliminary amendment, which Petitioner should file immediately (with a translation of the Japanese application)–and

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[2] MPEP 601.01(f).

consideration of amendment is the province of the Examiner. And this process requires no petition.

The Examiner shall review, during the examination process, the sufficiency of the showing made as it relates to the "Preliminary Amendment" when and if filed to ensure that the inclusion of Fig. 1 sought to be incorporated by reference would present no new matter.

Since the petition was necessitated by an error on the part of the Office, the petition fee is waived, and it appears that none was charged.

The application is being forwarded to OIPE for further processing with a filing date of 17 September, 2004, using only the application papers present on filing, and OIPE is instructed to issue a filing receipt reflecting a filing date of 17 September, 2004, and that "0" drawings were present on filing.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3214.

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

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10035 - 105 STREET
EDMONTON, ALBERTA AB T5J3T-2 CA CANADA

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OFFICE OF PETITIONS

In re Application of	:	
Elise Fear et al.	:	
Application No. 10/942,945	:	DECISION ON PETITION
Filed: September 17, 2004	:	
Attorney Docket No. 45074.57	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 25, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowability, mailed November 1, 2007, which set a period for reply of three (3) months. Accordingly, this application became abandoned on February 2, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the corrected formal drawings, (2) the petition fee of $770.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

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

Irvin Dingle
Petitions Examiner
Office of Petitions

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KED & ASSOCIATES, LLP
P.O. BOX 221200
CHANTILLY, VA 20153-1200

In re Application of :
Jae Kyum Kim et al :
Application No. 10/942,968 : ON PETITION
Filed: September 17, 2004 :
Attorney Docket No. K-0195D

This is a decision on the petition, filed April 2, 2009 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 21, 2008 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1792 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/942,981	09/17/2004	Emil Naumovich Sobol	47287-0023-00 (221975)	1246

758 7590 03/03/2010
FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

EXAMINER
SHAY, DAVID M

ART UNIT	PAPER NUMBER
3769	

MAIL DATE	DELIVERY MODE
03/03/2010	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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FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

In re Application of:
SOBOL, EMIL NAUMOVICH et al :
Appl. No.: 10/942,981 : DECISION ON PETITION
Filed: Sep. 17, 2004 :
Attorney Docket No. 47287-0023-00 (221975) :
For: METHOD AND APPARATUS FOR OPTO-THERMO-MECHANICAL TREATMENT OF BIOLOGICAL

This is a decision on the petition filed on February 16, 2010 by which petitioner requests supervisory review and withdrawal of the finality of the office action dated December 14, 2009. The petition is considered pursuant to 37 CFR § 1.181, and no fee is required.

The petition is dismissed.

A review of the relevant prosecution history shows that the applicant filed an RCE on Oct. 13, 2009 with amendments to previous finally rejected claims 1, 6, 12 and 13 and with the addition of new dependent claims 37-39. The RCE was properly filed in accordance with the 35 U.S.C. § 132(b) and MPEP § 706.07(h). On December 14, 2009, the examiner issued a first Office action final rejection to the RCE. The examiner finally rejected all pending claims. Claims 13-32, 34-36, and 39 are rejected under the first and second paragraphs of 35 U.S.C. 112. Claims 1-9, 12-27, 29, 36, and 39 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Kittrell et al. Claims 1-10, 12-27, 29-32, and 34-39 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by RU 2224474 (reference C2). Claims 1-10, 12-19, 21, 23-32, 34, 35, and 39 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Hennings et al. On February 23, 2010, the examiner issued a supplemental final Office action to clarify and address the amendment to claims filed on October 13, 2009. There are no new rejections included in the supplemental final office action.

On February 16, 2010, the petitioner filed the current petition requesting supervisory review of the propriety of the final rejection and withdrawal of the finality of the office action dated December 14, 2009 pursuant to MPEP § 706.07(b). The petitioner is of the opinion that the first Office action final rejection of December 14, 2009 was improper under MPEP § 706.07(b) because the amended independent claims and added dependent claims filed in the amendment of

October 13, 2009 present a different claimed invention for the examiner's consideration that was not the same invention claimed in the application before the RCE. In this application, the amendment filed with the RCE added new limitations to the independent claims and presented new dependent claims 37-39. Therefore, it is not true that "all the claims" in the application after entry of the submission were "drawn to the same invention claimed in the application" before entry of the submission. Finally, the petitioner believes the first prong (A) of the test set forth in MPEP § 706.07(b) was clearly not met, and the final Office Action was premature.

Analysis of Application Record

In the earlier final rejection of April 15, 2009, the examiner finally rejected all pending claims. Claims 13-32, 34-36 are rejected under the first paragraph of 35 USC 112. Claims 1-10, 12-32, 34-36 are rejected under the second paragraph of 35 USC 112. Claims 1-9, 12-27, 29, 36 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Kittrell et al. Claims 1-10, 12-27, 29-32 and 34-36 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by RU 2224474 (reference C2). Claims 1-10, 12-19, 21, 23-32, 34 and 35 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Hennings et al. In response to the final rejection, on October 13, 2009 the applicant filed the current RCE with an amendment to amend claims 1, 6, 12 and 13 and add new dependent claims 37-39. Apparently, the claims as amended and added in the amendment of October 13, 2009 fail to define over the prior art references. Subsequently, the examiner promulgated the first Office action final rejection on December 14, 2009. This final rejection of December 14, 2009 is based on the same prior art patents under the same applicable statutes of 35 USC § 112 and 102(b) with the contents substantially the same as the previous final rejection mailed April 15, 2009. This clearly shows the amendment filed with the RCE on October 13, 2009 is directed to the same invention as claimed previously filed on December 30, 2008. Moreover, it should be noted that under MPEP 706.07(h), applicant cannot file an RCE to obtain continued examination on the basis of claims that are independent and distinct from the previously examined subject matter as a matter of right (i.e. applicant cannot switch inventions). Therefore, the claims filed with the RCE on October 13, 2009 must be directed to the same invention as previously examined in the Office action of April 15, 2009.

Petitioner also argues that the last Office action of December 14, 2009 was incomplete because the examiner has made no comments on the new added dependent claims 37-39. In this regard, the examiner was directed to issue a supplemental final rejection to address the newly added dependent claims 37-39. As long as the supplemental final rejection contains no new rejection, the finality of the Office action of December 14, 2009 under MPEP § 706.07(b)[1] is proper.

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[1] 706.07(b) Final Rejection, When Proper on First Action [R-1]
The claims of a new application may be finally rejected in the first Office action in those situations where (A) the new application is a continuing application of, or a substitute for, an earlier application, and (B) all claims of the new application (1) are drawn to the same invention claimed in the earlier application, and (2) would have been properly finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. A first Office action in a continuing or substitute application may not be made final if it contains a new ground of rejection necessitated by the amendments to 35 U.S.C. 102 (e) by the Intellectual Property and High Technology Technical Amendments of 2002 (Pub. L. 107-273, 116 Stat. 1758 (2002)). However, it would not be proper to make final a first Office action in a continuing or substitute application where that application contains material which was presented in the earlier application after final rejection or closing of prosecution but was denied entry because (A) new issues were raised that required further consideration and/or search, or (B) the issue of new

Decision

Based on the analysis of record, when the examiner promulgated the first Office action final rejection of December 14, 2009, the conditions set forth in MPEP 706.07(b) were met. In particular, the amended and added claims in the amendment of October 13, 2009, in fact, are directed to the same invention as the claims in the earlier amendment filed on December 30, 2008 as indicated by the scope of the claims and the contents of the rejections. The claims in the amendment of October 13, 2009 would have been properly finally rejected on the same grounds and art of record in the next Office action if they had been filed earlier. Therefore, under MPEP § 706.07(b) the first action final rejection of December 14, 2009 is proper.

For the foregoing reasons it appears that the examiner did not abuse his discretion, or act in an arbitrary or capricious manner, in making the December 14, 2009 Office action final. Therefore, there is no basis for granting the relief requested.

The application is being forwarded to the examiner via the Supervisory Patent Examiner of Art Unit 3769 pending the filing of a proper reply to the final rejection. See relevant provisions of 37 CFR § 41.31, 1.113, 1.114 and 1.116. Petitioner is reminded that the period for filing such reply remains as set forth in the final rejection notwithstanding the filing of the instant petition. Petitioner may file a request for reconsideration of this decision without fee. However, such request must be filed within two months of the date of this decision. See 37 CFR § 1.181(f). Should petitioner have any further questions, he is invited to contact Henry Yuen, TC 3700 SPRE, at 571-272-4856.

PETITION DISMISSED

Robert Olszewski, Director
Technology Center 3700

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matter was raised. Further, it would not be proper to make final a first Office action in a continuation-in-part application where any claim includes subject matter not present in the earlier application. A request for an interview prior to first action on a continuing or substitute application should ordinarily be granted.

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WINSTON & STRAWN, LLP
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AUG 17 2007

OFFICE OF PETITIONS

In re Application of	:	
Pat Romanelli, et. al.	:	
Application No. 10/942,984	:	ON PETITION
Filed: September 17, 2004	:	
Attorney Docket No. 81446-400	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on March 9, 2007, to revive the above-identified application.

The application became abandoned for failure to respond to the non-final Office action mailed May 9, 2006.

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 $750; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 3748, for review of the amendment filed with the instant petition.

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

Andrea Smith
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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OFFICE OF PETITIONS

HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON, DC 20006-1109

In re Application of	:	
Tze Wan Pansy Chung, et al.	:	
Application No. 10/942,999	:	DECISION ON PETITION
Filed: September 17, 2004	:	TO WITHDRAW
Attorney Docket No. 502 US	:	FROM RECORD
	:	

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

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

A review of the file record indicates that the power of attorney to the attorney(s) associated with Customer Number 21967 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 inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (571)272-3213. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

Conferee:

cc: JOSEPH A TESSARI
TREDEGAR FILM PRODUCTS
1100 BOULDERS PARKWAY
RICHMOND VA 23225

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Allen, Dyer, Doppelt, Milbrath & Gilchrist - RIM
255 S. Orange Avenue
Suite 1401
Orlando, FL 32801

Mail Date: 04/20/2010

Applicant	: James Wang	: DECISION ON REQUEST FOR
Patent Number	: 7599347	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/943,065	: 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 **1417** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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QUARLES & BRADY
411 E. WISCONSIN AVENUE
SUITE 2040
MILWAUKEE, WI 53202-4497

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SEP 19 2005

OFFICE OF PETITIONS

In re Application of
Jizhong Zhou et al
Application No. 10/943,067
Filed: September 16, 2004
Attorney Docket No. 920976.00019

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR 1.78(a)(6), filed July 19, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**..

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The 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 provisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(6).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that (1) a reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 119(e) to the prior-filed provisional application satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed application. In order for the instant

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

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

Any inquiries concerning this decision may be directed to Wan Laymon at (571) 272-3220. 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 AU 1635 for appropriate action on the amendment submitted July 19, 2005, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/541,620.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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November 16, 2007

Ian C. McMillan
BERESKIN & PARR
Scotia Plaza
40 King Street West, 40th Floor
Toronto, Ontario
Canada M5H 3Y2

Patent No.: 7141789 B2
Application No.: 10/943069
Inventor(s): Donald J. Douglas
Issued: November 28, 2006
Title: **METHOD AMD APPARATUS FOR PROVIDING TWO-DIMENSIONAL SUBSTANTIALLY QUADRUPOLE FIELDS HAVING SELECTED HEXAPOLE COMPONENTS**

Re: Request for Certificate of Correction

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

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

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

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

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and

C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

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

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

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

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

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

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

Virginia Tolbert
For Cecelia Newman
Decisions & Certificate of Correction Branch
(703) 305-8309 or (703) **308-9390 ext 113**

vt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450 ARENT FOX LLP
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON DC 20036
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BERESKIN AND PARR
40 KING STREET WEST
BOX 401
TORONTO ON M5H 3Y2 CA CANADA

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OFFICE OF PETITIONS

In re Patent No. 7,141,789	:	
Issue Date: November 28, 2006	:	
Application No. 10/943,069	:	ON PETITION
Filed: September 17, 2004	:	
Attorney Docket No. 571-943	:	

This is a decision on the petition filed January 9, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to add the name of an assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to Carl Friedman at (571) 272-6842. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

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

Carl Friedman
Petitions Examiner
Office of Petitions

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

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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
10/943,078	09/15/2004	2851	860	17620R-004000US	6	25	3

CONFIRMATION NO. 2578

CORRECTED FILING RECEIPT

OC000000015212486

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

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)

Hsing-Tsun Liu, Hsinchu, TAIWAN;
Jang-Tarng Lin, Hsinchu, TAIWAN;
Ko-Wei Peng, Hsinchu, TAIWAN;

Assignment For Published Patent Application

Mosel Vitelic, Inc., Science-Based Park Industrial Park, TAIWAN

Power of Attorney:

Chun-Pok Leung--41405

Domestic Priority data as claimed by applicant

Foreign Applications

TAIWAN 093112975 05/07/2004

If Required, Foreign Filing License Granted: 11/15/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/943,078

Projected Publication Date: 11/10/2005

Non-Publication Request: No

Early Publication Request: No

Title

Mask, layout thereon and method therefor

Preliminary Class

355

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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HOLLINGSWORTH & FUNK
8500 Normandale Lake Blvd
SUITE 320
MINNEAPOLIS, MN 55437

Mail Date: 04/21/2010

Applicant	: Jesse W. Hartley	: DECISION ON REQUEST FOR
Patent Number	: 7664546	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/943,079	: 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 **508** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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HOLLINGSWORTH & FUNK
8500 Normandale Lake Blvd
SUITE 320
MINNEAPOLIS, MN 55437

Mail Date: 05/18/2010

Applicant : Jesse W. Hartley
Patent Number : 7664546
Issue Date : 02/16/2010
Application No : 10/943,079
Filed : 09/15/2004

: 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 **548** 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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TC 3600

DONALD E. BURG
15840 S.W. 84 Avenue
Miami, FL 33157

In re application of Donald E. Burg Application No. 10/943,082 Filed: September 16, 2004 For: AMPHIBIOUS MARINE VEHICLE	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)**

This is a decision on the petition submitted on September 16, 2004, under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

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

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

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

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

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

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

SNM/pav: 11/18/04

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ADVANCED BIONICS, LLC
25129 RYE CANYON LOOP
VALENCIA, CA 91355

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OFFICE OF PETITIONS

In re Application of	:	
Paul M. Meadows, et al.	:	
Application No. 10/943,111	:	DECISION ON PETITION
Filed: September 16, 2004	:	TO WITHDRAW
Attorney Docket No. AB-457U	:	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 **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Advanced Bionics, LLC has been revoked by the assignee of the patent application on September 3, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

Cc: BOSTON SCIENTIFIC NEUROMODULATION CORP.
C/O DARBY & DARBY PC
P.O. BOX 770
CHURCH STREET STATION
NEW YORK, NY 10008-0770

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/943,111	09/16/2004	Paul M. Meadows	AB-457U

CONFIRMATION NO. 1599

POWER OF ATTORNEY NOTICE

23845
ADVANCED BIONICS, LLC
25129 RYE CANYON LOOP
VALENCIA, CA 91355

OC000000032200400

Date Mailed: 09/22/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/03/2008.

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

/amwise/

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

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INTEL/BLAKELY
12400 WILSHIRE BOULEVARD, SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

In re Application of	:	
Karl Denninghoff	:	
Application No. 10/943,112	:	DECISION GRANTING PETITION
Filed: September 16, 2004	:	UNDER 37 CFR 1.47(b)
For: CODEC SYSTEM AND METHOD	:	

This is in response to the "Petition Under 37 CFR 1.47(b)," filed March 27, 2006.

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of Michelle L. Evans establishes that the inventor was mailed the application papers, including the specification, claims and drawings, but failed to respond to the request that he sign the declaration. In addition, petitioner has shown that Intel Corporation has a proprietary interest in the above-identified application with the assignment documents. The petition fee has been paid. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64 and demonstrated that petitioner has shown that such action is necessary to prevent irreparable damage.

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

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

The application will be forwarded to the Office of Initial Patent Examination for further processing.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KARL DENNINGHOFF
17929 25TH DRIVE, SE
BOTHELL, WA 98012

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APR 17 2006

OFFICE OF PETITIONS

In re Application of
Karl Denninghoff
Application No. 10/943,112
Filed: September 16, 2004
For: CODEC SYSTEM AND METHOD

Dear KARL DENNINGHOFF:

You are named as the sole inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 118 (United States Code), and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as the sole/joint inventor.

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3228. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

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

INTEL/BLAKELY
12400 WILSHIRE BOULEVARD, SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

UNITED STATES PATENT AND TRADEMARK OFFICE

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12400 WILSHIRE BOULEVARD, SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

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APR 17 2006

OFFICE OF PETITIONS

In re Application of :
Karl Denninghoff :
Application No. 10/943,112 :
Filed: September 16, 2004 :
Attorney Docket No. 42P22426 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 27, 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. 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 14, 2005.

The application will be forwarded to the Office of Initial Patent Examination for further processing.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

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AUG 13 2009

OFFICE OF PETITIONS

In re Application of :
Jongmo SUNG et al. :
Application No. 10/943,118 : DECISION ON PETITION
Filed: September 15, 2004 :
Attorney Docket No. **51876P725** :

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before 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 $755 and the publication fee of $300, (2) the petition fee of $810; and (3) a proper statement of unintentional delay. Accordingly, the Issue Fee payment is accepted as having been unintentionally delayed.

The duplicate publication fee payment of $300 will be refunded to the Deposit 02-2666.

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

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

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Kimberly V. Perry, Patent & Trademark Counsel
U.S. Surgical, a division of Tyco Healthcare Group
150 Glover Avenue
Norwalk CT 06856

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MAY 3 1 2005

OFFICE OF PETITIONS

In re Application of :
Rethy et al. : DECISION ON PETITION
Application No. 10/943,132 :
Filed: September 16, 2004 :
Attorney Docket No. 2918 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 9, 2005, to revive the above-identified application.

On November 4, 2004, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application, requiring petitioners to submit an executed oath or declaration, a $130.00 surcharge, and replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121. The Notice to File Missing Parts set a two-month extendable period to reply.

On April 18, 2005, petitioners submitted an executed declaration, a $130.00 surcharge, a request for an extension of time for response with the fourth month, and an authorization to charge the Deposit Account for the $1,590.00 extension of time fee. In response, on April 28, 2005, the Office of Initial Patent Examination mailed a Notice of Incomplete Reply (Nonprovisional), stating that the USPTO received petitioners' reply on April 18, 2005; however, the reply did not include replacement drawings. The Notice of Incomplete Reply indicated that the period for reply remained as that set forth in the Notice to File Missing Parts. The Notice further indicated that petitioners could obtain extensions of time to respond under 37 CFR 1.136(a). Therefore, to avoid abandonment of the application, petitioners have until June 4, 2005, to submit replacement drawings and a request for an extension of time for response within the fifth month.

On May 9, 2005, petitioner submitted seven sheets of replacement drawings, a petition to revive under 37 CFR 1.137(b), and an authorization to charge the Deposit Account for the $1,500.00 petition fee. However, the Office notes that the application is currently not abandoned because petitioners have submitted the required response within the extendable period of time as set forth in the Notice to File Missing Parts. Accordingly, the petition is **dismissed** as involving a moot issue.

The petition will be treated as a request for an extension of time for response within the fifth month. The $1,590.00 fee for the extension of time for response within the fourth month, and the $1,500.00

petition fee will be applied towards the $2,160.00 fee for an extension of time for response within the fifth month. The balance of $930.00 will be refunded to Deposit Account No. 21-0550. The application will remain in its pending status.

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

Mail Date: 04/20/2010

Applicant	: Wolfgang Kalthoff	: DECISION ON REQUEST FOR
Patent Number	: 7587423	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/943,138	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/17/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1389** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

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OFFICE OF PETITIONS

In re Application of	:	
Demuth et al.	:	
Application No. 10/943,139	:	DECISION ON PETITION
Filed: September 17, 2004	:	
Attorney Docket No. 2058.247US1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 13, 2008, to revive the above-identified application.

The petition is **GRANTED**.

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

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

This matter is being referred to Technology Center 2192 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROBERTS MLOTKOWSKI SAFRAN & COLE, P.C.
Intellectual Property Department
P.O. Box 10064
MCLEAN VA 22102-8064

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OFFICE OF PETITIONS

In re Application of
Rohrschneider et al.
Application No. 10/943,165
Filed: September 17, 2004
Attorney Docket No. 740116-534

: DECISION ON PETITION

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

The petition is **DISMISSED.**

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

This above-identified application became abandoned for failure to timely file a proper response to a final Office Action, which was mailed on November 13, 2008. The final Office Action set a three (3) month shortened statutory period for reply. An amendment and request for two-month extension of time were submitted on April 13, 2009. In response to the amendment an Advisory Action was mailed on June 4, 2009 indicating the amendment submitted on April 4, 2009 did not place the application in condition for allowance. Accordingly, this application became abandoned on April 14, 2009. This decision precedes the mailing of a Notice of Abandonment.

Petitioner contends the Office's error in indicating that the November 13, 2008 was a non-final Office action led to a docketing error that resulted in no action being taken after the filing of the April 13, 2009 amendment before the six month period for response. Further, petitioner contends the examiner delayed in acting on what he should have known was a response after final Office action. Thus, petitioner states it was not recognized that the action was under final rejection until receipt of the Advisory action after the abandonment of the application. Petitioner concludes the two errors on the part of the Office made it unavoidable that the application became abandoned.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable;

and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d). The instant petition lacks item (3).

As to item (3), the showing of record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable within the meaning of 37 C.F.R. § 1.137(a). The Office may revive an abandoned application if the delay in responding to the relevant outstanding office requirement is shown to the satisfaction of the Director to have been "unavoidable." See, 37 C.F.R. § 1.137(a)(3). Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" is applicable to ordinary human affairs, and requires no more greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business."); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case by case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). A petition to revive an application as unavoidably abandoned cannot be granted where petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2D 1130 (N.D. Ind. 1987).

Petitioner's argument has been considered, but it is not persuasive. A review of the record shows that this application was held abandoned because a proper timely reply was not submitted in response to the November 13, 2008 Office action. In addition the record does not show that the examiner was unaware that the action was a final rejection and thus resulted in undue delay in reviewing the April 13, 2009 amendment. 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. See MPEP 711.03(c). 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).

While the Office action Summary did indicate that the action was a non-final action, a complete reading of the action shows that the action was a final rejection (see last page). Any confusion as to whether the November 13, 2008 action was final could have been resolved via an inquiry of the examiner. Failure to read the entire Office action in its entirety cannot be deemed as unavoidable.

Assuming arguendo, petitioner was able to overcome the above; counsel's failure to properly docket the Office action has not been established to be unavoidable. A showing of unavoidable delay which contends docket error requires: (1) evidence concerning the procedures in place that should have avoided the error resulting in the delay; (2) evidence concerning the training and

experience of the persons responsible for the error; and (3) copies of any applicable docketing records to show that the error was in fact the cause of the delay. See MPEP § 711.03(c), subsection II.C.2.

The application is properly held abandoned

If petitioner cannot provide the evidence necessary to establish unavoidable delay, or simply does not wish to, petitioner may wish to consider filing a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $810.00 petition fee.

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

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

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

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

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

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

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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ROBERTS MLOTKOWSKI SAFRAN & COLE, P.C.
Intellectual Property Department
P.O. Box 10064
MCLEAN VA 22102-8064

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In re Application of :
Rohrschneider et al. :
Application No. 10/943,165 : ON PETITION
Filed: September 17, 2004 :
Attorney Docket No. 740116-534 :
:

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 19, 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 November 13, 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). A two-month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is April 14, 2009. A petition filed under 1.137(a) was dismissed on December 15, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1620.00; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 3752 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment previously submitted in accordance with 37 CFR 1.114.

/Charlema Grant/
Charlema Grant
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 08-27-08

TO SPE OF : ART UNIT 2856

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/943170 Patent No.: 7228741

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

FOR IFW FILES: X

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: _____

HEZRON WILLIAMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE — 2856 Art Unit

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GOLD & RIZVI, P.A.
600 N. PINE ISLAND ROAD
SUITE 450
PLANTATION FL 33324-1311

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OFFICE OF PETITIONS

In re Application of :
James Morris :
Application No. 10/943,178 : ON PETITION
Filed: September 16, 2004 :
Attorney Docket No. 1156.0100 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 30, 2006, to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **DISMISSED.**

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)."

Petitioner states that the present nonprovisional application is the subject of an application filed in an eighteen-month publication country. Petitioner indicates that 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.

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

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

The present petition lacks item (1). In the present petition, petitioner did not indicate the filing date of the subsequently filed foreign or international application. The Office is unable to evaluate the petition on its merits without petitioner providing the correct filing date of the foreign or international application. This information must be provided with any renewed petition. Accordingly, the present application remains abandoned.

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

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

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

PTO/SB/64a (10-05)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED FOR FAILURE TO NOTIFY THE OFFICE OFA FOREIGN OR INTERNATIONAL FILING (37 CFR 1.137(f))	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 pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to timely notify the Office of the filing of an application in a foreign country or under a multinational international treaty that requires publication of applications eighteen months after filing. The date of abandonment is the day after the expiration date of the forty-five (45) day period set in 35 U.S.C. 122(b)(2)(B)(iii).

PURSUANT TO 37 CFR 1.137(f), APPLICANT HEREYBY PETITIONS FOR REVIVAL OF THIS APPLICATION UNDER 37 CFR 1.137(b)

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. Notice of Foreign or International Filing (35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c))

Subsequent to the filing of the above-identified application, an application was filed in another country, or under a multinational international treaty (e.g., filed under the Patent Cooperation Treaty), that requires publication of applications eighteen months after the filing. The filing date of the subsequently filed foreign or international application is _____.

This collection of information is required by 37 CFR 1.137. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

STATEMENT: The entire delay in filing the required notice of a foreign or international filing from the due date for the required notice 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 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

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date	Signature
	Typed or printed name of person signing certificate

Privacy Act Statement

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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GOLD & RIZVI, P.A.
600 N. PINE ISLAND ROAD
SUITE 450
PLANTATION FL 33324-1311

COPY MAILED
APR 25 2006
OFFICE OF PETITIONS

In re Application of :
James Morris :
Application No. 10/943,178 : ON PETITION
Filed: September 16, 2004 :
Attorney Docket No. 1156.0100 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed March 27, 2006, 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).

A petition under 37 CFR 1.137(f) must be accompanied by: (1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty; (2) the petition fee as set forth in 37 CFR 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional. The director may require additional information where there is a question whether the delay was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(f). The nonpublication request has been rescinded.

Accordingly, the failure to timely notify the Office of a foreign filing within 45 days as provided by 35 USC 122(b)(2)(B)(iii) is accepted as having been unintentionally delayed.

A Corrected Filing Receipt which sets forth the projected publication date accompanies this decision on petition.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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600 N. PINE ISLAND ROAD
SUITE 450
PLANTATION FL 33324-1311

COPY MAILED
APR 26 2006
OFFICE OF PETITIONS

~~COPY MAILED~~
~~APR 25 2006~~
~~OFFICE OF PETITIONS~~

In re Application of
James Morris
Application No. 10/943,178
Filed: September 16, 2004
Attorney Docket No. 1156.0100

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed March 27, 2006, 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).

A petition under 37 CFR 1.137(f) must be accompanied by: (1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty; (2) the petition fee as set forth in 37 CFR 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional. The director may require additional information where there is a question whether the delay was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(f). The nonpublication request has been rescinded.

Accordingly, the failure to timely notify the Office of a foreign filing within 45 days as provided by 35 USC 122(b)(2)(B)(iii) is accepted as having been unintentionally delayed.

A Corrected Filing Receipt which sets forth the projected publication date accompanies this decision on petition.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NIKOLAI & MERSEREAU, P.A.
900 SECOND AVENUE SOUTH
SUITE 820
MINNEAPOLIS MN 55402

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OFFICE OF PETITIONS

In re Application of :
William P. Bartlett :
Application No. 10/943,182 :
Filed: September 16, 2004 :
Attorney Docket No. 20030047.DIV :

ON PETITION

This is a decision on the petition, filed February 22, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on October 31, 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 3651 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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OCT 2 2 2008

OFFICE OF PETITIONS

In re Application of	:	
Lee A. Larson, et. al.	:	
Application No. 10/943,191	:	ON PETITION
Filed: September 16, 2004	:	
Attorney Docket No. TI-36182	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on April 4, 2008, to revive the above-identified application.

The application became abandoned for failure to timely respond to the Notice of Allowance and Fee(s) Due mailed December 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 $1,440 for payment of the issue fee and $300 for payment of the publication fee; (2) the petition fee of $1,540; 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 to be processed into a patent.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MAY 20 2009

OFFICE OF PETITIONS

Cozen O'Connor, P.C.
1900 Market Street
Philadelphia, PA 19103-3508

In re Application of	:	
Stanley T. Crooke et al.	:	
Application No. 10/943,194	:	DECISION ON PETITION
Filed: September 16, 2004	:	TO WITHDRAW
Attorney Docket No. ISISO196-101 (ISPH-0874)	:	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 12, 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 Paul K. Legaard and all attorneys/agents of record has been revoked by the assignee of the patent application on July 12, 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: Isis Pharmaceuticals, Inc.
1896 Rutherford Road
Carlsbad, CA 92008

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

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SEP 28 2009

OFFICE OF PETITIONS

In re Patent No. 7,541,441	:
Issued: June 2, 2009	: DECISION ON REQUEST
Application No. 10/943,197	: FOR RECONSIDERATION OF
Filed: September 17, 2004	: PATENT TERM ADJUSTMENT
Attorney Docket No.	:
075977-0148	:
	:

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705" filed July 28, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from five hundred ninety (590) days to one thousand seventeen (1017) days.

Patentees request that the decision on this request for reconsideration of patent term adjustment be deferred or delayed until a final decision has been rendered in Wyeth v. Dudas. 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 June 2, 2009, the above-identified application matured into US Patent No. 7,541,441 with a patent term adjustment of 590 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

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

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that in view of

the decision in Wyeth, they are entitled to a total patent term adjustment of 1017 days, which includes 624 days due to exceeding three year pendency.

Patentees do not dispute that the total period of Office delay is the sum of the period of Three Years Delay (624 days) and the period of Examination Delay (694 days) to the extent that these periods of delay are not overlapping. However, in effect, patentees contend that 197 days of the Three Year Delay period overlaps with the examination delay. Accordingly, patentees submit that the total period of adjustment for Office delay is 1121 days, which includes the period of Three Year Delay (624 days) and the period of Examination Delay (694 days), reduced by the period of overlap (197 days). As such, patentees assert entitlement to a patent term adjustment of 1017 days (624 + 694 reduced by 197 overlap - 104 (applicant delay)).
The Office contends that all 624 days for over three year pendency overlap with the 694 days accorded for Office delay during the pendency of the application, and thus, no additional days were entered for over three year delay. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

Likewise, 35 CFR 1.703(f) provides that:

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

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

154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

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

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

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

As such, the period for over three-year pendency does not overlap

only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, September 17, 2004, to the date the patent issued on June 2, 2009. (There were no periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). Prior to the issuance of the patent, 694 days of patent term adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application. All of the 624 days for Office delay in issuing the patent overlap with the 694 days of Office delay. During that time, the issuance of the patent was delayed by 694 days, not 694 + 624 days. The Office experienced 694 days of examination delay. Otherwise, the Office took all actions set forth in 37 CFR 1.702(a) within the prescribed time frames. Nonetheless, given the 694 days of Office delay and the time allowed within the time frames for processing and examination and the 104 days of applicant delay, as of the date the patent issued, the application was pending three years and 624 days. The Office did not delay 694 days and then an additional 624 days. Accordingly, 694 days of patent term adjustment (not 694 and 624 days) was properly entered. The period of delay of 624 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 694 days attributable to grounds specified in § 1.702(a)(1) and (a)(2). Entry of both periods is not warranted. 694 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 624 days over three years to the issuance of the patent.

Accordingly, at issuance, the Office properly entered 0 additional days of patent term adjustment for the Office taking in excess of three years to issue the patent..

In view thereof, no adjustment to the patent term will be made.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Nancy Johnson for

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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In re Patent No. 7,541,441
Issued: June 2, 2009
Application No. 10/943,197
Filed: September 17, 2004
Attorney Docket No. 075977-0148

: DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT
: AND
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the REQUEST FOR RECONSIDERATION OF DISMISSAL filed on November 24, 2009, requesting that the patent term adjustment indicated on the above-identified patent be corrected from 590 days to 1017 days. The Office is construing this request as a request under 1.181 to invoke supervisory authority of the Director and is filed within the two month time period pursuant to 37 CFR 1.181(f).

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent, considering the 197 days of overlap, is adjusted by one thousand seventeen (1017) days and is **GRANTED**.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand seventeen (1017)** days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

/Kery A. Fries/

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

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,541,441 B2

DATED : June 2, 2009

INVENTOR(S) : Craig A. Rosen

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 (590) days

Delete the phrase "by 590 days" and insert – by 1017 days--

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LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1128
4417 LANCASTER PIKE
WILMINGTON DE 19805

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OCT 0 2 2006
OFFICE OF PETITIONS

In re Application of	:	
Wang et al.	:	DECISION ON
Application No.: 10/943,199	:	
Filing Date: September 16, 2004	:	PETITION UNDER
Docket No.: CL1607US	:	
For: Catalysts For Olefin Polymerization	:	37 CFR 1.137(b)

This is a decision on Petition Under 37 CFR 1.137(b), filed on August 8, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a timely and proper reply to the final Office action mailed January 5, 2006, which set a shortened statutory period for reply of three (3) months. The application went abandoned at midnight on July 5, 2006. No Notice of Abandonment was mailed.

Petitioner has met the requirements for revival under §1.137(b). Petitioner submitted the required reply in the form of a Notice of Appeal (and fee), paid the petition fee, and made the statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." No terminal disclaimer is required.

This application is being referred to Technology Center 1713 for continued processing.

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
on behalf of
Office of Petitions
Telephone: 571-272-3283
Facsimile: 571-273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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JUN 30 2005

OFFICE OF PETITIONS

ROYLANCE ABRAMS BERDO & GOODMAN LLP
1300 19TH ST NW
SUITE 600
WASHINGTON DC 20036-2680

In re Application of	:	
Daskal, et al.	:	DECISION ACCORDING STATUS
Application No. 10/943,227	:	UNDER 37 CFR 1.47(a)
Filed: September 17, 2004	:	
Attorney Docket No. 45762	:	

This is in response to the petition under 37 CFR 1.47(a), filed May 13, 2005.

The petition under 37 CFR 1.47(a) is **GRANTED**.

The above-identified application was filed on September 17, 2004, without an executed oath or declaration. Accordingly, on December 13, 2004, the Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, requiring an oath or declaration, together with a surcharge for its late filing, as well as corrected drawings. This Notice set an extendable period for reply of two months. Applicants filed corrected drawings on March 14, 2005, but not the oath or declaration. Accordingly, the Office mailed a Notice of Incomplete Reply on March 25, 2005. The Notice informed applicants that the period for reply would remain as set forth in the previous Notice.

In reply, applicants filed the instant petition on May 13, 2005, made timely by obtaining a three month extension of time. Accompanying the petition was a declaration executed by inventors Joseph F. Keenan, James Joseph Hughes, Attila E. Kiss, and Susan M. Chavez, with the signature block for Vadim M. Daskal left blank.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor(s).

On petition, Rule 47 applicant has established that inventor Daskal was presented with a copy of the application papers, and has included a copy of an e-mail from Daskal, indicating his refusal to execute the declaration.

On petition, Rule 47 applicant has satisfied the requirements of 37 CFR 1.47(a). The declaration submitted with the petition has been determined to be in compliance with 37 CFR 1.63. Accordingly, the above-identified application is hereby <u>accorded Rule 1.47(a) status</u>.

Pursuant to 37 CFR 1.47(c), this Office will forward notice of this application's filing to the last known address provided in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to Group Art Unit 2812 for docketing and examination in due course.

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

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

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

VADIM DASKAL
22 CHESTNUT PLACE #507
BROOKLINE MA 02445

COPY MAILED

JUN 30 2005

OFFICE OF PETITIONS

In re Application of :
Vadim M. Daskal, Joseph F. Keenan, :
James Joseph Hughes, Attila E. Kiss, :
Susan M. Chavez :
Application No. 10/943,227 : LETTER
Filed: September 17, 2004
Title: Silicon Blades for Surgical and Non-surgical Use

Dear Mr. Daskal:

You are named as a joint 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(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, 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

Stanislav Torgovitsky
1300 19th St, NW Suite 600
Washington, DC 20036-2680
(202)659-9076

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.
10/943,229	09/17/2004	Vadim M. Daskal	45675	1700

7590 03/03/2010
Roylance, Abrams, Berdo & Goodman, L.L.P.
Suite 600
1300 19th Street, N.W.
Washington, DC 20036

EXAMINER
CULBERT, ROBERTS P

ART UNIT	PAPER NUMBER
1792	

MAIL DATE	DELIVERY MODE
03/03/2010	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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

wk

Mailed: MAR 0 3 2010

Daskal et al.
Serial No. 10/943,229
Filed: 09/17/2009
For: System And Method For Creating Linear And Non-Linear Trenches In Silicon And Other Crystalline Materials With A Router

In re application of
DECISION ON PETITION

This is a decision on a PETITION filed February 5, 2010, which has been accepted as a timely petition under 1.59(b) and MPEP 724.02 and is before the Group Director of Technology Center for consideration.

DECISION

Petitioner requests that documents related to "Miscellaneous Incoming Letter" be expunged. Each of the criteria for granting the request has been satisfied, see the MPEP 724.05.

The petition is **GRANTED.**

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

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

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

10/943,229

The images will be removed from the Official file.

/JACQUELINE STONE/

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

Stanislav Torgovitsky
Roylance, Abrams, Berdo & Goodman, L.L.P.
Suite 600
1300 19th Street, N.W.
Washington DC 20036

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 03-05

Paper No: __

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

COPY MAILED

MAR 1 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Sakai, et al.	:	
Application No. 10/943,238	:	ON PETITION
Filed: 17 September, 2004	:	
Attorney Docket No. 027162-00010	:	

This is a decision on the petition under ¶(a) of 37 C.F.R. §1.47, filed on 4 February, 2005

The petition is **DISMISSED**.

NOTES:

(1) Any reply must include a renewed petition (and fee) must include a petition under 37 C.F.R. §1.47 and must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 C.F.R. §1.47";

(2) Thereafter, there will be no further reconsideration of this matter.

BACKGROUND

The record indicates:

- the application was filed on 17 September, 2004, without, *inter alia*, a fully executed oath or declaration; and

- on 5 November, 2004, the Office mailed a Notice to File Missing Parts with a reply due absent extension of time on or before 5 January 2005;

- on 4 February, 2005, Petitioner Rhonda L. Barton (reg. No. 47,271) filed, *inter alia* an oath/declaration signed by named inventor Sakai, but without the signature of non-signing inventor Takuya Okubo (Mr. Okubo), a petition under 37 C.F.R. §1.47, and narrative by one Ysuyuki Hatayama, whose only identification is "Intellectual Property Dev. Rohm Co. Ltd.," alleging "[o]n information and belief" that a Mr. Okubo was sent a copy of the application but providing no support as to the reasonable basis (*e.g.*, there is no copy of a transmittal letter (and translation) in support of that allegation.

ANALYSIS

The regulations at 37 C.F.R. §1.47 provide in pertinent part:

> **§ 1.47 Filing when an inventor refuses to sign or cannot be reached.**
> (a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in § 1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.
>
> * * *

The regulations at 37 C.F.R. §1.63 provide in pertinent part:

> **§1.63 Oath or declaration.**
>
> (b) In addition to meeting the requirements of paragraph (a)of this section, the oath or declaration must also:
>
> (1)Identify the application to which it is directed;

(2) State that the person making the oath or declaration has reviewed and understands the contents of the application, Including the claims, as amended by any amendment specifically referred to in the oath or declaration; and

(3) State that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in § 1.56.

When one alleges a refusal of the inventor to sign the application papers, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who, *inter alia*, presented the inventor with the application papers and/or to whom the refusal was made.

The commentary at MPEP §409.03(d) provides:

409.03(d) Proof of Unavailability or Refusal

INVENTOR CANNOT BE REACHED

Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 C.F.R. §1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.

The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 C.F.R. §1.47.

Furthermore, the fact that an inventor is hospitalized and/or is not conscious is not an acceptable reason for filing under 37 C.F.R. §1.47. 37 C.F.R. §1.43 may be available under these circumstances. See MPEP §409.02. Such a petition under 37 C.F.R. §1.47 will be dismissed as inappropriate.

The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included statement of facts. It is important that the statement contain facts as opposed to conclusions.

REFUSAL TO JOIN

A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the 37 C.F.R. §1.47 applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration. It is noted that the inventor may obtain a complete copy of the application, unless the inventor has assigned his or her interest in the application, and the assignee has requested that the inventor not be permitted access. See MPEP § 106. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 C.F.R. §1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient.

When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.

When it is concluded by the 37 C.F.R. §1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the

petition.

Thus, not only must a copy of the entire application must be sent to the last known address of the non-signing inventor (or the estate representative) with a request that he/she sign the declaration for the patent application–and evidence of that transmittal submitted (a reasonable effort must be made to ascertain a current or last known address)–but also the petition (with fee) must state over the signature and registration number of the Petitioner the last known address (and, if appropriate, evidence of the due diligence effort ascertaining same).

Alternatively, an oath or declaration for the patent application in compliance with 37 C.F.R. §§1.63 and 1.64 must be presented.

The declaration must set forth the inventor's residence, citizenship and post office address. An oath or declaration in compliance with 37 C.F.R. §§1.63 and 1.64 signed by the Rule 1.47 applicant is required.[1]

CONCLUSION

Therefore, the instant petition hereby is **dismissed**.

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

By mail: Commissioner for Patents[2]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306 (IFW Formal Filings)
ATTN.: Office of Petitions

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

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[1] See: MPEP 409.03(b).

[2] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3214.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 09-05

Paper No: __

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

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SEP 16 2005
OFFICE OF PETITIONS

In re Application of	:	
Sakai, et al.	:	
Application No. 10/943,238	:	ON PETITION
Filed: 17 September, 2004	:	
Attorney Docket No. 027162-00010	:	

This is a decision on the petition under ¶(a) of 37 C.F.R. §1.47, filed on 13 June, 2005

The petition is **DISMISSED as moot**.

BACKGROUND

The record indicates:

- the application was filed on 17 September, 2004, without, *inter alia*, a fully executed oath or declaration; and
- on 5 November, 2004, the Office mailed a Notice to File Missing Parts with a reply due absent extension of time on or before 5 January 2005;
- on 4 February, 2005, Petitioner Rhonda L. Barton (reg. No. 47,271) filed, *inter alia* an oath/declaration signed by named inventor Sakai, but without the signature of non-signing

inventor Takuya Okubo (Mr. Okubo), a petition under 37 C.F.R. §1.47, and narrative by one Ysuyuki Hatayama, whose only identification is "Intellectual Property Dev. Rohm Co. Ltd.," alleging "[o]n information and belief" that a Mr. Okubo was sent a copy of the application but providing no support as to the reasonable basis (*e.g.*, there is no copy of a transmittal letter (and translation) in support of that allegation, and so the petition was dismissed on 11 March, 2005;

- with the instant petition, Petitioner provides a copy of the oath/declaration now executed by Mr. Okubo.

In view of the joinder of the inventors, further consideration under Rule 1.47(a) is not necessary and the petition is considered to be moot. This application does not have any Rule 1.47 status and no such status should appear on the file wrapper. This application need not be returned to this Office for any further consideration under Rule 1.47(a).

CONCLUSION

For the foregoing reasons, the instant petition is **dismissed as moot for joinder**.

This application is being released to OIPE for further processing as necessary before being forwarded for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3214.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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OFFICE OF PETITIONS

In re Application of :
Ito, et al. :
Application No. 10/943,255 : ON PETITION
Filed: September 17, 2004 :
Attorney Docket No. 22987 :

This is a decision on the petition filed November 10, 2004, requesting entry documents pursuant to the "Notice of Missing Parts of Nonprovisional Application" (the "Notice") mailed December 21, 2004.

The petition is **dismissed as moot**.

On September 17, 2004, the above-identified application was filed. On December 21, 2004, the Office of Initial Patent Examination mailed the Notice stating that the application had been accorded a filing date of September 17, 2004, but that a properly executed oath or declaration, surcharge , reissue declaration, and certificate under 37 CFR 3.73(b) were missing and replacement drawings were required to be filed. The Notice allowed an extendable two-month period for reply beginning from the mailing date of the notice.

In response, on November 10, 2004, applicants filed the present petition and executed declaration, reissue declaration, certificate under 37 CFR 3.73(b), and power of attorney. Applicant also filed the instant petition under 37 CFR 1.182 requesting entry of the replacement drawings. Applicant is advised that the instant petition is not necessary in order for the documents to be made of record. All that is necessary in this case is for missing documents to be filed timely in response to the "Notice to File Missing Parts of the Nonprovisional Application." The documents filed November 10, 2004, are noted as having been received. At this juncture, there is no remedy that can be provided pursuant to 37 CFR 1.182. The petition is, therefore, dismissed as moot.

No petition fee is due. Since the petition fee of $130.00 was charged to deposit account 11-0600, the amount will be charged will used in satisfaction of the $130.00 surcharge required by the Notice.

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

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

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Application of :
Ito et al. :
Application No. 10/943,255 : ON PETITION
Filed: September 17, 2004 :
Attorney Docket No. 2298/7 :

This is a decision on petition to withdraw the holding of abandonment under 37 CFR 1.181 filed October 31, 2006.

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

This application was held abandoned June 17, 2006 for failure to timely reply to the non-final Office Action mailed on March 16, 2006. The non-final Office Action set a three (3) month extendable time period for reply. A Notice of Abandonment was mailed September 21, 2006.

Petitioner asserts that a reply to the non-final Office Action was submitted on September 15, 2006. As evidence, petitioner has submitted a copy of the reply which contains an amendment, and a three month extension of time. Petitioner has also provided a copy of a postcard receipt with an Office stamp of September 15, 2006.

The response received September 15, 2006 has been located. In view of the evidence submitted, the response is deemed timely.

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

The application file is being forwarded to Technology Center 1700 for further processing of amendment.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

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MAR 25 2010

OFFICE OF PETITIONS

In re Patent No. RE39,766 :
Issue Date: August 14, 2007 :
Application No. 10/943,256 : ON PETITION
Filed: September 15, 2004 :
Attorney Docket No. 8688.222USRE :

This is a decision on the petition filed November 13, 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) 272-6842. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

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

Carl Friedman
Petitions Examiner
Office of Petitions

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

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

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

COPY MAILED

FEB 25 2009

OFFICE OF PETITIONS

In re Application of	:	
James C. Peterson	:	
Application No. 10/943,270	:	DECISION ON PETITION
Filed: September 17, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 15895US02	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed January 29, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

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

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

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

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

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

This application is being forwarded to Technology Center Art Unit 2432 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3226. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Andrea Smith
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/943,270	09/17/2004	2432	619	15895US02	34	4

CONFIRMATION NO. 3330

CORRECTED FILING RECEIPT

23446
MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

OC000000034693353

Date Mailed: 02/24/2009

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)

James C. Peterson, Menomonee Falls, WI;

Assignment For Published Patent Application

PKWare, Inc.

Power of Attorney: The patent practitioners associated with Customer Number 23446

Domestic Priority data as claimed by applicant

This application is a CON of 10/620,960 07/16/2003 ABN
and is a CIP of 09/803,355 03/09/2001 PAT 6,879,988

Foreign Applications

If Required, Foreign Filing License Granted: 11/10/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/943,270**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

Method and system for asymmetrically encrypting .ZIP files

Preliminary Class

726

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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P.O. BOX 10395
CHICAGO IL 60610

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OFFICE OF PETITIONS

In re Application of	:	
Mark Quadling et al.	:	
Application No. 10/943,273	:	DECISION ON PETITION
Filed: September 17, 2004	:	TO WITHDRAW
Attorney Docket No. 12075/45	:	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 22, 2006.

The request is **NOT APPROVED**.

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

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

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William G. Muller
Advanced Elastomer Systems, L.P.
388 South Main Street
Akron, OH 44311

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OFFICE OF PETITIONS

In re Application of
Jacob et al.
Application No. 10/943,307
Filed: September 15, 2004
Attorney Docket No. 9636

Decision on Petition

This is a decision on the petition filed November 15, 2004, to accord the above-identified application a filing date of September 15, 2004.

On September 15, 2004, the application was filed.

On November 4, 2004, the Office of Initial Patent Examination mailed a Notice stating that drawings were not present and that a filing date had not been accorded and the filing date would be the date of receipt of the drawings.

In response, the present petition alleges that drawings are not "necessary for the understanding of the subject matter sought to be patented" within the meaning of 35 USC 113.

The Office has determined that drawings are not necessary to understand at least one claim within the meaning of the first sentence of 35 USC 113.

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

The Notice mailed November 4, 2004, is hereby vacated.

A petition fee has not been charged to petitioner's deposit account.

It is noted that petitioner has filed a preliminary amendment canceling all references in the specification to the missing drawings.

Petitioner prudently filed a set of drawings in the event the instant petition was not granted. However, since the petition has been granted, the drawings will not be entered and will not be considered by the examiner.

The Office of Initial Patent Examination will further process the application with a filing date of September 15, 2004, using the application papers filed on September 15, 2004.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
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Pabst Patent Group LLP
1545 PEACHTREE STREET NE
SUITE 320
ATLANTA, GA 30309

Mail Date: 04/21/2010

Applicant	: Mark Hirsh	: DECISION ON REQUEST FOR
Patent Number	: 7585520	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/943,311	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/17/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1139** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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OFFICE OF PETITIONS

In re Application of :
Yang, et al. :
Application No. 10/943,318 :
Filed: September 16, 2004 :
Attorney Docket No. JCLA14524 :

ON PETITION

This is a decision on the petition, filed August 29, 2007, under 37 CFR 1.47(a), which is being treated under 37 CFR 1.183 to waive 37 CFR 1.132 to the extent that it requires that all of the named inventors execute the declaration filed thereunder. [1]

The petition is **GRANTED**.

A Rule 183 petition fee is currently $400.00. Petitioners have been charged $130.00. The balance due, or $270.00, will be charged to deposit account no.50-0710.

Petitioners assert that, while all of the named inventors are joint inventors of U.S. Patent No. 7,061,780 and U.S. Patent No. 7,016,204, joint inventors Guo-Kiang Hungs and Shao-Wei Chui have refused to sign declarations that they are joint inventors. Hung and Chui are listed as joint inventors of U.S. Patent No. 7,061,780 and Hung is listed as a joint inventor of U.S. Patent No. 7,016,204.

Petitioners request that the Office accept the declarations executed by less than all the joint inventors.

37 CFR 1.132 states,

> Affidavits or declarations traversing rejections or objections.
>
> When any claim of an application or a patent under reexamination is rejected or objected to, any evidence submitted to traverse the rejection or objection on a basis not otherwise provided for must be by way of an oath or declaration under this section.

The Office waives signature requirements in certain circumstances, i.e.:

(1) The assignee or other party in interest can sign the affidavit or declaration if none of the inventors will sign the declaration. See MPEP 714.

[1] Once an application has received a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. The instant petition is properly treated under 37 CFR 1.183.

(2) The affidavit or declaration can be signed by fewer than all the inventors if the other inventors are deceased, refuse to sign, or are unavailable.

Petitioners have established that the non-signing inventors have refused to sign the declaration. Copies of express refusals were provided with the petition.

Therefore, the signature requirement of joint inventors Hung and Chiu on the declarations under 37 CFR 1.132 is waived.

However, as stated in MPEP 716 Affidavits or Declarations Traversing Rejections, 37 CFR 1.132, "It is the responsibility of the primary examiner to personally review and decide whether affidavits or declarations submitted under 37 CFR 1.132 for the purpose of traversing grounds of rejection are responsive to the rejection and present sufficient facts to overcome the rejection."

The application is being returned to Technology Center A.U. 2838 for the examiner of record to consider whether the declarations submitted under 37 CFR 1.132 for the purpose of traversing grounds of rejection are responsive to the rejection and present sufficient facts to overcome the rejection.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Yang et al.	:	
Application No. 10/943318	:	NOTICE
Filed: 09/16/2004	:	
Attorney Docket No. JCLA14524	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed on December 13, 2007.

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 is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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BAE SYSTEMS INFORMATION AND
ELECTRONIC SYSTEMS INTEGRATION INC.
65 SPIT BROOK ROAD
P.O. BOX 868 NHQ1-719
NASHUA NH 03061-0868

In re Application of:
DELANEY, WILLIAM J.
Serial No.: 10/943,323
Filed: September 17, 2004
Title: **MOBILE TEMPORARY INCIDENT AREA NETWORK FOR LOCAL COMMUNICATIONS INTEROPERABILITY**

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on January 31, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

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

REGULATION AND PRACTICE

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323) and effective August 25, 2006, the following conditions must be satisfied:

1. The application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);
2. The application, the petition and the required fees must be filed concurrently and electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours;
3. The application, at the time of filing, must be complete under 37 CFR 1.51 and in condition for examination;
4. The application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

The application as filed is not eligible for the accelerated examination under 37 C.F.R. § 1.102(d) at least because the application was filed prior to the effective date of August 25, 2006 and the petition was filed subsequent to the effective date and not concurrent with the application papers as required in item 2 above.

For the above-stated reason, the petition is denied. The application will therefore be taken up by the examiner for action in its regular turn.

Kenneth A. Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

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WADDEY & PATTERSON, P.C.
1600 DIVISION STREET, SUITE 500
NASHVILLE TN 37203

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OFFICE OF PETITIONS

In re Application of	:	
Capp et al.	:	
Application No. 10/943,338	:	DECISION ON PETITION
Filed: September 17, 2004	:	
Attorney Docket No. P1098/N1499	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 26, 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 2835 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

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Cozen O'Connor, P.C.
1900 Market Street
Philadelphia, PA 19103-3508

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OFFICE OF PETITIONS

In re Application of	:	
Steven A. Hofstadler et al.	:	
Application No. 10/943,344	:	DECISION ON PETITION
Filed: September 17, 2004	:	TO WITHDRAW
Attorney Docket No. IBIS0026-102	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 24, 2005.

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

A review of the file record indicates that the power of attorney to Paul K. Legaard and the attorneys associated with customer number 34138 have been revoked by the assignee of the patent application on March 28, 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 Monica Graves at 571-272-7253.

David Bucci
Petitions Examiner
Office of Petitions

cc: Medlen & Carroll LLP
101 Howard Street, Suite 350
San Francisco, CA 94105

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OFFICE OF PETITIONS

In re Application of	:	
Conkling, et al.	:	
Application No. 10/943,346	:	DECISION
Filing Date: 17 September, 2004	:	
Attorney Docket No.: VTOB.034C1	:	

This is a decision on the petition filed on 16 October, 2006, seeking withdrawal of the holding of abandonment under 37 C.F.R. §1.181.[1]

The Office regrets the delay in addressing this matter, however, it was presented for review by the attorneys in the Office of Petitions only at this writing.

For the reasons set forth below, the petition considered under 37 C.F.R.§1.181 is **DISMISSED**.

NOTES:

Monitoring of the status of applications on PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected.

Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181.

(1) Any petition (and fee) for reconsideration of this decision must be submitted

[1] Petitioner indicates by telephone that he filed on or about 1 March, 2007, a petition under 37 C.F.R. §1.137, however, at this writing there is no indication in PALM or IFW of the presence of that additional petition.

within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.181."

(If Petitioner is unable to present even a satisfactory showing to support a petition under 37 C.F.R. §1.137(a), and Petitioner's only alternative will be to file a petition under 37 C.F.R. §1.137(b).)

(2) Thereafter, there will be no further reconsideration of this matter.[2]

BACKGROUND

The record reflects that:

- following, *inter alia*, Petitioner's timely reply to the 4 November, 2004, Notice of Missing Parts (reply filed on 13 December, 2004), on 3 August, 2006, the Office mailed a Notice of Abandonment stating therein that it was mailed in reply to a letter of Express Abandonment;

- on 16 October, 2006, Petitioner filed the instant petition over a 12 October, 2006, certificate of mailing, and stated/evidenced substantively therein only:

> Applicants submit that no letter of express abandonment was filed and that the abandonment was made in error. We spoke to the Petitions Office, and they confirmed that the Notice of Abandonment issued was a mistake. Apparently, the application number of the present application was confused with the application number of another application, which was expressly abandoned.

There are at least three items that present concern in this matter.

First, Petitioner appears not to have consulted and considered the requirements for the instant petition as discussed in the Manual of Patent Examining Procedure–discussed herein. And so, Petitioner has made no showing of docket records to evidence that no express abandonment was filed by Petitioner's office in this matter because all matters mailed or received by Petitioner are

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[2] For more than a century, punctuality and due diligence, equally with good faith, have been deemed essential requisites to the success of those who seek to obtain the special privileges of the patent law, and they are demanded in the interest of the public and for the protection of rival inventors. See: Porter v. Louden, 7 App.D.C. 64 (C.A.D.C. 1895), citing Wollensak v. Sargent, 151 U.S. 221, 228, 38 L. Ed. 137, 14 S. Ct. 291 (1894). An invention benefits no one unless it is made public, and the rule of diligence should be so applied as to encourage reasonable promptness in conferring this benefit upon the public. Automatic Electric Co. v. Dyson, 52 App. D.C. 82; 281 F. 586 (C.A.D.C. 1922). Generally, 35 U.S.C. §6; 37 C.F.R.§§1.181, 182, 183.

recorded (Petitioner would recite) in the docket and/or on the cover of the file folder, or whatever is Petitioner's practice–and no such document is reflected therein/on.

As noted, such showing has not been made as of this writing.

Second, Petitioner avers a conversation with the Office, however, the record is silent as to such an event. Petitioner is reminded that it is Petitioner's responsibility to memorialize such conversations for, as one registered to practice before the Office, Petitioner is aware that the Rules of Practice require that all matters before the Office are to be in writing (see: 37 C.F.R. §1.2[3]).

Further, it is noted that, because it is not the Office of Petitions that deems an application abandoned and because the Office of Petitions can only make a determination as to the appropriateness of a Notice of Abandonment upon a review of the entire record, which was not available until Petitioner presented it to the Office for determination on Petition, the Office of Petitions cannot make such a statement as that reported by Petitioner.

Third, the Rules of Practice at 37 C.F.R. Part 1, and specifically the regulations at 37 C.F.R. §1.181 expressly require that Petitioner seek relief from acts complained of within two months of those acts.

As the record reflects, and is noted hereinabove, this Petitioner failed to do.

Out of an abundance of caution, Petitioners always are reminded that:

- the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)); and

- those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[4]

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

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

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[5]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without

---

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

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

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

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

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

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

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

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

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[5] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[6]

Delays in responding properly raise the question whether delays are unavoidable.[7] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[8] And the Petitioner must be diligent in attending to the matter.[9] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[10]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[11]

The commentary at MPEP §711.03(c) provides:

* * *

A. Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented

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

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

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

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

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

[11] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133). To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.

* **

<u>The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt</u> rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988). (Emphasis supplied.)

* * *

The commentary at MPEP §711.03(c) further provides:

* * *

B. Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed

37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), * (e), or (g) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. §1.8(b) and MPEP § 512. As stated in 37 C.F.R §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into

> PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).
>
> 37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP § 512.
>
> * * *

And the regulation places upon Petitioner a diligence requirement to seek relief within two (2) months of the act complained of.

It appears that Petitioner has satisfied neither the documentary showing required as to records, nor as to the timeliness requirement described above.

CONCLUSION

Because Petitioner has not satisfied the burdens set forth in Delgar v. Schulyer, the petition as considered under 37 C.F.R. §1.181 hereby is **dismissed**.

ALTERNATIVE VENUE

Petitioner may wish to file such a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay. (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unavoidable or unintentional delay must be filed promptly and such petition must be accompanied by the reply (the amendment), the petition fee, and a statement (in the case of allegations as to unintentional delay) that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form available online.)

Further correspondence with respect to this matter should be addressed as follows:[12]

By mail: Commissioner for Patents[13]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

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

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[14]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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[12] On July 15, 2005, the Central Facsimile (FAX) Number changed to (571) 273-8300. The old FAX number no longer is in service and (571) 273-8300 will be the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

[13] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

[14] 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
www.uspto.gov

JJGJR.: 07-07

Paper No: __

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2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

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JUL 30 2007

OFFICE OF PETITIONS

In re Application of	:	
Conkling, et al.	:	
Application No. 10/943,346	:	DECISION
Filing Date: 17 September, 2004	:	
Attorney Docket No.: VTOB.034C1	:	

This is a decision on the petition filed on 16 October, 2006, seeking revival of the instant application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

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

BACKGROUND

The record reflects that:

- following, *inter alia*, Petitioner's timely reply to the 4 November, 2004, Notice of Missing Parts (reply filed on 13 December, 2004), on 3 August, 2006, the Office mailed a Notice of Abandonment stating therein that it was mailed in reply to a letter of Express Abandonment;

- on 16 October, 2006, Petitioner filed the original petition seeking withdrawal of the holding of abandonment hover a 12 October, 2006, certificate of mailing, and stated/evidenced substantively therein only:

> Applicants submit that no letter of express abandonment was filed and that the abandonment was made in error. We spoke to the Petitions Office, and they confirmed that the Notice of Abandonment issued was a mistake. Apparently, the

application number of the present application was confused with the application number of another application, which was expressly abandoned.

There were several items that presented concern in the matter:

--Petitioner appeared not to have consulted and considered the requirements for the instant petition as discussed in the Manual of Patent Examining Procedure; thus Petitioner made no showing of docket records to evidence that no express abandonment was filed by Petitioner's office in this matter because all matters mailed or received by Petitioner are recorded (Petitioner would recite) in the docket and/or on the cover of the file folder, or whatever is Petitioner's practice–and no such document is reflected therein/on; such showing was not originally made;

--Petitioner averred a conversation with the Office, but the record was/is silent as to such an event. Petitioner is reminded that it is Petitioner's responsibility to memorialize such conversations for, as one registered to practice before the Office, Petitioner is aware that the Rules of Practice require that all matters before the Office are to be in writing (see: 37 C.F.R. §1.2[1]); because it is not the Office of Petitions that deems an application abandoned and because the Office of Petitions can only make a determination as to the appropriateness of a Notice of Abandonment upon a review of the entire record, which was not available until Petitioner presented it to the Office for determination on Petition, the Office of Petitions cannot make such a statement as that reported by Petitioner; and

--the Rules of Practice at 37 C.F.R. Part 1, and specifically the regulations at 37 C.F.R. §1.181 expressly require that Petitioner seek relief from acts complained of within two months of those acts;

–because Petitioner failed to address these matters timely and properly, the petition was dismissed on 24 July, 2007;

- in the meantime, Petitioner filed the instant petition to revive, with fee, and pointed to the previously filed reply and made the statement of unintentional delay.

Out of an abundance of caution, Petitioners always are reminded that:

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

- the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)); and

- those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

STATUTES, REGULATIONS AND ANALYSIS

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

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

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

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

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

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

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

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

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

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

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

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

Allegations as to
Unintentional Delay

The requirements of a petition under 37 C.F.R. §1.137(b) alleging unintentional delay are the

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[3] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

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

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

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

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

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

petition, the fee, the reply, the statement/showing of unintentional delay, and, where appropriate, a terminal disclaimer and fee.

It appears that Petitioner has satisfied the regulatory requirements herein.

CONCLUSION

The petition under 37 C.F.R. §1.137(b) is **granted**.

The application is released to Technology Center 1700 for further processing in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[9]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/943352	09/17/2004	Brenzel	293/068

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.

Kalethia 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

SAWYER LAW GROUP LLP
P O BOX 51418
PALO ALTO, CA 94303

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MAR 2 8 2007

OFFICE OF PETITIONS

In re Application of :
Richard D. Young :
Application No. 10/943,366 :
Filed: September 17, 2004 :
Attorney Docket No. 8016-637

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed January 30, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply to the restriction/election requirement mailed January 29, 2007, which set a shortened period for reply of one (1) month from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). The application was held abandoned because, allegedly, no response was received to restriction/election requirement. A Notice of Abandonment was mailed on January 31, 2007.

A review of the application file history reveals that a response to the election/restriction requirement was filed on July 20, 2006 (certificate of mailing dated January 20, 2006) and a request for an extension of time within the fifth month.

The fee for the instant petition is $500.00 and will be charged to deposit account 02-2120 pursuant to the authorization filed January 30, 2007.

The Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address, filed January 29, 2007, is noted and made of record.

The file is now being forwarded to Technology Center 3600, GAU 3726 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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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George W. Dishong Esq.
DISHONG LAW OFFICES
40 Bryant Road
Jaffrey, N.H. 03452

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OFFICE OF PETITIONS

In re Application of :
Christopher T. Olney :
Application No. 10/943,376 : ON PETITION
Filed: September 16, 2004 :
Attorney Docket No. OY361-MCAR :

This is a decision on the petition under 37 CFR 1.137(b), filed December 5, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 24, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on March 25, 2006.

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

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

The application file is being referred to Technology Center AU 3711 for appropriate action on the concurrently filed amendment.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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765 Greenville Road
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MAR 28 2008

OFFICE OF PETITIONS

In re Application of	:	
Christopher Tiedmand Olney	:	
Application No. 10/943,376	:	DECISION ON PETITION
Filed: September 16, 2004	:	TO WITHDRAW
Attorney Docket No. OY361-MCAR	:	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 5, 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 Terri Williams at 571-272- 2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **George W. Dishong, Esq.**
40 Bryant Road
Jaffrey, NH 03452

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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2900 THOMAS AVENUE SOUTH
SUITE 100
MINNEAPOLIS, MN 55416

Mail Date: 04/21/2010

Applicant	: David Scott Utley	: DECISION ON REQUEST FOR
Patent Number	: 7610919	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/943,379	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/17/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **709** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO, CA 94303

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FEB 25 2005
OFFICE OF PETITIONS

In re Application of :
Robert Ebert :
Application No.10/943,392 :
Filed: September 17, 2004 :
Attorney Docket No. PA2804US :

DECISION GRANTING PETITION

This is a decision on the petition filed January 19, 2005 (certificate of mailing dated January 13, 2005), requesting that the above-identified application be accorded a filing date of September 17, 2004.

On September 17, 2004, the above-identified application was filed. On November 17, 2004, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application" (the "Notice"), stating that the application had not been accorded a filing date because no claims were found with the specification. The Notice also required and abstract and oath or declaration to be filed. The Notice allowed a non-extendable two-month period for reply beginning from the mailing date of the Notice.

In response, on January 19, 2005, applicants filed the present petition and a copy of an Office date-stamped postcard showing that, among other items, 35 pages of the specification, claims, and abstract were received on September 17, 2004.

Upon review of the record, the neither the claims or abstract were located among the application papers. However, the evidence is convincing that the application papers deposited September 17, 2004, included eight pages of claims and one page of abstract which was subsequently misplaced by the Office. Therefore, the application, including the claims and abstract was complete on filing and entitled to the presently accorded filing date of September 17, 2004.

Accordingly, the petition is granted; the Notice is vacated, accordingly. Deposit account 09-0600 will be refunded part of the petition fee in the amount of $270.00 and a treasury check in the amount of $130.00 will refund the remaining portion of the petition fee.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of September 17, 2004, including the eight pages of specification and one page of abstract filed on that date.

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

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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NEEDLE & ROSENBERG, P.C.
SUITE 1000
999 PEACHTREE STREET
ATLANTA, GA 30309-3915

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APR 17 2006

OFFICE OF PETITIONS

In re Application of	:	
David Helsper et al	:	
Application No. 10/943,454	:	DECISION ON PETITION
Filed: September 17, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 04159.0004U1	:	37 CFR 1.102(c)(2)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(2)(iii), filed March 8, 2006, to make the above-identified application special based on the invention materially contributing to countering terrorism as set forth in M.P.E.P. § 708.02, Section XI.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(2)(iii) and MPEP § 708.02, Section XI: Inventions for Countering Terrorism, should state that special status is sought because the invention materially contributes to countering terrorism. International terrorism as defined in 18 U.S.C. 2331 includes:

> activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping...

If the disclosure it not clear on its face that the claimed invention is materially directed to countering terrorism, the petition must be accompanied by a statement by the applicant, assignee or a registered attorney/agent explaining how the materiality standard is met. The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems. No fee is required.

The USPTO's final rule amending 37 CFR 1.102(c)(2) states:

> The materially standard does not permit an applicant to speculate as to how a hypothetical end-user might specially apply the invention in a manner that could counter terrorism. Nor does such

> standard permit an applicant to enjoy the benefit of advance examination merely because some minor aspect of the claimed invention may be directed to countering terrorism...[Response to Comment 65] applicants should not expect to have their petitions granted without a clear demonstration that the claimed invention is materially related to countering terrorism. 69 Fed. Reg. 56511 (Sept. 21, 2004)

Initially, it is noted that the application disclosure is directed to the detection of fraudulent online business transactions, and is not clear on its face that the claimed invention is materially directed to countering terrorism, as it defined in 18 U.S.C. 2331. As such applicant provided a statement as to how the invention materially contributes to countering terrorism. Applicant's statement indicates that the invention would prove helpful to prevent money laundering to terrorist organizations. However, applicant's statement is merely speculation as to how a hypothetical end-user might specially apply the invention in a manner that could counter terrorism. Further steps would be required to actually offset or nullify terrorism; furthermore, as the invention is directed to fraudulent online business transactions, only some minor aspect of the invention would be related to countering terrorism. Accordingly, as applicant's statement is mere speculation as to how a hypothetical end-user might specially apply the invention in a manner that could counter terrorism and is only directed to a minor aspect of countering terrorism, applicant is not entitled to enjoy the benefit of advanced examination.

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

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

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

By FAX: (571) 273-8300

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

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

The application is being forwarded to the Technology Center Art Unit 3624 for action in its regular turn.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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SEP 27 2005

TECHNOLOGY CENTER 3600

NEEDLE & ROSENBERG, P.C.
SUITE 1000
999 PEACHTREE STREET
ATLANTA, GA 30309-3915

In re application of David Helsper et al. Application No. 10/943,454 Filed: September 17, 2004 For: FRAUD RISK ADVISOR	: : : : :	**DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)**

This is in response to the petition filed on August 24, 2006 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

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

The petition fails to adequately meet requirements (B) and (C) above. Regarding item (B), the petition fails to include an election without traverse, or a statement that applicant is willing to elect without traverse should a restriction or election be required. Regarding item (C), the petition states that a pre-examination search was performed by a professional searcher but fails to list the field of search.

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

Petitioner is given one more opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

Applicant should promptly submit a renewed petition to the Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
571-272-6619

RAR/dew: 09/18/06

UNITED STATES PATENT AND TRADEMARK OFFICE

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TECHNOLOGY CENTER 3600

NEEDLE & ROSENBERG, P.C.
SUITE 1000
999 PEACHTREE STREET
ATLANTA, GA 30309-3915

In re application of
David Helsper et al.
Application No. 10/943,454
Filed: September 17, 2004
For: FRAUD RISK ADVISOR

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)

This is in response to the renewed petition filed on November 1, 2006 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 now 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
Quality Assurance Specialist
Technology Center 3600
571-272-6611

SNM/dew: 11/17/06

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

MAILED

JUN 23 2010

OFFICE OF PETITIONS

In re Application of Soede et al. :
Application No. 10/943,456 :
Filing Date: September 17, 2004 :
Attorney Docket No. 12320US03 :

On Application For
Patent Term Adjustment

This is in response to the "Request for Reconsideration of Patent Term Adjustment Pursuant to 37 CFR § 1.705(b)" filed January 27, 2010. Applicants submit the correct patent term adjustment to be indicated on the patent is one thousand six hundred forty-two (1,642) days, not nine hundred forty-nine (949) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 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, an applicant may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the

amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

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

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

[1] 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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KOLISCH HARTWELL, P.C.
520 SW YAMHILL STREET, Suite 200
PORTLAND OR 97204

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AUG 01 2008

In re Application of	:	
Charles **MEHRMANN**	:	
Application No. 10/943,457	:	DECISION ON PETITION
Filed: September 17, 2004	:	
Attorney Docket No. WMO 3H7CON	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 21, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed February 23, 2006, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 24, 2006.

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, Request for Continued Examination and the $810 filing fee, (2) the petition fee of $ 1540, and (3) a proper statement of unintentional delay have been received. Accordingly, the reply to the final Office action of February 23, 2006 is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1050 extension of time fee submitted with the petition on November 21, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Also, there is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. The power of attorney filed November 21, 2007 was not signed by an appropriate party. In particular, the statements under 37 CFR 3.73(b) that attempt to give Myrna Hennessy, Chief Financial Officer, the authority to sign the power of attorney are not accompanied by a designation of an assignee. 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 Lori Baker Amerson at (571)272-6052 or in her absence the undersigned at (571) 272-7099.

This application is being referred to Technology Center AU 3618 for appropriate action on the concurrently filed Request for Continued Examination and amendment.

Christopher Bottorff

for David Bucci
Petitions Examiner
Office of Petitions

Cc: James A. Fox
Heller Ehrman LLP
275 Middlefield Road
Menlo Park, CA 94025

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

Heller Ehrman, LLP
4350 La Jolla Village Drive, 7th Floor
San Diego, CA 92122

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OFFICE OF PETITIONS

In re Application of	:	
Charles Mehrmann	:	
Application No. 10/943,457	:	DECISION ON PETITION
Filed: September 17, 2004	:	TO WITHDRAW
Attorney Docket No. WMO 3H7CON	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 10, 2008.

The request is **NOT APPROVED**.

A review of the file record indicates that Richard W. Thill does not have power of attorney in this patent application nor is there any statement or evidence of record of employment in or otherwise being engaged in the proceedings in this patent application. 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 above-listed address until otherwise properly notified by the applicant.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Goodwin Procter, LLP
Attn: Patent Administrator
135 Commonwealth Drive
Menlo Park, CA 94025-1105

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/943,477	09/17/2004	Haoran Hu	04-ERC-231B	4327

54279 7590 12/03/2008
PAUL V. KELLER, LLC
4585 LIBERTY RD.
SOUTH EUCLID, OH 44121

EXAMINER
TURNER, KATHERINE ANN

ART UNIT	PAPER NUMBER
1795	

MAIL DATE	DELIVERY MODE
12/03/2008	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

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caf

Mailed : 12-03-08	:	
In re Application of	:	DECISION ON
Hu et al.	:	PETITION
Serial No. 10/943,477	:	
Filed: September 17, 2004	:	
For: CLEAN POWER SYSTEM	:	

This is a decision on the PETITION TO WITHDRAW RESTRICTION REQUIREMENT filed October 9, 2008.

On March 17, 2008, a four-way restriction requirement was made by the examiner. Applicants traversed the restriction requirement between groups III and IV in a response filed April 18, 2008. The examiner repeated the restriction requirement in an office action mailed May 15, 2008 and made the restriction requirement final.

On October 9, 2008, the instant petition under 37 CFR 1.144 was filed to formally request the withdrawal of the restriction requirement.

Applicant's position for the withdrawal of the restriction requirement is that the Office has not presented any reasons for finding undue burden in examining both Groups III and IV.

DECISION

Section 803 of the MPEP states:

803 Restriction - When Proper

If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

In making the restriction final, the examiner states that the apparatus could be used in another and materially different process. Admittedly, the examiner's other statement that "the processes can produce materially different products" is not pertinent. Additionally, in the original requirement, the examiner has pointed out that each group is classified in different class and subclasses and a serious search and examination burden would exist. The position of the

examiner is reasonable. While a search of the two groups of claims may be overlapping, they are not coextensive. Such a search would be a serious burden on the examiner.

Accordingly, the petition to withdraw the restriction requirement is **DENIED**.

/JACQUELINE STONE/

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

PAUL V. KELLER, LLC
4585 LIBERTY RD.
SOUTH EUCLID OH 44121

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.
10/943,477	09/17/2004	Haoran Hu	04-ERC-231B	4327

54279 7590 04/14/2009
PAUL V. KELLER, LLC
4585 LIBERTY RD.
SOUTH EUCLID, OH 44121

EXAMINER
TURNER, KATHERINE ANN

ART UNIT	PAPER NUMBER
1795	

MAIL DATE	DELIVERY MODE
04/14/2009	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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Mailed : APR 14 2009	:	
In re Application of	:	DECISION ON
Hu et al.	:	PETITION
Serial No. 10/943,477	:	
Filed: September 17, 2004	:	
For: CLEAN POWER SYSTEM	:	

This is a decision on the RENEWED PETITION FROM RESTRICTION REQUIREMENT filed January 1, 2009.

On December 3, 2008, a decision on an earlier filed petition was mailed in which the request to withdraw the restriction requirement was denied.

On January 1, 2009, the instant petition under 37 CFR 1.144 was filed to formally request the withdrawal of the restriction requirement.

Applicant's position for the withdrawal of the restriction requirement is that the examiner has not presented appropriate reasoning as to how the apparatus could be used in another and materially different process and has not provided valid reasons for finding undue burden in examining both Groups III and IV.

DECISION

Upon further consideration of the examiner's reasons for maintaining that the claimed apparatus could be used in another and materially different process, it is deemed that the reasoning presented by the examiner is not valid. The proposed alternate method suggested by the examiner is not patentably distinct from the method claimed (i.e. the invention of Group III). Since the examiner has not properly shown that the inventions of groups III and IV are distinct, the arguments regarding search burden are moot.

Accordingly, the petition to withdraw the restriction requirement is **GRANTED**.

Gregory Mills, Acting Director
Technology Center 1700
Chemical and Materials Engineering

PAUL V. KELLER, LLC
4585 LIBERTY RD.
SOUTH EUCLID OH 44121

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

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AUG 23 2005

OFFICE OF PETITIONS

In re Application of:	:	
Guthrie et al.	:	
Application No. 10/943,495	:	DECISION GRANTING
Filed: September 17, 2004	:	STATUS UNDER
Title of Invention:	:	37 CFR 1.47(a)
DISTRIBUTED SECURE REPOSITORY	:	

This decision is in response to the Petition Under 37 CFR 1.47(a), filed June 14, 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 inventors, Paul D. Guthrie, Andrew L. Dale and Michael Tolson, refuse 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 petition fee, $200.00 has been charged to Applicant's deposit account as authorized in the instant petition.

The application file is being returned 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
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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Mr. PAUL D. GUTHRIE
1097 HOWARD STREET
#306
SAN FRANCISCO, CA 94103-2879

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AUG 23 2005

OFFICE OF PETITIONS

In re Application of: :
Guthrie et al. :
Application No. 10/943,495 :
Filed: September 17, 2004 : LETTER
Title of Invention: :
DISTRIBUTED SECURE REPOSITORY :

Dear Mr. Guthrie:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3232. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Attorney Advisor
Office of Petitions

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

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Alexandria, VA 22313-1450
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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

MAILED

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TECHNOLOGY CENTER 2100

In re Application of: Guthrie, et al.
Application No. 10/943,495
Filed: September 17, 2004
For: DISTRIBUTED SECURE REPOSITORY

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed August 01, 2005.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal is the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 10.40(a) further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

Applicant makes reference to provisional application No. 60/610,008 filed 9/14/04. Note, a separate withdrawal must be filed in each application for which the change is requested. Further the U.S. Patent and Trademark Office does not affect changes in the withdrawal of attorney in provisional applications.

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

for

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

cc: CONVOII, INC.
1900 SOUTH NORFOLK STREET
SUITE 135
SAN MATEO, CA 94403

UNITED STATES PATENT AND TRADEMARK OFFICE

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MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

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SEP 21 2007

OFFICE OF PETITIONS

In re Application of	:	
Hopkinson et al.	:	DECISION ON PETITION
Application No. 10/943,497	:	UNDER 37 CFR 1.78(a)(3)
Filed: September 17, 2004	:	
Attorney Docket No. 9457-23	:	

This is a decision on the PETITION TO REQUEST ACCEPTANCE OF UNINTENTIONALLY DELAYED CLAIM FOR PRIORITY filed January 22, 2007. This petition is properly being treated under 37 C.F.R. § 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional application No. 10/690,608. This petition was recently forwarded to the undersigned for consideration.

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) and must be filed during the pendency of the nonprovisional application. 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 where there is a question whether the delay was unintentional.

A reference to the prior-filed application has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

All of the above requirements having been satisfied, the late claim for benefit of priority to the prior-filed applications under 35 U.S.C. § 120 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 filing date of the prior-filed applications. 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 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 questions concerning this matter may be directed to the undersigned at (571) 272-3219. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center Art Unit 3765 for consideration by the examiner of the claim for benefit

of priority under 35 U.S.C. § 120 of the prior-filed application as set forth in the amendment filed January 22, 2007.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/943,497	09/17/2004	3765	3570	9457-23	61	6

CONFIRMATION NO. 4271

CORRECTED FILING RECEIPT

OC000000025949555

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

Date Mailed: 09/21/2007

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

Applicant(s)

Wayne Hopkinson, Hickory, NC;
Trent Hayes, Hickory, NC;
Borivoje Antonijevic, Westlake, AUSTRALIA;
Craig Masters, Petrie, AUSTRALIA;
Ross Beames, Sherwood, AUSTRALIA;
Eamonn Wyer, Dublin, IRELAND;
Robert Black, Kilcoole, IRELAND;

Power of Attorney: The patent practitioners associated with Customer Number **20792**.

Domestic Priority data as claimed by applicant

This application is a CIP of 10/690,608 10/23/2003 PAT 6,875,928

Foreign Applications

If Required, Foreign Filing License Granted: 11/05/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/943,497

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Methods and apparatus for forming cable media

Preliminary Class

222

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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Franklin Volvovitz
I2 Indian Trail Road
Woodbridge CT 06525

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JUN 2 3 2008

OFFICE OF PETITIONS

In re Application of
Volvovitz
Application No.: 10/943,502
Filed: September 17, 2004
Attorney Docket No.: N/A
For: PHARMACEUTICAL COMPOSITIONS AND METHODS FOR PREVENTING, TREATING, OR REVERSING NEURONAL DYSFUNCTION

DECISION GRANTING PETITION TO REVIVE AND MERGING APPLICATION FILES

In re Application of
Volvovitz
Application No. 11/584,017
Filed October 17, 2006
Attorney Docket No. N/A
For: PHARMACEUTICAL COMPOSITIONS AND METHODS FOR PREVENTING, TREATING, OR REVERSING NEURONAL DYSFUNCTION

This is a response to the "COMMUNICATION RE: PREVIOUSLY FILED PETITION FOR REVIVAL OR AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)" filed November 28, 2007, in Application No. 10/943,502, requesting that the file of the above-identified application and the file of application No. 11/584,017 be merged and Application No. 10/943,502 be revived under 37 CFR 1.137(b). The merger request will be treated as a feeless petition under 37 CFR 1.181.

The petition under 37 CFR 1.181 is granted.

The petition under 37 CFR 1.137(b) is granted.

Application No. 10/943,502 was filed on September 17, 2004. On November 5, 2004, the Office mailed a Notice to File Missing Parts of Nonprovisional Application, which set a two month extendable period to submit a $395.00 basic filing fee, a $65.00 late filing fee surcharge, a substitute specification, replacement claims, an abstract, and $213.00 in additional claim fees.

Applicant did not respond in a timely manner. The application became abandoned on January 6, 2005.

On certificate of mailing date October 17, 2006, applicant filed a petition to revive under 37 CFR 1.137(b). Unfortunately, the petition was separated from the reply. The reply was processed as a separate application – No. 11/584,017 and accorded a filing date of October 17, 2006. The Office mailed an updated filing receipt for Application No. 11/584,017 on February 8, 2007. The original Rule 137(b) petition filed in Application No. 10/943,502 was misplaced in the Office.

A number of Notices were mailed in application No. 11/584,017. Petitioner responded to the Notices. Application No. 11/584,017 was published on April 17, 2008.

It is apparent that the substitute specification and other papers filed on October 17, 2006 were not intended to be a separate application. They were filed as the reply to the November 5, 2004 Notice to File Missing Parts of Nonprovisional Application.

Accordingly, the petition under 37 CFR 1.181 is **granted**. The papers present in the file of Application No. 11/584,017 will be merged into the file of Application No. 10/943,502 and the fees paid in Application No. 11/584,017 will be transferred to Application No. 10/943,502.

Application No. 11/584,017 will no longer be an active application number. All future correspondence concerning this application should be directed to Application No. 10/943,502.

Regarding the petition to revive under 37 CFR 1.137(b) that was filed on certificate of mailing date October 17, 2006:

Applicant has submitted a proper reply to the November 5, 2004 Notice to File Missing Parts of Nonprovisional Application in the form of a $395.00 basic filing fee, a $65.00 late filing fee surcharge, a substitute specification, replacement claims, an abstract, and $213.00 in additional claim fees; an acceptable statement of the unintentional nature of the delay in responding to the November 5, 2004 Notice, and the $750.00 petition fee. It is noted that the check for the petition fee was negotiated on accounting date October 23, 2006 and is currently associated with financial records for Application No. 10/943,502.

Accordingly, the petition under 37 CFR 1.137(b) is **granted**.

After the mailing of this decision, both identified applications will be returned to the Office of Patent Application Processing where Application No. 11/584,017 will be "deactivated" and its contents will be transferred to Application No. 10/943,502. Application No. 10/943,502 will then continue with pre-examination processing.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of Deputy Commissioner
for Patent Examination Policy

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WARD & OLIVO
C/O JAMES L. LYNCH
382 SPRINGFIELD AVENUE
SUMMIT NJ 07901

In re Application of: Spencer Rathus et al

Application No. 10/943,504
Filed: September 17, 2004
Attorney Docket No. 660-060

NOTICE OF WITHDRAWAL
FROM ISSUE
UNDER 37 CFR 1.313

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

The above-identified application is hereby withdrawn from issue. The Notice of Allowance and Issue Fee Due and the Notice of Allowability mailed March 08, 2007, are hereby vacated.

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

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

Telephone inquires should be directed to Michael G. Lee at (571) 272-2398.

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

Janice A. Falcone

Janice A. Falcone, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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SUMMIT NJ 07901

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OFFICE OF PETITIONS

In re Application of	:	
Rathus, et al.	:	
Application No. 10/943,504	:	ON PETITION
Filed: September 17, 2004	:	
Attorney Docket No. 660-060	:	

This is a decision on the petition to revive the above-identified application under 37 CFR 1.137(b), filed March 20, 2008.

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)." No fee is required for a renewed petition. This is **not** a final agency decision within the meaning of 5 USC 704.

The above-identified application became abandoned for failure to timely pay the required issue fee as required in the Notice of Allowance and failure to timely file new formal drawings as required in the Notice of Allowability, both mailed June 1, 2007. Both notices set a statutory period of three months from the mailing date of each notice for fee transmittal and for submitting corrected drawings. The three month period for reply was not extendable. No issue fee having been received and no

corrected formal drawings having been filed, the above-identified application became abandoned on September 2, 2007. A Notice of Abandonment was mailed on September 26, 2007.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). The instant petition lacks item (1), the required reply.

The Notice of Allowance and the Notice of Allowability set forth concurrent but distinct requirements with which applicants are required to comply. Although applicants have paid the issue fee, **applicants have failed to file corrected drawings** as required by the Notice of Allowability.

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

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WARD & OLIVO
CARE OF JAMES L LYNCH
382 SPRINGFIELD AVENUE
SUMMIT NJ 07901

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OFFICE OF PETITIONS

In re Application of	:	
Rathus, et al.	:	
Application No. 10/943,504	:	ON PETITION
Filed: September 17, 2004	:	
Attorney Docket No. 660-060	:	

This is a decision on the renewed petition to revive the above-identified application under 37 CFR 1.137(b), filed April 23, 2008.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely pay the required issue fee as required in the Notice of Allowance and failure to timely file new formal drawings as required in the Notice of Allowability, both mailed June 1, 2007. Both notices set a statutory period of three months from the mailing date of each notice for fee transmittal and for submitting corrected drawings. The three month period for reply was not extendable. No issue fee having been received and no corrected formal drawings having been filed, the above-identified application became abandoned on September 2, 2007. A Notice of Abandonment was mailed on September 26, 2007. Applicants filed a petition to revive under 37 CFR 1.137(b) on March 20, 2008. However, because the petition lacked the drawings, the petition was dismissed in a decision mailed on April 9, 2008.

With the renewed petition, petitioner has submitted corrected drawings as required by the Notice of Allowability. The other requirements for a grantable petition were fulfilled with the petition filed March 20, 2008.

The matter is being forwarded to the Office of Data Management for processing into a patent.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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MARTINE PENILLA & GENCARELLA LLP
710 LAKEWAY DRIVE
SUITE 200
SUNNYVALE CA 94085

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OFFICE OF PETITIONS

In re Application of	:	
Viswanadha, et al.	:	
Application No. 10/943,528	:	ON PETITION
Filed: September 17, 2004	:	
Attorney Docket No. SUNMP386	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed September 1, 2005. The petition was recently forwarded to the Office of Petitions for consideration.

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

The holding of abandonment is **WITHDRAWN**.

The application was held abandoned due to failure to timely file replacement drawings in response to the Notice to File Corrected Application Papers, mailed November 5, 2004. This Notice set an extendable period for reply of two (2) months. No replacement drawings having been received, the application became abandoned on January 6, 2005. The Office mailed a Notice of Abandonment on July 14, 2005.

To establish nonreceipt of an Office action, a petitioner must: 1) include a statement that the Office action was not received; 2) attest to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and 3)

include a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed.[1] A proper docket report consists of a "docket record where the nonreceived Office action would have been entered had it been received and docketed."[2] "For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket record showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted..."[3]

With the instant petition, petitioner has submitted a copy of a master docket report, showing all of his replies docketed for the due date of January 5, 2005 (petitioner's docket report covered December 23, 2004 to January 18, 2005). An entry for the instant application is absent, supporting the conclusion that the January 5, 2005 Notice was not received.

In view thereof, the petition is granted.

The application is being forwarded to the Office of Patent Application Processing for pre-examination processing, using the replacement drawings filed with the petition on September 1, 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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[1] See MPEP 711.03(c)(II).

[2] MPEP 711.03(c)(II).

[3] Id.

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MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

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In re Application of :
Thomas Gallem et al :
Application No. 10/943,542 : ON PETITION
Filed: September 17, 2004 :
Attorney Docket No. 14104.1USC1

This is a decision on the petition, filed January 13, 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 December 11, 2008 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3771 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

---

[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

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MINNEAPOLIS, MN 55402-0903

In re Application of :
Thomas Gallem et al :
Application No. 10/943,542 : ON PETITION
Filed: September 17, 2004 :
Attorney Docket No. 14104.1USC1

This is a decision on the petition, filed May 21, 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 April 22, 2009 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 3771 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

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DUNLAP CODDING, P.C.
PO BOX 16370
OKLAHOMA CITY OK 73113

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AUG 25 2008

OFFICE OF PETITIONS

In re Application of	:	
Lee Angros	:	
Application No. 10/943,546	:	DECISION GRANTING PETITION
Filed: September 17, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 233.039	:	

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 16, 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 1797 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8/6/09

TO SPE OF : ART UNIT 1797 Kim, Vickie (spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/943546 Patent No.: 7476362

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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

Thank You For Your Assistance

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

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

Comments: _____

SPE — 1797 Art Unit

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SQUIRE, SANDERS & DEMPSEY L.L.P.
1 MARITIME PLAZA, SUITE 300
SAN FRANCISCO CA 94111

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FEB 04 2005

OFFICE OF PETITIONS

In re Application of	:
Suzuki et al.	: DECISION GRANTING
Application No. 10/943,552	: PETITION
Filed: 17 September, 2004	:
Atty Docket No. 47539.00038	:

This is a decision on the petition under 37 CFR 1.10(c), filed on 21 December, 2004, requesting that the above-identified application be accorded a filing date of 17 September, 2004, rather than the presently accorded filing date of 19 September, 2004.

Petitioner alleges that the application was deposited in Express Mail service on 17 September, 2004. In support, on 21 December, 2004, petitioners supplied a copy of Express Mail Label No. EV339062463US (the same Express Mail number found on the itemized application cover sheet accompanying the original application papers located in the official file). Although the Express Mail label bears a "date-in" of "09-19-04" the label also contains an Official USPS postmark dated 17 September, 2004. Additionally, petitioners have supplied a printout from the USPS Track & Confirm database showing that the application was accepted by the USPS on 17 September, 2004.

In view of the above, the correct date of deposit in Express Mail is 17 September, 2004.

In view of the above, the petition is granted. No petition fee is due.

Application No. 10/943,552

The application is being referred to the Office of Initial Patent Examination for correction of the filing date to 17 September, 2004, and issuance of a corrected Filing Receipt.

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

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OFFICE OF PETITIONS

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

In re Application of

PASSINT, Nicholas et al.
Application No. 10/943,556
Filed: September 17, 2004
Attorney Docket No. **2135.001US**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 17, 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, transfer of this application to client, 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: **NICHOLAS PASSINT**
924 EAST JUNEAU AVENUE APT. 815
MILWAUKEE, WI 53202

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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WELSH & KATZ, LTD
120 S RIVERSIDE PLAZA
22ND FLOOR
CHICAGO, IL 60606

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JUN 20 2008
OFFICE OF PETITIONS

In re Application of	:	
Chung-Chih Tung	:	
Application No. 10/943,600	:	DECISION ON PETITION
Filed: September 17, 2004	:	TO WITHDRAW
Attorney Docket No. 92825	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 20, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Welsh & Katz, LTD has been revoked by the assignee of the patent application on December 21, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: TAIWAN ADVANCE PATENT & TRADEMARK OFFICE
4F. NO.410, SEC5, CHUNGHSIAO E. RD.
TAIPEI CITY, TAIWAN
R.O.C.

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
10/943,600	09/17/2004	Chung-Chih Tung	TAIW 875

CONFIRMATION NO. 4129

POA ACCEPTANCE LETTER

23995
RABIN & Berdo, PC
1101 14TH STREET, NW
SUITE 500
WASHINGTON, DC 20005

OC000000030491852

Date Mailed: 06/16/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/21/2007.

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

/amwise/

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

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OFFICE OF PETITIONS

GANZLAW, P.C.
P.O. BOX 2200
HILLSBORO, OR 97123

In re Application of
Guoqing CHEN, et al
Application No. 10/943,612
Filed: September 17, 2004
Attorney Docket No. MICS:0207-3

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 13, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney given to, Ganzlaw, P.C. has been revoked by the assignee of the patent application on March 12, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

There are no pending Office actions at the present time.

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

April Wise
Petitions Examiner
Office of Petitions

cc: FLETCHER YODER P.C.
7915 FM 1960 RD. WEST
SUITE 330
HOUSTON, TX 77070

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JJGJR.: 06-06

Paper No: __

NAVAL RESEARCH LABORATORY
ASSOCIATE COUNSEL (PATENTS)
CODE 1008.2
4555 OVERLOOK AVENUE, S.W.
WASHINGTON DC 20375-5320

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JUN 19 2006

OFFICE OF PETITIONS

In re Application of	:	
Gerlach, et al.	:	
Application No. 10/943,647	:	ON PETITION
Filed: 2 September, 2004	:	
Attorney Docket No. NC 84,907	:	

This is a decision on a petition filed on 15 December, 2005, under 37 C.F.R. §1.137(b).

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

BACKGROUND

The record indicates:

- Petitioner failed to reply timely to the Notice to File Missing Parts (oath/declaration, surcharge) mailed on 20 December, 2004, with reply due absent an extension of time on or before Monday, 21 February, 2005;
- the application went abandoned by operation of law after midnight 20 February, 2005;
- the Office mailed the Notice of Abandonment on 9 September, 2005;
- Petitioner filed the instant petition on 15 December, 2005, with fee, reply in the form of oath/declaration and surcharge, and made the statement of unintentional delay–thus, Petitioner appears to have satisfied the regulatory requirements under 37 C.F.R. §1.137(b).

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[2]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4] And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

Allegations as to Unintentional Delay

The requirements for relief under the provisions of 37 C.F.R. §1.137(b) are: petition, fee, reply,

---

[1] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

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

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

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

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

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

showing of unintentional delay, and–where appropriate–a terminal disclaimer and fee.

It appears that Petitioner has satisfied the requirements of the regulation.

CONCLUSION

Because Petitioner appears to have satisfied the regulatory requirements, regulation, the petition under 37 C.F.R. §1.137(b) is **granted**.

The application is released to OIPE for further processing in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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David W. Highet, VP & Chief IP Counsel
Becton, Dickinson and Company
1 Becton Drive
MC 110
Franklin Lakes, NJ 07417-1880

Mail Date: 07/02/2010

Applicant	: Michael S. Shanler	: DECISION ON REQUEST FOR
Patent Number	: 7666362	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/943,687	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/17/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1511** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Jansson, Shupe & Munger, Ltd.
Main Place – 245 Main Street
Racine, WI 53403

AUG 0 4 2005

In re Application of:
Charles A. McCarthy et al.
Serial No.: 10/943,692
Filed: September 17, 2004
Attorney Docket No.: KM-103CON

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed on September 17, 2004 under 37 C.F.R. § 1.102(d) requesting that the above identified application be granted special status and examined out of turn on the ground of actual infringement as set forth in MPEP § 708.02 II.

The petition is GRANTED.

MPEP § 708.02 II requires, besides a petition, petition fee and a copy of each of the references deemed most closely related to the subject matter encompassed by the claims, 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 good knowledge of the pertinent prior art.

The petition filed September 17, 2004 has been considered and found to comply with all the requirements set forth in MPEP § 708.02 II.

Edward Westin

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

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JANSSON SHUPE & MUNGER
245 MAIN STREET
RACINE, WI 53403

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OFFICE OF PETITIONS

In re Application of :
Charles A. McCarthy et al :
Application No. 10/943,692 :
Filed: September 17, 2004 :
Attorney Docket No. KM-103CON :

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c), filed November 18, 2005, which is being treated under 37 CFR 1.313(c)(2), to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 23, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2875 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Wan Laymon
Petitions Examiner
Office of Petitions

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

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LAMBERT & ASSOCIATES, P.L.L.C.
92 STATE STREET
BOSTON MA 02109-2004

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MAY 04 2010

OFFICE OF PETITIONS

In re Application of:	:	
Grum TEKLEMARIAM et al.	:	
Application No. 10/943,703	:	DECISION ON PETITION
Filed: September 17, 2004	:	
Attorney Docket No. GTEK-103 US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 19, 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 31, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 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 amendment; (2) the petition fee of $810.00; and (3) an adequate statement of unintentional delay. Accordingly, the response to non-final office action mailed on May 31, 2005 is accepted as having been unintentionally delayed.

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

Telephone inquiries concerning this decision should be directed to Shahid Alam at (571) 272-6052 or in his absence to the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 2859 for appropriate action on the concurrently filed amendment.

David A. Bucci
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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Georgia-Pacific LLC
133 Peachtree Street NE - GA030-41
ATLANTA, GA 30303

Mail Date: 04/21/2010

Applicant	: Gerald J. Van Handel	: DECISION ON REQUEST FOR
Patent Number	: 7614993	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/943,704	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/17/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **939** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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PABST PATENT GROUP LLP
400 COLONY SQUARE, SUITE 1200
1201 PEACHTREE STREET
ATLANTA GA 30361

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OFFICE OF PETITIONS

In re Application of :
SHAW, et al. :
Application No. 10/943,724 :
Filed: September 17, 2004 :
Attorney Docket No. PASS 100 :

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 25, 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 Rivka Monheit on behalf of all attorneys of record who are associated with customer No. 23579. All attorneys/agents associated with the Customer Number 23579 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 October 19, 2006 that requires a reply from the applicant.

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **SHARON M. SHAW**
220 EAST 65TH STREET
NEW YORK, NY 10021

cc: **TOWNSEND TOWNSEND & CREW LLP**
2175 NORTH CALIFORNIA BLVD, SUITE 625
WALNUT CREEK, CA 94596

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
10/943,724	09/17/2004	Sharon M. Shaw	PASS 100

CONFIRMATION NO. 4331

OC000000021823544

23579
PATREA L. PABST
PABST PATENT GROUP LLP
400 COLONY SQUARE, SUITE 1200
1201 PEACHTREE STREET
ATLANTA, GA 30361

Date Mailed: 01/04/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/25/2006.

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

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

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PATTERSON & SHERIDAN, L.L.P.
3040 POST OAK BOULEVARD
SUITE 1500
HOUSTON TX 77056

COPY MAILED

MAY 13 2008

OFFICE OF PETITIONS

In re Application of	:	
William Lewis	:	
Application No.10/943,740	:	DECISION ON PETITION
Filed:September 17, 2004	:	
Attorney Docket No.SME/0007	:	

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

The petition is **DISMISSED**.

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

The application became abandoned for failure to timely reply to the Notice To File Missing Parts Of Nonprovisional Application (Notice) mailed November 17, 2004. The Notice set a period for reply of TWO (2) MONTHS from the date of mailing the Notice.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either

the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. *See* MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (3).

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

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

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

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

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

As to Period (1):

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

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the

initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (almost 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 January 18, 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 Larry Lewis was counsel of record at the time of abandonment, Mr. Lewis should explain why this application became abandoned while it was under his control and what efforts made to further reply of itself and with whom this matter was discussed outside of Mr. Lewis. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Notice are required from responsible person(s), and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons then, and the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Notice. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

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

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, over 2 1/2 years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from 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) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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PATTERSON & SHERIDAN, LLP
3040 POST OAK BOULEVARD
SUITE 1500
HOUSTON TX 77056

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In re Application of	:
William Lewis	:
Application No. 10/943,740	: DECISION GRANTING PETITION
Filed: September 17, 2004	: UNDER 37 CFR 1.137(b)
Attorney Docket No. SME/0007	:

This is a decision on the renewed petition under 37 CFR 1.137(b), filed August 13, 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 additional claims fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice To File Missing Parts Of Nonprovisional Application mailed November 17, 2004, 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 Patent Application Processing for further pre-examination processing.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

BOYLE FREDRICKSON S.C.
840 NORTH PLANKINTON AVENUE
MILWAUKEE, WI 53203

In re Application of	:	
Bertrand Marsac	:	
Application No. 10/943,746	:	DECISION ON PETITION
Filed: September 17, 2004	:	TO WITHDRAW
Attorney Docket No. 229.027	:	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 4, 2009.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Boyle Fredrickson, SC has been revoked by the assignee of the patent application on June 3, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642. 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: SOFT AIR USA
425 HUGHES ROAD
SUITE 100
GRAPEVINE, TX 76051

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AUG 1 0 2009

OFFICE OF PETITIONS

CARSTENS & CAHOON, LLP
P O BOX 802334
DALLAS, TX 75380

In re Application of	:	
Bertrand Marsac	:	
Application No. 10/943,746	:	ON PETITION
Filed: September 17, 2004	:	
Attorney Docket No. CSOFT.00001	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 3, 2009, to revive the above-identified application.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of October 27, 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)(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 January 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 a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to the 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 3641 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

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

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/943,746	09/17/2004	Bertrand Marsac	CSOFT.00001

CONFIRMATION NO. 1948

POA ACCEPTANCE LETTER

22858
CARSTENS & CAHOON, LLP
P O BOX 802334
DALLAS, TX 75380

OC000000037262259

Date Mailed: 08/07/2009

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/03/2009.

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

/amwise/

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

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WILLIAMS, MORGAN & AMERSON
10333 Richmond Dr.
Suite 1100
Houston, Texas 77042

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OFFICE OF PETITIONS

In re Application of	:	
Brett A. Williams	:	
Application No. 10/943,750	:	DECISION ON PETITION
Filed: September 17, 2004	:	
Attorney Docket No 2063.008200/VS-00702	:	

This is a decision on the petition, filed October 10, 2008, under 37 CFR 1.181(a) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely reply on or before January 19, 2007, as required by the Notice of Non-Compliant Amendment mailed November 19, 2007.

Petitioner asserts that the Office subsequently mailed a Letter dated November 19, 2007, Letter Withdrawing a Notice of Non-Compliant Amendment, indicating that the said Letter was sent in error. The second Letter mailed November 19, 2007, indicated that the Notice of Non-Compliant Amendment was withdrawn and the application was forwarded to the examiner for appropriate action. A review of the record indicates that the Office failed to enter the Notice withdrawing the Notice of Non-Compliant, causing the examiner to abandon the case. A copy of this Notice will be forwarded to scanning to complete the record, and the application restored to pending status. The Office regrets the error and delay in withdrawing the abandonment.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Telephone inquiries concerning this decision should be directed to Thurman K. Page at (571) 272-0602.

The application is being forwarded to Technology Center Art Unit 3662 for action in its regular turn.

Thurman K. Page
Petitions Examiner
Office of Petitions

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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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OFFICE OF PETITIONS

In re Application of	:	
Link et al.	:	DECISION ON APPLICATION
Application No. 10/943,768	:	FOR
Filed: September 17, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 53516AUSM1	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(b)" filed February 26, 2009. Applicants request that the initial Determination of Patent Term Adjustment under 35 U.S.C. 154(b) be corrected from five hundred twenty-four (524) days to four hundred seven (407) days.

The application for patent term adjustment is **GRANTED to the extent indicated herein**.

The Office has updated the PALM and PAIR screens to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is five hundred eighty-nine (589) days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On November 26, 2008, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 524 days. The instant application for patent term adjustment was timely filed[1] on or before payment of the issue fee.

[1] PALM records indicate that the issue fee was paid on February 26, 2009.

Applicants assert that the correct period of reduction for applicant delay in responding to the Notice to File Missing Parts of Nonprovisional Application ("Notice to File Missing Parts") mailed on November 4, 2004, is 77 days, not 80 days. Specifically, applicants state that they filed a response to the Notice to File Missing Parts of Nonprovisional Application on April 22, 2005 (not April 25, 2005) as evidenced by their date-stamped postcard receipt.

On November 4, 2004, the Office mailed a Notice to File Missing Parts, which was returned to the USPTO as undeliverable. Thereafter, a letter restarting the period for reply (and re-mailing the Notice to File Missing Parts) was mailed on February 28, 2005. Under the circumstances, it is appropriate to use the re-mailing date of the Notice to File Missing Parts on February 28, 2005, for purposes of calculating any reduction of patent term adjustment under 37 CFR 1.704(b).

A review of the application history reveals that the Office incorrectly entered the date of receipt of the reply to the Notice to File Missing Parts in the PTA Calculations as April 25, 2005, instead of April 22, 2005.[2] As applicants submitted their response on April 22, 2005, within the three-month period after the date of the mailing of the Notice to File Missing Parts as re-mailed on February 28, 2005, no reduction pursuant to 37 CFR 1.704(b) is warranted. Accordingly, it is concluded that applicants did not fail to engage in reasonable efforts to conclude processing or examination of the application by delaying in replying to the Notice to File Missing Parts. The period of reduction of 80 days is being removed.

Next, applicants stated that they should have been assessed a delay of 120 days for the submission of a Supplemental Information Disclosure Statement (IDS) on July 11, 2008, 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

[2] The response located in the Image File Wrapper (IFW) for this application contains a USPTO date-stamp of April 22, 2005. It is noted that the date of receipt of the reply was correctly entered in IFW as April 22, 2005.

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;

In this instance, it is undisputed that applicant filed the IDS after the mailing of the Notice of Allowance. A review of the IDS reveals that applicants did not include a proper statement under 37 CFR 1.704(d).[3] Under these circumstances, the filing of the IDS on July 11, 2008, is a proper basis for reduction of patent term adjustment pursuant to 37 CFR 1.704(c)(10). However, the period of reduction is 15 days, not 120 days as suggested by applicants. The Office responded to the IDS on July 25, 2008. Thus, the period of adjustment should be reduced by the lesser period of 15 days, beginning on the date the IDS was filed, July 11, 2008, and ending on the mailing date of the Office action or notice in response to the IDS, July 25, 2008. Accordingly, a period of reduction of 15 days will be entered.

In view thereof, the determination of patent term adjustment at the time of the mailing of the Notice of Allowance is 589 days.

---

[3] Pursuant to 37 CFR 1.704(d):

> A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

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

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

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

Telephone inquiries specific to this 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 updated PALM screen

Day : Wednesday

PALM INTRANET

Date: 5/13/2009
Time: 18:58:05

PTA Calculations for Application: 10/943768			
Application Filing Date:	09/17/2004	PTO Delay (PTO):	667
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	143
Post-Issue Petitions:	0	Total PTA (days):	589
PTO Delay Adjustment:	65		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
74	05/13/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	80		
73	05/13/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		15	
60	11/26/2008	MAIL NOTICE OF ALLOWANCE			
59	11/20/2008	ISSUE REVISION COMPLETED			
58	11/20/2008	DOCUMENT VERIFICATION			
57	11/20/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
56	11/20/2008	NOTICE OF ALLOWABILITY			
55	07/11/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
54	10/24/2008	FINISHED INITIAL DATA CAPTURE			
53	07/11/2008	REFERENCE CAPTURE ON IDS			
52	07/11/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
51	08/30/2008	DATE FORWARDED TO EXAMINER			
50	08/01/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
49	08/30/2008	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
48	08/01/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
47	07/25/2008	MAIL PUB NOTICE OF NON-COMPLIANT IDS			
46	07/25/2008	PUB NOTICE OF NON-COMPLIANT IDS			
42	07/11/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
41	06/17/2008	EXPORT TO INITIAL DATA CAPTURE			
40	06/16/2008	MAIL NOTICE OF ALLOWANCE	5		33
39	06/09/2008	ISSUE REVISION COMPLETED			
38	06/09/2008	DOCUMENT VERIFICATION			

37	06/09/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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CHICAGO, IL 60610

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OFFICE OF PETITIONS

In re Application of	:	
Pirmin Weisser, et al.	:	
Application No. 10/943,780	:	DECISION ON PETITION
Filed: September 17, 2004	:	TO WITHDRAW
Attorney Docket No. 11336-755 (P04023USD1)	:	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 **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Harman - Brinks Hofer Chicago, Brinks, Hofer, Gilson & Lione has been revoked by the assignee of the patent application on June 26, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642. 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: ROBERT P. HART, ESQ.
HARMAN INTERNATIONAL INDUSTRIES, INCORPORATED
8500 BALBOA BOULEVARD
NORTHRIDGE, CA 91329

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THE ECLIPSE GROUP LLP
10605 BALBOA BLVD., SUITE 300
GRANADA HILLS CA 91344

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JUN 03 2010

OFFICE OF PETITIONS

In re Application of	:	
Pirmin Weisser et al	:	
Application No. 10/943,780	:	DECISION DISMISSING PETITION
Filed: September 17, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. P04023US HI	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 24, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED AS MOOT.**

Unfortunately, the petition was not referred to the appropriate deciding official for decision until after the issuance of this application into a patent. However, petitioner's attention is directed to 37 CFR 1.313(d), which states:

> A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue.** (Emphasis added)

In this case, the petition was not received in the Office of Petitions for consideration until June 3, 2010, which is after the above-identified application issued as U.S. Patent No. 7,730,231 on June 1, 2010. Since the case has now issued, the petition to withdraw from issue cannot be granted.

Petitioner is reminded, that while petitions to withdraw from issue may be mailed to the Commissioner for Patents, as was done in this case, applicants were cautioned to hand carry or fax petitions to withdraw from issue directly to the Office of Petitions. *See* MPEP § 1308.

The request for continued examination (RCE) filed concurrently with the petition is improper in view of the issuance of this application into a patent and will not be processed. Accordingly, the $810.00 filing fee and the $130.00 petition fee submitted are unnecessary and will be credited to petitioner's credit card account, as it is the method in which the fees were paid.

The Information Disclosure Statement has been made of record in the file of the above-identified application without further consideration. *See* 37 CFR 1.97(i).

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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Heller Ehrman, LLP
4350 La Jolla Village Drive, 7th Floor
San Diego, CA 92122

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JUL 15 2008

OFFICE OF PETITIONS

In re Application of	:	
G. David Jang	:	
Application No. 10/943,787	:	DECISION ON PETITION
Filed: September 17, 2004	:	TO WITHDRAW
Attorney Docket No. JANGO101	:	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 23, 2008.

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

A review of the file record indicates that the power of attorney to Russell T. Boggs and all attorneys/agents associated with customer number 25213 has been revoked by the applicant of the patent application on June 9, 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 Kimberly Inabinet at 571-272- 4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Laurence H. Pretty
28th Floor
633 West Fifth Street
Los Angeles, CA 90071

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FEB 19 2008

WARD & OLIVO care of James L. Lynch
382 Springfield Avenue
Summit NJ 07901

In re Application of	:	
Spencer A. Rathus et al.	:	
Application No. 10/943,792	:	ON PETITION
Filed: September 17, 2004	:	
Attorney Docket No. 660-061	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 9, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 5, 2006, which set a shortened statutory period for reply of three (3) months. A two (2) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on December 6, 2006. The Notice of Abandonment was mailed March 20, 2007.

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

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

The application file is being referred to Technology Center AU 2876 for appropriate action on the concurrently filed amendment.

Liana Walsh
Petitions Examiner
Office of Petitions

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Summit NJ 07901

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FEB 19 2008

In re Application of	:	
Spencer A. Rathus et al.	:	
Application No. 10/943,794	:	ON PETITION
Filed: September 17, 2004	:	
Attorney Docket No. 660-064	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 10 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, July 5, 2006, which set a shortened statutory period for reply of three (3) months. A two (2) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on December 6, 2006. The Notice of Abandonment was mailed March 20, 2007.

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

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

The application file is being referred to Technology Center AU 2876 for appropriate action on the concurrently filed amendment.

Liana Walsh
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

NEKTAR THERAPEUTICS
201 INDUSTRIAL ROAD
SAN CARLOS CA 94070

In re Application of	:	
Zhao, et al.	:	
Application No. 10/943,799	:	ON REQUEST FOR
Filed: September 17, 2004	:	RECONSIDERATION OF
Attorney Docket Number: 41714-8020	:	PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(b), filed January 20, 2010. Applicants believe that the correct total PTA to date is 774 days, not 501 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

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

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

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

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).

The 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 Petitions Attorney Cliff Congo at (571) 272-3207.

Anthony Knight
Director
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.

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MAY - 5 2005

FOGG AND ASSOCIATES, LLC
P.O. BOX 581339
MINNEAPOLIS, MN 55458

In re application of	:	**DECISION ON PETITION**
Andrew Robinson et al.	:	**TO MAKE SPECIAL**
Application No. 10/943,802	:	**(INFRINGEMENT)**
Filed: September 17, 2004	:	
For: PRODUCT INFORMATION SEARCH, LINKING AND DISTRIBUTION SYSTEM		

This is a decision on the petition under 37 C.F.R § 1.102(d) filed April 15, 2005 to make the above-identified application special.

The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

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

The petition filed April 15, 2005 meets all of the requirements above and, therefore, the petition is **GRANTED**.

With regards to element 2(C) above, an Information Disclosure Statement was filed on January 24, 2005.

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

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

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

KJD/slb: 04/27/05

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OFFICE OF PETITIONS

BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON DC 20001-5303

In re Application of	:	
Onuki, et al.	:	DECISION
Application No. 10/943,848	:	
Filing Date: 20 September, 2004	:	
Attorney Docket No.: ONUKI=3	:	

This is a decision on the petition filed on 8 January, 2007, and properly considered as a request under 37 C.F.R. §1.181 for the withdrawal of the holding of abandonment.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.[1]

For the reasons set forth below, the petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

---

[1] **NOTE: Monitoring of the status of applications on PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected. Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181.**

BACKGROUND

The record indicates that:

- Petitioner failed to reply timely and properly to a non-final Office action mailed on 1 May, 2006, with reply due absent extension of time on or before 1 August, 2006;
- the application went abandoned by operation of law after midnight 1 August, 2006;
- the Office mailed the Notice of Abandonment on 29 December, 2006;
- on 8 January, 2007, Petitioner filed the instant petition, with, *inter alia*, an averment that Petitioner timely replied, and provided a copy of the reply, including the request and fee to make timely the reply filed on 27 October, 2006, and, while Petitioner did not include a copy of the date-stamped receipt cared, the Office record in fact reflects the filing of the reply and extension (with the fee charged at that time) in question.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)); and those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

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

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

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

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

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

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

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension,

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

Delays in responding properly raise the question whether delays are unavoidable.[5] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[6]

---

modification, or reversal of existing law or the establishment of new law;

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

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

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).

[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[3] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

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

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

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

And the Petitioner must be diligent in attending to the matter.[7] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

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

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[9]

The commentary at MPEP §711.03(c) provides:

* * *

B. Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed

37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), * (e), or (g) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

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

---

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

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

[9] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. §1.8(b) and MPEP § 512. As stated in 37 C.F.R §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).

37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP § 512.

* * *

And the regulation requires that relief be sought within two (2) months of the act complained of.

Petitioner appears to have satisfied the showing requirement described above.

CONCLUSION

Because Petitioner appears to have carried his burden in the instant matter, the petition as considered under 37 C.F.R. §1.181 is **granted**, and the 29 December, 2006, Notice of Abandonment is **vacated**.

The application is released to Technology Center 3700 for further processing in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[10]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

---

[10] 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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393 DARLING STREET
BALMAIN 2041 AU AUSTRALIA

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MAY 09 2007

OFFICE OF PETITIONS

In re Application of	:
Kia Silverbrook et al	:
Application No. 10/943,849	: DECISION ON PETITION
Filed: September 20, 2004	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. NPS085US	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 1, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **GRANTED**.

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

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

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

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

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

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

Any inquiries concerning this decision may be directed to Irvin Dingle at (571) 272-3210. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2624 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Frances Hicks
Petition Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/943,849	09/20/2004	2624	770	NPS085US	10	1

CONFIRMATION NO. 4396

CORRECTED FILING RECEIPT

OC000000023754080

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

Date Mailed: 05/08/2007

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)

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

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of 10/291,578 11/12/2002 PAT 6,795,593
which is a CON of 09/575,174 05/23/2000 PAT 6,870,966

Foreign Applications

AUSTRALIA PQ0559 05/25/1999
AUSTRALIA PQ1313 06/30/1999

If Required, Foreign Filing License Granted: 11/08/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/943,849

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Sensing device having an image sensor and a movement sensor

Preliminary Class

382

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

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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 11 2007

OFFICE OF PETITIONS

In re Application of	:
Kia Silverbrook et al	:
Application No. 10/943,856	: DECISION ON PETITION
Filed: September 20, 2004	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. NPS077US	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 1, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **GRANTED**.

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

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

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

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

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

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

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

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

Any inquiries concerning this decision may be directed to Irvin Dingle at (571) 272-3210. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2624 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Frances Hicks
Petition Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/943,856	09/20/2004	2624	824	NPS077US	23	1

CONFIRMATION NO. 4400

CORRECTED FILING RECEIPT

OC000000023804504

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

Date Mailed: 05/10/2007

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)

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

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of 10/291,578 11/12/2002 PAT 6,795,593
which is a CON of 09/575,174 05/23/2000 PAT 6,870,966

Foreign Applications

AUSTRALIA PQ0559 05/25/1999
AUSTRALIA PQ1313 06/30/1999

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 US10/943,856

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Sensing device

Preliminary Class

382

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

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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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393 DARLING STREET
BALMAIN NSW 2-041 AU
AUSTRALIA

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OCT 1 0 2006

OFFICE OF PETITIONS

In re Application of Silverbrook :
Application No. 10/943,873 :
Filing Date: September 20, 2004 :
Attorney Docket No. ZF021US :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(b), filed June 8, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

A Notice of Allowance and Notice of Allowability were mailed September 22, 2005. The Notices required the submission of the following items within 3 months of the mail date of the Notices:

(1) Issue Fee,
(2) Completed PTOL-85b form,
(3) Corrected Drawing, and
(4) New oath or declaration.

As to (1), and (2), the Issue Fee and a completed PTOL-85b form were timely filed.

As to (3), the instant petition includes a Corrected Drawing.

As to (4), a new oath or declaration has not been filed. Therefore, the petition cannot be granted.

Any request for reconsideration should include a new oath or declaration.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)."

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

By facsimile: (571) 273-8300
Attn: Office of Petitions

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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BALMAIN NSW 2-041 AU
AUSTRALIA

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OFFICE OF PETITIONS

In re Application of Silverbrook :
Application No. 10/943,873 : Decision on Petition
Filing Date: September 20, 2004 :
Attorney Docket No. ZF021US :

This is a decision on the petition under 37 CFR 1.137(b), filed November 13, 2006, to revive the above-identified application.

The petition is **granted**.

A Notice of Allowance and Notice of Allowability were mailed September 22, 2005. The Notices required the submission of the following items within 3 months of the mail date of the Notices:

(1) Issue Fee,
(2) Completed PTOL-85b form,
(3) Corrected Drawing, and
(4) New oath or declaration.

As to (1), and (2), the Issue Fee and a completed PTOL-85b form were timely filed. However, items (3) and (4) were not filed.

Petitioner has now filed items (3) and (4) and 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 2853 will be informed of the instant decision and the examiner will consider, under 37 CFR 1.312, the amendment filed June 8, 2006. Thereafter, the Technology Center will inform the Office of Publications of the status of the application.

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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393 DARLING STREET
BALMAIN 2041 AU
AUSTRALIA

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FEB 2 0 2007

OFFICE OF PETITIONS

In re Application of Silverbrook et al. :
Application No. 10/943,878 : DECISION ON PETITION
Filing Date: September 20, 2004 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. NPS084US :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 1, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

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

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

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

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

Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt accompanies this decision on petition.

This application is being forwarded to Technology Center Art Unit 2624 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203. All other inquiries concerning either the examination procedures or status of ~~the~~ application should be directed to the Technology Center.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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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
10/943,878	09/20/2004	2624	770	NPS084US	43	8	1

CONFIRMATION NO. 4438
CORRECTED FILING RECEIPT
OC000000022542480
OC000000022542480

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

Date Mailed: 02/16/2007

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)

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

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of 10/291,578 11/12/2002 PAT 6,795,593
which is a CON of 09/575,174 05/23/2000 PAT 6,870,966

Foreign Applications

AUSTRALIA PQ0559 05/25/1999
AUSTRALIA PQ1313 06/30/1999

If Required, Foreign Filing License Granted: 11/08/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is
US10/943,878

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Sensing device having an image sensor for sensing and capturing images of coded data

Preliminary Class

382

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

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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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Paper No.

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

MAILED

APR 15 2010

OFFICE OF PETITIONS

In re Application of	:	
Yunxiang Zhu	:	
Application No. 10/943,893	:	ON APPLICATION FOR
Filed: September 20, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No.	:	
07680.0031-01000	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT—PRE-GRANT filed on December 23, 2009.[1] Applicants submit that the correct patent term adjustment to be indicated on the patent is four hundred two (402) days, not three hundred forty-one (341) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction, in part, on the basis that the Office will take in excess of three years to issue this patent. Applicants further submit that 8 days of applicant delay are not correctly reflected in the PALM record.

The application for patent term adjustment is **GRANTED to the extent indicated** with respect to the period of applicant delay of 8 days.

The Office has updated the PALM and PAIR screens to reflect that the correct periods of applicant delay. A copy of the updated PALM screen, showing the correct determination, is enclosed.

[1] The petition paper filed on December 23, 2009, was not properly signed in that the name of the signer was not provided as required by 37 CFR 1.34. On March 25, 2010, a properly signed petition was filed and will be considered timely filed.

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 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

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

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).

Applicants further state that additional reductions totalling eight (8) days should be entered pursuant to 37 CFR 1.704(c)(8) in connection with the filing of two supplemental information disclosure statements (IDSs) filed on September 15, 2009, and September 16, 2009, respectively, after the filing of a reply.

Upon review, applicants are correct. On September 8, 2009, an RCE was filed. On September 15, 2009, seven (7) days after the day after the date the RCE was filed, an IDS was filed. The IDS did not contain the statement set forth at 37 CFR 1.704(d). Furthermore, on September 16, 2009, eight (8) days after the day after the date the RCE was filed, a second IDS was filed. This IDS also did not contain the statement set forth at 37 CFR 1.704(d).

The eight (8) day period of reduction and the seven (7) day period of reduction overlap. The non-overlapping period of delay is eight (8) days. Accordingly a period of reduction of eight (8) days for applicant delay will be entered.

The patent term adjustment as of the mailing of the notice of allowance is three hundred thirty-three (333) days (465 days of Office delay less 132 (124 + 8) days of applicant delay).

The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

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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 of Data Management has been advised of this decision. The application is thereby 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 if applicable, for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

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

Anthony Knight
Director
Office of Petitions

Encl: Revised PALM calculation

Day : Thursday
Date: 4/15/2010

PALM INTRANET

Time: 08:29:45

PTA Calculations for Application: 10/943893			
Application Filing Date:	09/20/2004	PTO Delay (PTO):	465
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	124
Post-Issue Petitions:	0	Total PTA (days):	333
PTO Delay Adjustment:	-8		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
123	04/15/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		8	
109	09/25/2009	MAIL NOTICE OF ALLOWANCE			
108	09/24/2009	DOCUMENT VERIFICATION			
107	09/24/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
106	09/22/2009	NOTICE OF ALLOWABILITY			
105	09/16/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
104	09/15/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
103	09/08/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
102	09/16/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
101	09/15/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
100	09/08/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
99	09/12/2009	DATE FORWARDED TO EXAMINER			
98	09/08/2009	REQUEST FOR CONTINUED EXAMINATION (RCE)			
97	09/12/2009	DISPOSAL FOR A RCE / CPA / R129			
96	09/08/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
95	09/08/2009	WORKFLOW - REQUEST FOR RCE - BEGIN			
94	07/22/2009	MAIL PUB NOTICE OF NON-COMPLIANT IDS			
93	07/22/2009	PUB NOTICE OF NON-COMPLIANT IDS			
92	07/15/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			

91	07/14/2009	FINISHED INITIAL DATA CAPTURE			
90	07/15/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
89	07/09/2009	SEQUENCE FORWARDED TO PUBS ON TAPE			
88	06/16/2009	EXPORT TO INITIAL DATA CAPTURE			
87	06/15/2009	MAIL NOTICE OF ALLOWANCE			
86	06/11/2009	ISSUE REVISION COMPLETED			
85	06/11/2009	DOCUMENT VERIFICATION			
84	06/11/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
83	06/11/2009	CASE DOCKETED TO EXAMINER IN GAU			
82	06/08/2009	NOTICE OF ALLOWABILITY			
80	02/24/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
79	03/30/2009	DATE FORWARDED TO EXAMINER			
78	02/24/2009	RESPONSE AFTER NON-FINAL ACTION			
77	02/24/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
76	02/24/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
75	12/17/2008	MAIL NON-FINAL REJECTION			
74	12/16/2008	NON-FINAL REJECTION			
72	12/05/2008	DATE FORWARDED TO EXAMINER			
71	11/24/2008	AMENDMENT AFTER FINAL REJECTION			
70	11/26/2008	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
69	11/19/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
68	09/25/2008	MAIL FINAL REJECTION (PTOL - 326)			
67	09/24/2008	FINAL REJECTION			
65	11/28/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
64	11/28/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
63	07/22/2008	DATE FORWARDED TO EXAMINER			
62	06/30/2008	RESPONSE AFTER NON-FINAL ACTION		61	58
61	06/30/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
60	04/21/2008	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			

59	04/14/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
58	01/30/2008	MAIL NON-FINAL REJECTION			
57	01/28/2008	NON-FINAL REJECTION			
55	11/28/2007	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
54	11/28/2007	REFERENCE CAPTURE ON IDS			
53	11/28/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
52	12/04/2007	DATE FORWARDED TO EXAMINER			
51	11/28/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
50	12/04/2007	DATE FORWARDED TO EXAMINER			
49	11/28/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
48	12/04/2007	DISPOSAL FOR A RCE / CPA / R129			
46	11/28/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
45	11/08/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
44	11/05/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
43	09/20/2007	MAIL FINAL REJECTION (PTOL - 326)			
42	09/17/2007	FINAL REJECTION			
39	08/08/2007	DATE FORWARDED TO EXAMINER			
38	07/30/2007	RESPONSE AFTER NON-FINAL ACTION		63	36
37	07/30/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
36	02/28/2007	MAIL NON-FINAL REJECTION	465		-1
35	02/26/2007	NON-FINAL REJECTION			
34	12/07/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
33	11/14/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
32	01/11/2007	CASE DOCKETED TO EXAMINER IN GAU			
31	03/27/2006	MISCELLANEOUS INCOMING LETTER			
30	11/14/2005	REFERENCE CAPTURE ON IDS			
29.7	11/14/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
29	11/14/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

28	04/11/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
27	04/11/2005	CASE DOCKETED TO EXAMINER IN GAU			
26	04/08/2005	CORRESPONDENCE ADDRESS CHANGE			
25	12/22/2004	PRELIMINARY AMENDMENT			
24	12/22/2004	WORKFLOW INCOMING AMENDMENT IFW			
23	12/07/2004	REFERENCE CAPTURE ON IDS			
22.7	12/07/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	12/07/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	12/09/2004	APPLICATION RETURN FROM OIPE			
20	12/09/2004	APPLICATION RETURN TO OIPE			
19	12/09/2004	APPLICATION RETURN FROM OIPE			
18	12/09/2004	APPLICATION IS NOW COMPLETE			
17	12/02/2004	PRE-EXAM OFFICE ACTION WITHDRAWN			
16	12/01/2004	APPLICATION RETURN TO OIPE			
15	12/01/2004	APPLICATION RETURN FROM OIPE			
14	12/02/2004	APPLICATION IS NOW COMPLETE			
13	12/01/2004	APPLICATION RETURN TO OIPE			
12	12/01/2004	APPLICATION DISPATCHED FROM OIPE			
11	12/01/2004	APPLICATION IS NOW COMPLETE			
10	11/18/2004	ADDITIONAL APPLICATION FILING FEES			
9	11/18/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
8	11/19/2004	CLEARED BY L&R (LARS)			
7	10/19/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
6	10/19/2004	CASE CLASSIFIED BY OIPE			
4	10/01/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
3	09/30/2004	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
2	09/20/2004	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	09/20/2004	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

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OCT 16 2006

September 2006

Stanley P. Fisher
Reed Smith LLP
Suite 1400
3110 Fairview Park Drive
Falls Church VA 22042-4503

In re Application of:	:	
MATSUSHIGE ET AL.	:	DECISION ON PETITION TO
Serial No.: 10/943,916	:	MAKE SPECIAL UNDER 37
Filed: 20 September 2004	:	C.F.R. § 1.102(d)
Docket: WILL.0018	:	

This is a decision on the petition under 37 C.F.R. § 1.102, filed December 5, 2005 to make the above-identified application special.

The petition requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.) 708.02(VIII) in accordance with 37 C.F.R. § 1.102(d).

The petition complies with M.P.E.P. § 708.02, Item VIII: Accelerated Examination, in that it is accompanied by (a) a check covering the required petition fee of $130.00, (b) a statement that all claims are directed a single invention or an offer to make an oral election without traverse should the Patent and Trademark Office hold that the claims are not directed to a single invention, (c) a statement that a pre-examination search has been made by the inventor, attorney, agent, or professional searchers, etc., the field of search was also provided, (d) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims, and (e) a detailed description of the submitted references and discussions pointing out how the claimed subject matter distinguishes over these references.

For the above stated reasons, the petition is GRANTED.

The application file is being forwarded to the examiner for expedited prosecution.

If the examiner can make this application special without prejudice to any possible interfering applications, and he/she should make a rigid search for such, he/she is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the

application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplished this purpose.

If the examiner finds any interfering application for the same subject matter, he/she should consider such application simultaneously with this application and should state in the official letter of such application that he/she is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application becomes involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

The petition is granted to the extent indicated.

Any inquiry regarding this decision should be directed to Jose' G. Dees, Special Program Examiner, at (571) 272-1569.

Jose' G. Dees, Special Program Examiner
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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CHERYL H AGRIS PHD
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PELHAM NY 10803

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OFFICE OF PETITIONS

In re Application of	:	
William Herman	:	
Application No. 10/943,918	:	DECISION ON PETITION
Filed: September 20, 2004	:	
Attorney Docket No. BH-50002-US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 2, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a proper and timely manner to the non-final Office action mailed June 20, 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 timely obtained. Accordingly, the application became abandoned on September 21, 2007. A Notice of Abandonment was mailed December 28, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $770.00, and (3) an adequate statement of unintentional delay.

Petitioner submitted an extension of time document timely on December 20, 2007. However, petitioner did not submit the extension of time fee, but rather an excess of claims fee and therefore was not a valid extension of time.

Additionally, 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 $525.00, three month extension of time fee submitted on January 2, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner's credit card in due course.

The address given on the petition differs from the new 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 Joan Olszewski at (571) 272-7751.

This application is being referred to Technology Center AU 1644 for appropriate action by the Examiner in the normal course of business on the reply received.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: Jay M. Millman
Herman & Millman
425 University Avenue, Suite 300
Toronto, ON M5G 1-T6 Canada

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : July 01, 2008

TO SPE OF : ART UNIT 2629

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/943939 Patent No.: 7298360 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: _____

BIPIN SHALWALA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

SPE

SPE AU 2629
Art Unit

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393 DARLING STREET
BALMAIN 2041 AU AUSTRALIA

In re Application of	:	
Walmsley et al.	:	
Application No. 10/943,977	:	DECISION ON PETITION
Filed: September 20, 2004	:	
Attorney Docket No. PCP13US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 1, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowability, mailed September 8, 2006, which set a period for reply of three (3) months. Accordingly, this application became abandoned on December 9, 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(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)(II)(C) and (D). The instant petition lacks item (1).

Although the issue fee ($1400.00) and publication fee ($300.00) were paid on November 15, 2006, on March 2, 2007 the U.S. Patent & Trademark Office erroneously refunded $1700.00 by check mailed to the address of record for this application. Consequently, the fees due for the issue fee and publication fee are not present and must be repaid.

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 facsimile: **(571) 273-8300**
Attn: Office of Petitions

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

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN 2041 AU AUSTRALIA

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SEP 1 2 2007

OFFICE OF PETITIONS

In re Application of Walmsley et al. :
Application No. 10/943,977 :
Filed: September 20, 2004 : DECISION ON PETITION
Attorney Docket No. PCP13US :
:

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed August 13, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowability, mailed September 8, 2006, which set a period for reply of three (3) months. Accordingly, this application became abandoned on December 9, 2006. Furthermore, on March 2, 2007, the U.S. Patent & Trademark Office erroneously refunded $1,700.00 by check mailed to the address of record for this application. Consequently, payment of the fees due for the issue fee and publication fee were required.

The renewed petition and the original petition filed March 1, 2007 together satisfy 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 $1,400.00, the publication fee of $300.00, and corrected formal drawings, (2) the petition fee of $1,500.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Christopher Bottorff at (571) 272-6052 or in is absence, the undersigned at (571) 272-7099.

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

David Bucci
Petitions Examiner
Office of Petitions

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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MCKENNA, LONG & ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON, DC 20006

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MAR 13 2008

OFFICE OF PETITIONS

In re Application of	:	
Yong Sandg Kim	:	
Application No. 10/943,996	:	ON PETITION
Filed: September 20, 2004	:	
Attorney Docket No. 8733.1161.00-US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 20, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, December 26, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 27, 2007.

It is initially pointed out that the petition is found to be filed by a patent practitioner acting in representative capacity; however, the petition does not set forth petitioner's registration number.

37 CFR 1.34 states:

> "When a patent practitioner acting in a representative capacity appears in person or signs a paper in practice before the United States Patent and Trademark Office in a patent case, his or her personal appearance or signature shall constitute a representation to the United States Patent and Trademark Office that under the provisions of this subchapter and the law, he or she is authorized to represent the particular party on whose behalf he or she acts. In filing such a paper, the patent practitioner must set forth his or her registration number, his or her name and signature. Further proof of authority to act in a representative capacity may be required."

Further 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); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (3).

It is noted that petitioner states that the entire delay in filing the required reply from the due date of the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. However, the statement presented within the petition is unacceptable until petitioner meets the requirement set for above and provides a valid registration number on the petition.

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

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

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

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON, DC 20006

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MAY 22 2008

In re Application of	:	
Yong Sandg Kim	:	
Application No. 10/943,996	:	DECISION ON PETITION
Filed: September 20, 2004	:	
Attorney Docket No. 8733.1161.00-US	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed March 26, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, December 26, 2006 which set a shortened statutory period for reply of three (3) months. O extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 27, 2007.

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

A second payment of the petition fee was paid on March 26, 2008. Since the $1540 petition fee submitted with the petition on March 26, 2008 is a duplicate payment to the petition fee already received, this fee is unnecessary and will be credited to petitioner's deposit account.

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

This application is being referred to Technology Center AU 2871 for appropriate action by the Examiner in the normal course of business on the reply received March 26, 2008.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

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DEC 0 4 2009

OFFICE OF PETITIONS

In re Application of
Hiroki AMEMIYA
Application No. 10/944,004
Filed: September 20, 2004
Attorney Docket No. **259121US0**

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 3, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 27, 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 1792 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.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

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In re Application of	:	
Yoichi Yamada, et al.	:	
Application No. 10/944,009	:	DECISION GRANTING PETITION
Filed: September 20, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 723-1572	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 24, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 10, 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 2624 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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393 DARLING STREET
BALMAIN 2041 AU AUSTRALIA

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NOV 08 2007

OFFICE OF PETITIONS

In re Application of :
Kia Silverbrook et al :
Application No.10/944,043 : DECISION ON PETITION
Filed:September 20, 2004 :
Attorney Docket No.NPA162US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 16, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to timely reply to the Notice To File Missing Parts Of Nonprovisional Application of November 12, 2004.

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

information. *See* MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (3).

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

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

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

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

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

As to Period (1):

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

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In

re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (almost 2 1/2 years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on January 13, 2005. That party, in turn must explain what effort(s) was made to further reply to the Notice To File Missing Parts Of Nonprovisional Application (Notice) and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as Silverbrook Research PTY LTD was counsel of record at the time of abandonment, Silverbrook Research PTY LTD should explain why this application became abandoned while it was under their control and what efforts Silverbrook Research PTY LTD made to further reply of itself and with whom this matter was discussed outside of Silverbrook Research PTY LTD. 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), Silverbrook Research PTY LTD and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons then at Silverbrook Research PTY LTD, and the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the Notice. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

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

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, over 2 years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons then at Silverbrook Research PTY LTD 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) 272-3208.

Karen Creasy

Karen Creasy
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
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OFFICE OF PETITIONS

In re Application of	:	
Kia Silverbrook et al	:	
Application No. 10/944,043	:	DECISION GRANTING PETITION
Filed: September 20, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. NPA162US	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed December 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 the required fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice To File Missing Parts Of Nonprovisional Application mailed November 12, 2004 and the Notice Of Incomplete Reply (Nonprovisional) mailed January 31, 2005, is accepted as having been unintentionally delayed.

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

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CHARLES A. RATTNER, ESQ.
12 HOMEWOOD LANE
DARIEN, CT 06820-6109

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FEB 14 2005

OFFICE OF PETITIONS

In re Application of	:	
Augustine Fou	:	
Application No. 10/944,068	:	ON PETITION
Received: September 18, 2004	:	
Attorney Docket No. 1229U004	:	

This is a decision on the petition submitted on December 31, 2004, requesting that the above-identified application be accorded a filing date of September 18, 2004.

The application was submitted on September 18, 2004. However, on November 8, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice Of Incomplete Nonprovisional Application" (Notice) that stated the application had not been accorded a filing date, and that the application was deposited without drawings.

The petition is dismissed.

Petitioner has submitted a petition fee of $130.00. However, on December 8, 2004, the fee required for a petition under 37 CFR 1.53 increased to $400.00. *See* 37 CFR 1.17(f). As such, the petition will not be reviewed on the merits at this time. Petitioner must submit an additional $270.00.

Please note, the application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. 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.

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

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

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

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

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

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

cc.
AUGUSTINE FOU
249 EAST 48TH STREET, #10K
NEW YORK, NY 10017

Attachments:
PTO/SB/122 Form: Change of Correspondence Address

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

AUGUSTINE FOU
425 5TH AVE #33A
NEW YORK, NY 10016-2228

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JAN 11 2006

OFFICE OF PETITIONS

In re Application of :
Augustine Fou :
Application No. 10/944,068 :
Submitted: September 18, 2004 :
Attorney Docket No. 1229U004 :

ON PETITION

This is a decision on the petition under 37 C.F.R. 1.181, filed September 21, 2005, to withdraw the holding of abandonment. The petition was recently forwarded to this office for review.

The petition is **dismissed**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Incomplete Nonprovisional Application (Notice) mailed November 8, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 9, 2005. A Notice of Abandonment was mailed on August 24, 2005.

The Notice of Abandonment states the application became abandoned for failure to timely reply to the "Decision on Petition" mailed February 14, 2005. A review of the application file indicates that this was in error. The above-identified application became abandoned for failure to file a timely reply to the Notice mailed November 8, 2004. In response to the Notice, on December 31, 2004, applicant filed a petition under 37 CFR 1.53, however, the petition fee was not included and therefore the petition could not be entered as a proper response. As the "Decision on Petition" did not set a new period for response, the original period set by the Notice continued. The petition fee was submitted on August 29, 2005, beyond the maximum extendable period of time, which ended on June 8, 2005.

Petitioner may wish to consider filing a renewed petition under amended 37 C.F.R. § 1.137(b). 37 C.F.R. § 1.137(b) 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 C.F.R. § 1.137(b). A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

> (1) The required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a

continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;

(2) The petition fee as set forth in § 1.17(m), $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 pursuant to 37 C.F.R. § 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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APR 2 0 2006

OFFICE OF PETITIONS

AUGUSTINE FOU
425 5TH AVE #33A
NEW YORK, NY 10016-2228

In re Application of	:	
Augustine Fou	:	
Application No. 10/944,068	:	ON PETITION
Filed: September 18, 2004	:	
Attorney Docket No. 1229U004	:	

This is a decision on the request for reconsideration of petition under 37 CFR 1.53, submitted on August 29, 2005, requesting that the above-identified application be accorded a filing date of September 18, 2004.

The application was submitted on September 18, 2004. However, on November 8, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice Of Incomplete Nonprovisional Application" (Notice) that stated the application had not been accorded a filing date, and that the application was deposited without drawings.

In response, on December 31, 2004, the original petition was filed.

Petitioner states, in pertinent part:

> "35 USC 113 (first sentence), however, provides that '***applicant shall furnish a drawing where necessary for understanding of the subject matter sought to be patented***' (emphasis added).
>
> "According to MPEP section 601.01(f), it is USPTO practice to treat an application that contains at least ***one process or method claim*** as an application for which a ***drawing is not necessary for understanding the invention*** under 35 USC 113 (first sentence) (emphasis added).
>
> "Because the omitted drawings consist solely of flow diagrams intended to provide a simple visual representation of the invention as set forth directly in the text of the specification, and because the claimed invention is directed to methods only, the Inventor/Applicant respectfully submits that it is clear that the omitted drawings are in fact ***not necessary for understanding the subject matter sought to be patented*** under 35 USC 113 (first sentence). The fact that the invention relates to a business method further

> supports the position that drawings would not be needed to understand the particular business method disclosed and claimed."

It is noted that the petition contains the statement that drawings are not necessary and the petition is signed by the inventor.

Furthermore, it is confirmed that the nonprovisional application contains a process claim that includes the term "method" in its' introductory phrase and therefore drawings are not required. MPEP 608.02 states:

> "An OIPE formality examiner should not treat an application without drawings as incomplete if drawings are not required. A drawing is not required for a filing date under 35 U.S.C. 111 and 113 if the application contains:
>
> > (A) at least one process claim including the term "process" or "method" in its introductory phrase;

Since the claims contain at least one process claim including the term "process" or "method" in its introductory phrase, drawings are not required in order to accord a filing date.

Accordingly, the petition is granted.

The application will be returned to the Office of Initial Patent Examination for processing with a filing date of September 18, 2004, with zero (0) drawings received on that date.

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

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

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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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AUGUSTINE FOU
425 5TH AVE #33A
NEW YORK, NY 10016-2228

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APR 2 0 2006
OFFICE OF PETITIONS

In re Application of :
Augustine Fou :
Application No. 10/944,068 :
Filed: September 18, 2004 :
Attorney Docket No. 1229U004 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 1, 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 of Incomplete Nonprovisional Application (Notice) mailed November 8, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 9, 2005. A Notice of Abandonment was mailed on August 24, 2005.

The file will be forwarded to the Office of Initial Patent Examination for further processing.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

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APR 27 2006

OFFICE OF PETITIONS

In re Application of
Benjamin David Foster et al
Application No. 10/944,070
Filed: September 17, 2004
Attorney Docket No. 2043.084US2

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 22, 2004.[1]

The petition is **APPROVED**.

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

The request was signed by Tarek N. Fahmi behalf of all attorneys of record who are associated with customer No. 08791.

All attorneys/agents associated with the Customer Number 08791 have been withdrawn.

Applicants are 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.

The Revocation and Power of Attorney filed on July 1, 2005 has not been entered. The Office acknowledges the § 3.73(b) certificate. However, Office PALM computer database assignment

[1] The instant Request to Withdraw as attorney or agent was only recent brought to the attention of the deciding official. The Office sincerely apologizes for the delay in responding to the instant petition and the inconvenience caused petitioner by this delay.

records do not reflect that an assignment from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or 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). *See* 37 CFR 3.73.

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

This application is being referred to Technology Center AU 3624.

David Bucci
Petitions Examiner
Office of Petitions

cc: ANDRE L. MARAIS
SCHWEGMAN LUNDBERG WOESSNER & KLUTH
1600 TCF TOWER, 121 SOUTH EIGHTH STREET
MINNEAPOLIS, MN 55402

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Jacobs Patent Office
P.O. Box 390438
Cambridge, MA 02139

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OFFICE OF PETITIONS

In re Application of Teklemariame et al. :
Application No. 10/944,080 :
Filing Date: September 17, 2004 :
Attorney Docket No. GTEK-101 US :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(b), filed January 12, 2007, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 30, 2005, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on March 31, 2006. A Notice of Abandonment was mailed on August 2, 2006.

The instant petition requests revival of the application.

Petitioner has submitted the required petition fee of $750. Petitioner has submitted a reply to the non-final Office action mailed December 30, 2005. 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.

Attorney Kenneth Onyema signed the petition. Onyema was not an attorney or agent of record at the time the application became abandoned. Therefore, it appears Onyema was not in a position to have firsthand or direct knowledge of the facts and circumstances of the delay. Nevertheless, the statement by Onyema that the entire delay was unintentional is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.[1] 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 a portion of the delay from the due date for

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

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 Onyema was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If Onyema wishes to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the address listed on the petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

Technology Center Art Unit 2859 will be informed of the instant decision and the application will be further examined in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

cc: Kenneth Onyema
929 Massachusetts Avenue
Cambridge, MA 02139

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

Attorney Kenneth Onyema
267 Moody Street, Suite 202
Waltham MA 02453

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OFFICE OF PETITIONS

In re Application of	:	
Grum Teklemariam et al.	:	
Application No. 10/944,080	:	DECISION ON PETITION
Filed: September 17, 2004	:	
Attorney Docket No. GTEK-101 US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 6, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice Requiring Excess Claims Fees (Notice), mailed June 22, 2007. The Notice set a period for reply of one (1) month or thirty (30) days whichever is longer from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 23, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an acceptable amendment, (2) the petition fee of $810 (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 Technology Center AU 2859 for appropriate action by the Examiner in the normal course of business.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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
10/944,080	09/17/2004	Grum Teklemariam	GTEK-101 US

CONFIRMATION NO. 2805

POWER OF ATTORNEY NOTICE

Jacobs Patent Office
P.O. Box 390438
Cambridge, MA 02139

OC000000038623525

Date Mailed: 11/05/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/06/2009.

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

/jlburke/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/944,080	09/17/2004	Grum Teklemariam	GTEK-101 US

CONFIRMATION NO. 2805

POA ACCEPTANCE LETTER

59853
Attorney Kenneth Onyema
267 Moody Street, Suite 202
Waltham, MA 02453

OC000000038623535

Date Mailed: 11/05/2009

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/06/2009.

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

/jlburke/

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

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

GAUTHIER & CONNORS, LLP
225 FRANKLIN STREET
BOSTON, MA 02110

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OFFICE OF PETITIONS

In re Application of :
Yet Chan, et. al. :
Application No. 10/944,090 :
Filed: September 17, 2004 :
Attorney Docket No. 5402CON2 :
:

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed on January 25, 2006, to revive the above-identified application.

The application became abandoned for failure to respond to the non-final Office action mailed May 9, 2005. A Notice of Abandonment was mailed on January 25, 2006.

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

The application file is being referred to Technology Center Art Unit 2851, for review of the amendment filed with the instant petition.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PATRICK W. RASCHE
ARMSTRONG TEASDALE LLP
ONE METROPOLITAN SQUARE, SUITE 2600
ST. LOUIS, MO 63102-2740

Mail Date: 04/29/2010

Applicant	: Jianying Li	: DECISION ON REQUEST FOR
Patent Number	: 7636462	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/944,097	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/17/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1466** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

QUARLES & BRADY LLP
411 E. WISCONSIN AVENUE
SUITE 2040
MILWAUKEE WI 53202-4497

In re Application of	:	
Day et al.	:	
Application No. 10/944,108	:	
Patent No.: 7,297,392	:	DECISION ON PETITION
Filed: September 17, 2004	:	PURSUANT TO
Issued: November 20, 2007	:	37 C.F.R. § 1.28(c)
Attorney Docket No.:	:	
100075.90292/CIP	:	
Title: BELLOWS WITH MOLDED	:	
PANELS	:	

This is a notice regarding your request for acceptance of a fee deficiency submission pursuant to 37 C.F.R. § 1.28, received on September 11, 2009. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 C.F.R. § 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

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

Petitioner has identified the particular type of fee that was erroneously paid as a small entity, when the small entity fee was actually paid, the small entity fee that was actually paid, the deficiency owed amount, and the total deficiency payment owed.

Your fee deficiency submission pursuant to 37 C.F.R. § 1.28(c) is hereby accepted. The petition is **GRANTED** accordingly.

The deficiency payment has been deducted from Petitioner's Deposit Account.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[1]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

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

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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Tiemen J. van der Horn
P.O. Box 764
Richmond ON KOA 2Z0 CA CANADA

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APR 2 7 2007

OFFICE OF PETITIONS

In re Application of	:	
KAHN et al.	:	
Application No. 10/944112	:	DECISION
Filing or 371(c) Date: 09/20/2004	:	ON PETITION
Title of Invention:	:	
TOOL FOR REMOVAL OF RECEIVER HITCH	:	
INSERTS	:	

This is a decision on the "Petition to Revive Patent Application Unintentionally Abandoned Under 37 CFR 1.137(b), filed January 22, 2007, to revive the above-identified application. The delay in treating this petition is regretted.

This Petition is hereby **dismissed**.

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

Background

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed January 9, 2006. The Office action set a three (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a).

Applicant filed a reply on April 17, 2006; however, the reply, in addition to having been filed after the three (3) month reply period expired, was non-compliant. Applicant was so notified in a Notice of Non-Compliant Amendment mailed April 26, 2006.

No timely and proper reply having been received, the application became abandoned on April 10, 2006. A Notice of Abandonment was mailed November 20, 2006.

The present petition

Applicant files the instant petition and amendment in response to the Office action.

A Grantable Petition Under 37 CFR 1.137(a)

A grantable petition pursuant to this paragraph must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

The petition fee

As to item (**2**), Applicant is advised that before the merits of Applicant's petition may be considered, the petition fee must be submitted. The fee for a petition to revive an application based upon an unintentionally delayed response to an Office communication is currently $750.00 for a small entity.

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

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

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

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

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

OIPE IAP20
JUN 15 2007
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United States Patent and Trademark Office
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Tiemen J. van der Horn
P.O. Box 764
Richmond ON KOA 2Z0 CA CANADA

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Enclosure #3

In re Application of
KAHN et al.
Application No. 10/944112
Filing or 371(c) Date: 09/20/2004
Title of Invention:
TOOL FOR REMOVAL OF RECEIVER HITCH INSERTS

DECISION ON PETITION

This is a decision on the "Petition to Revive Patent Application Unintentionally Abandoned Under 37 CFR 1.137(b), filed January 22, 2007, to revive the above-identified application. The delay in treating this petition is regretted.

This Petition is hereby **dismissed**.

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

Background

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed January 9, 2006. The Office action set a three (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a).

Applicant filed a reply on April 17, 2006; however, the reply, in addition to having been filed after the three (3) month reply period expired, was non-compliant. Applicant was so notified in a Notice of Non-Compliant Amendment mailed April 26, 2006.

No timely and proper reply having been received, the application became abandoned on April 10, 2006. A Notice of Abandonment was mailed November 20, 2006.

The present petition

Applicant files the instant petition and amendment in response to the Office action.

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

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

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OFFICE OF PETITIONS

In re Application of

GHOSH, Arun et al.
Application No. 10/944,117
Filed: September 17, 2004
Attorney Docket No. **022266-000711US**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

CORRECTED DECISION

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 07, 2007.

The request is **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, (assignees instructed application be transferred to new firm, do not meet any the conditions set forth in 37 CFR 10.40.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **MORRISON & FOERSTER**
755 PAGE MILL ROAD
PALO ALTO, CA 94304-1018

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12-05-08

TO SPE OF : ART UNIT 1654

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/944117 Patent No.: 7448263

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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

Thank You For Your Assistance

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

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

Comments: In addition to the certification of correction entered on 12/9/2008, please enter the corrections of the structures as indicated. These structures are as originally filed and there was a printing error.

SPE **Art Unit** 1654

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Alexandria, VA 22313-1450
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MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

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OCT 29 2009

OFFICE OF PETITIONS

In re Patent No. 7,335,632 :
Issue Date: February 26, 2008 :
Application No. 10/944,117 : ON PETITION
Filed: September 17, 2004 :
Attorney Docket No. 578352001520 :

This is a decision on the petition filed October 1, 2009, under 37 CFR 3.81(b)[1] to add the assignee's names on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted.**

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3210. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This application is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] See Official Gazette of June 22, 2004

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Townsend and Townsend AND Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

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JUN 0 8 2006

TECHNOLOGY CENTER 2100

In re Application of: Kano, Yoshiki
Application No. 10/944,129
Filed: 17 September 2004
For: METHOD OF AND SYSTEM FOR CONTROLLING ATTRIBUTES OF A PLURALITY OF STORAGE DEVICES

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER M.P.E.P. §708.02 (VIII)

This is a decision on the petition filed 22 June 2005, to make the above-identified application special under 37 CFR 102(d) and MPEP § 708.02(VIII): Accelerated Examination.

The Petition is **GRANTED**.

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

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

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

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

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

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

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

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

The application is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

Brian L. Johnson
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

GO

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HICKMAN PALERMO TRUONG &
BECKER/ORACLE
2055 GATEWAY PLACE
SUITE 550
SAN JOSE CA 95110-1083

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OFFICE OF PETITIONS

In re Application of
Ashish Thusoo et al
Application No. 10/944,171
Filed: September 16, 2004
Attorney Docket No. 50277-2559

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 8, 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 30, 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 2164 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Amendment.

/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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HICKMAN PALERMO TRUONG & BECKER/ORACLE
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110-1083

Mail Date: 04/21/2010

Applicant	: Ashish Thusoo	: DECISION ON REQUEST FOR
Patent Number	: 7603347	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/944,171	: 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 **546** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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HICKMAN PALERMO TRUONG & BECKER/ORACLE
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110-1083

Mail Date: 05/18/2010

Applicant : Ashish Thusoo
Patent Number : 7603347
Issue Date : 10/13/2009
Application No : 10/944,171
Filed : 09/16/2004

: 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 **585** 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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Muncy, Geissler, Olds & Lowe, PLLC
P.O. BOX 1364
FAIRFAX VA 22038-1364

In re Patent No.

7,186,587

Application No. 10/944,197

Filed: September 20, 2004

Issued: March 6, 2007

Attorney Docket No. **5382/0140PUS1**

: DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.182, filed March 14, 2008, requesting duplicate Letters of Patent.

The petition is **dismissed.**

The above-cited application matured in to United States Patent No. 7,186,587 on March 6, 2007. Petitioner states that the Letter of Patent was lost and requests duplicate Letter of Patent, accordingly.

The petition was signed by E.R. Hernandez, who is not currently an attorney of record for this patent in USPTO records. The petition under 37 CFR 1.182 requesting duplicate letters of patent must be made by an appropriate party of interest, i.e., the attorney of record, the applicant(s), or the assignee. Before a petition under 37 CFR 1.182 for duplicate letters of patent can be granted, petitioner must file an appropriate power of attorney designating petitioner as the attorney of record, or the petition should be filed by the applicant, or, if appropriate, the assignee empowered by 37 CFR 3.73(b).

Petitioner is provided a courtesy copy of this decision, however, all future correspondence will be mailed solely to the address of record.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc:
E. R. Hernandez
Pillsbury Winthrop Shaw Pittman, LLP
PO Box 10500
McLean, VA 22102

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Muncy, Geissler, Olds & Lowe, PLLC
P.O. BOX 1364
FAIRFAX VA 22038-1364

In re Patent No. 7,186,587
Application No. 10/944,197
Filing Date: September 20, 2004
Issue Date: March 6, 2007
Attorney Docket No. 5382/0140PUS1

DECISION GRANTING PETITION

This is a decision on the renewed petition under 37 CFR 1.182, filed October 22, 2008, requesting issuance of duplicate Letters of Patent for the above-identified patent.

The petition is **granted**.

The file record discloses that the above-cited application matured into U.S. Patent No. 7,186,587 on March 6, 2007. Petitioner maintains, however, that the patent was received but lost thereafter.

In view of the facts set forth in the petition, it is concluded that the original Letters of Patent was destroyed after receipt. The Office of Data Management is directed to issue duplicate Letters of Patent.

Any questions concerning this decision may be directed to the undersigned at (571)272-3222. Any questions concerning issuance of the duplicate Letter of Patent should be directed to Niomi Farmer, Office of Data Management at (703) 308-9250 extension 129.

A copy of this decision is being forwarded to the Office of Data Management for issuance of a duplicate Letter of Patent.

K. A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc: Niomi Farmer—Office of Data Management FAX: 571-270-9753

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HAHN LOESER & PARKS, LLP
ONE GOJO PLAZA
SUITE 300
AKRON, OH 44311-1076

MAILED

JAN 30 2009

OFFICE OF PETITIONS

In re Application of	:	
Kristi A. Naelitz-Thomas	:	
Application No. 10/944,206	:	DECISION ON PETITION
Filed: September 17, 2004	:	TO WITHDRAW
Attorney Docket No. 200042.00006	:	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 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.

The request was signed by Katrina M. Klatka on behalf of all attorneys of record who are associated with customer No. 21324. All attorneys/agents associated with the Customer Number 21324 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 December 2, 2008 that requires a reply from the applicant.

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

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

cc: KRISTI NAELITZ-THOMAS
540 S. MAIN STREET
SUITE 813
AKRON, OH 44311

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Bret A. Hrivnak
Hahn Loeser & Parks, LLP
One GOJO Plaza, Suite 300
Akron, OH 44311-1076

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Director's Office
Group 3700

In re Application of
James E. White
Serial No. : 10/944,214
Filed : September 17, 2004
For : **HEAT SHIELD**

: DECISION ON PETITION
: TO MAKE SPECIAL
: (INFRINGEMENT)
:

This is a decision on the petition under C.F.R. § 1.102(d) filed December 13, 2004, to make the above-identified application special. The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P § 708.02, item II: Infringement.

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

The petition filed December 13, 2004, includes all of the requirements above and, therefore, the petition is **GRANTED**.

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

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

Richard A. Bertsch

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

rt/ 11/2/05

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Orum & Roth LLC
53 W Jackson Boulevard
Chicago IL 60604-3606

In re Application of	:	
RIACH JR.	:	
Application No. 10/944,236	:	DECISION ON PETITION
Filed: September 17, 2004	:	TO WITHDRAW
Attorney Docket No. 13939	:	FROM RECORD
	:	

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

Catherine L. Gemrich has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There is no outstanding Office action that requires a reply from the applicant.

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

for David Bucci
Petitions Examiner
Office of Petitions

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KILYK & BOWERSOX, P.L.L.C.
400 HOLIDAY COURT
SUITE 102
WARRENTON, VA 20186

Mail Date: 04/21/2010

Applicant	: Kimiyoshi Nagai	: DECISION ON REQUEST FOR
Patent Number	: 7617997	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/944,250	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/17/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **97** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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O2MICRO INC
C/O MURABITO, HAO & BARNES LLP
TWO NORTH MARKET STREET
THIRD FLOOR
SAN JOSE CA 95113

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OFFICE OF PETITIONS

In re Application of	:	
Wong et al.	:	
Application No. 10/944263	:	
Filing or 371(c) Date: 09/17/2004	:	ON PETITION
Attorney Docket Number: O2Micro 04.11	:	

This is a decision on the "Petition to Revive Under 37 CFR 1.137(a)," filed December 26, 2007. The delay in treating this petition is regretted.

This Petition is hereby **dismissed**.

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

Background

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed March 6, 2007. The Office action set a three (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a).

Applicant filed a reply on June 11, 2007 (Certificate of Mailing dated June 6, 2007); however, the reply failed to place the application in condition for allowance. Applicant was so notified in an Advisory Action mailed November 30, 2007. No timely and proper reply having been received, the application became abandoned on June 7, 2007. A Notice of Abandonment was mailed November 1, 2007.

The present petition

Applicant files the present petition and asserts that a timely reply to the Office action was filed and received in this Office on June 11, 2007. Applicants emphasize that the reply was filed without delay.

A Grantable Petition Under 37 CFR 1.137(a)

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: (**1**) the required reply (unless previously filed), which may met by the filing of a notice of appeal and the requisite fee; a continuing application; an amendment or request for reconsideration which *prima facie* places the application in condition for allowance, or a first or second submission under 37 CFR 1.129(a) if the application has been pending for at least two years as of June 8, 1995, taking into account any reference made in such application to any earlier filed application under 35 USC 120, 121 and 365(c); (**2**) the petition fee as set forth in 37 CFR 1.17(l); (**3**) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (**4**) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

Applicant lacks items (**1**) and (**3**) as set forth above.

Applicable Law, Rules and MPEP

As to item (**1**), A reply under 37 CFR 1.113 to a final action must include a request for continued examination (RCE) under 37 CFR 1.114 or cancellation of, or appeal from the rejection of, each claim so rejected. Accordingly, in a nonprovisional application abandoned for failure to reply to a final action, the reply required for consideration of a petition to revive must be:
(A) a Notice of Appeal and appeal fee;
(B) an amendment under 37 CFR 1.116 that cancels all the rejected claims or otherwise prima facie places the application in condition for allowance;
(C) the filing of an RCE (accompanied by a submission that meets the reply requirements of 37 CFR 1.111 and the requisite fee) under 37 CFR 1.114 for utility or plant applications filed on or after June 8, 1995 (see paragraph (d) below); or
(D) the filing of a continuing application under 37 CFR 1.53(b) (or a CPA under 37 CFR 1.53(d) if the application is a design application).
When a notice of appeal is the reply filed pursuant to 37 CFR 1.137(a)(1) or 1.137(b)(1), the time period under 37 CFR 41.37 for filing the appeal brief will be set by the Director of the USPTO in the decision granting the petition.

MPEP 711.03

As to item (**3**), Applicant must provide a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable. In order to determine whether the delay was unavoidable, the courts have adopted a "reasonably prudent person" standard. The courts have provided that:

> [t]he word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

"The critical phrase 'unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable' has remained unchanged since first enacted in 1861." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982). The standard for "unavoidable" delay for reinstating a patent is the same as the unavoidable standard for reviving an application. See Ray v. Lehman, 55 F.3d 606, 608-609, 34 U.S.P.Q.2d (BNA) 1786, 1787 (Fed. Cir. 1995) (citing In re patent No. 4,409,763, 7 U.S.P.Q.2d (BNA) 1798, 1800 (Comm'r Pat. 1990; Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982). The court in In re Mattullath, accepted the standard which had been proposed by Commissioner Hall which "requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business." In re Mattullath, 38 App. D.C. 497, 514-515 (1912) (quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)). However, "The question of whether an applicant's delay in prosecuting an application was unavoidable [will] be decided on a case-by-case basis, taking all of the facts and circumstances into account."[1] Nonawareness of the content of, or a misunderstanding of, PTO statutes, PTO rules, the MPEP, or Official Gazette notices, does not constitute unavoidable delay.[2]

---

[1] Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

[2] See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D. D.C. 1978) for the proposition that counsel's nonawareness of PTO rules does not constitute "unavoidable" delay)); Vincent v. Mossinghoff, 1985 U.S. Dist. LEXIS 23119, 13, 230 U.S.P.Q. (BNA) 621 (D. D.C. 1985) (Plaintiffs, through their counsel's actions, **or their own**, must be held responsible for having noted the MPEP section and Official Gazette notices expressly stating that the certified mailing procedures outlined in 37 CFR 1.8(a) do not apply to continuation applications.) (Emphasis added).

The statute requires a "showing" by petitioner. Therefore, petitioner has the burden of proof. The decision will be based solely on the written, administrative record in existence. It is not enough that the delay was unavoidable; petitioner must prove that the delay was unavoidable. A petition will not be granted if petitioner provides insufficient evidence to "show" that the delay was unavoidable.

37 CFR 1.135(b) provides that

> 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. (Emphasis supplied).

Analysis

As to item (1), Applicant was advised that the reply filed June 11, 2007 failed to place the application in condition for allowance.

As to item (3), the reply filed June 11, 2007, while timely, was not a complete and proper reply as the condition of the case required. As stated above, the reply failed to place the application in condition for allowance, and was therefore not a complete and proper reply to the final Office action.

Conclusion

Applicant has failed to demonstrate that a complete and proper reply was filed, and that the failure to timely and properly reply to the Office action was unavoidable.

Alternate 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.

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

appropriate if petitioner intentionally delayed the filing of a petition for revive under 37 CFR 1.137(b).

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

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

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

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

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

Derek L. Woods
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

O2MICRO INC
C/O MURABITO, HAO & BARNES LLP
TWO NORTH MARKET STREET
THIRD FLOOR
SAN JOSE CA 95113

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AUG 15 2008

In re Application of	:	
Wong et al.	:	
Application No. 10/944263	:	
Filing or 371(c) Date: 09/17/2004	:	ON PETITION
Attorney Docket Number: O2Micro 04.11	:	

This is a decision on the Petition for Revival of an Application for patent Abandoned Unintentionally Under 37 CFR 1.137(b), filed June 2, 2008.

This Petition is hereby **dismissed**.

Any request for reconsideration of this 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 "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.

Background

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed March 6, 2007. The Office action set a three (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a).

Applicant filed a reply on June 11, 2007 (Certificate of Mailing dated June 6, 2007); however, the reply failed to place the application in condition for allowance. Applicant was so notified in an Advisory Action mailed November 30, 2007. No timely and proper reply having been received, the application became abandoned on June 7, 2007. A Notice of Abandonment was mailed November 1, 2007.

The present petition

Applicant files the present petition and amendment, and states that a Request for Continued Examination ("RCE") was filed; however, no RCE or fee have been received.

Applicable law, Rules and MPEP

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

The present petition and amendment

The Examiner has reviewed the Amendment and concluded that the Amendment fails to place the application in condition for allowance, and no RCE has been filed.

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

Inquiries regarding the Amendment should be directed to the Examiner. Telephone inquiries concerning this petition Decision should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

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C/O MURABITO, HAO & BARNES LLP
TWO NORTH MARKET STREET
THIRD FLOOR
SAN JOSE CA 95113

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OFFICE OF PETITIONS

In re Application of	:	
Wong et al.	:	
Application No.: 10/944263	:	
Filing or 371(c) Date: 09/17/2004	:	ON PETITION
Attorney Docket Number: O2Micro 04.11	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed October 15, 2008, to revive the above-identified application.

This Petition is hereby **granted**.

Background

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed March 6, 2007. The Office action set a three (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a).

Applicant filed a reply on June 11, 2007, however, the reply failed to place the application in condition for allowance. Applicant was so notified in an Advisory Action mailed November 30, 2007. No complete and proper reply having been received, the application became abandoned on June 7, 2007. A Notice of Abandonment was mailed November 1, 2007.

The present renewed petition

The renewed 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 (previously submitted on June 2, 2008), and the submission required by 37 CFR 1.114 (previously submitted on June 2, 2008); (2) the petition fee; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2838 for processing of the RCE, and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

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Cozen O'Connor, P.C.
1900 Market Street
Philadelphia, PA 19103-3508

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OFFICE OF PETITIONS

In re Application of	:	
Brenda F. Baker et al.	:	
Application No. 10/944,274	:	DECISION ON PETITION
Filed: September 17, 2004	:	TO WITHDRAW
Attorney Docket No. ISISO196-101 (ISPH-0874)	:	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 5, 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 Paul K. Legaard and all attorneys/agents of record has been revoked by the assignee of the patent application on June 29, 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: Knobbe, Martens, Olson & Bear, LLP
2040 Main Street
Fourteenth Floor
Irvine, CA 92614

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OFFICE OF PETITIONS

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

In re Patent No. 7,577,953	:
Verego et al.	:
Issue Date: August 18, 2009	:
Application No. 10/944,284	: DECISION ON REQUEST FOR
Filed: September 16 2004	: RECONSIDERATION OF
Attorney Dkt. No. 10992/372	: PATENT TERM ADJUSTMENT
Title: Configurable Business	:
Process	:

This is in response to the " Request For Reconsideration of Patent Term Adjustment Under 37 CFR §1.705(d)" filed September 3, 2009. Patentees request that the patent term be adjusted from 870 days to 1180 days.

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

On August 18, 2009, the above-identified application matured into US Patent No. 7,577,953 with a patent term adjustment of 942 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 the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), 310 of 549 days, does not overlap with the 908 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 submit that the total period of adjustment for Office delay is the sum of the period of three-year delay (549 days) and the period of examination delay (908 days) to the extent these periods do not overlap. As such, patentees assert entitlement to a patent term adjustment of 1180 days (908 days *plus* 549 days less 239 days of overlap less 38 days of applicant delay).

The Office finds that as of the day before the filing of the request for continued examination (RCE) on March 17, 2009, the application was pending three years and 548 days after its filing date. An entry of a period of adjustment of 908 days was entered for Office delay. Further, an undisputed reduction of 38 days for applicants' failure to engage in reasonable efforts to conclude prosecution was taken. At issue is whether patentee should accrue an additional 548 days of patent term adjustment for the Office taking in excess of three years to issue the patent as well as 908 days for Office failure to take a certain action within a specified time frame (or examination delay).

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

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

Likewise, 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 filing date September 16, 2004 until the day before the filing of the RCE on March 17, 2009. Prior to the issuance of the patent, 908 days of patent term adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application.

The Office did not delay 908 days and then delay an additional 548 days. Accordingly, 908 days of patent term adjustment for Office delay (not 908 days and 548 days) was properly entered

because the entire period of delay of 548 days attributable to the delay under 37 CFR 1.702(b) overlaps with the 942 days attributable to grounds specified in § 1.702(a)(1).

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

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent was 870 (908-38) 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 Charlema Grant, Petitions Attorney, at (571) 272-3215.

/Kery A. Fries/

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

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ROBERT A. HUNTSMAN
5465 EAST TERRA LINDA WAY
NAMPA ID 83687-1515

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OFFICE OF PETITIONS

In re Application of Grant Hawk Application No.10/944,298 Filed: September 17, 2004 Attorney Docket Number: 200510-HAWK Title of Invention: Spring Powered Toggle Joint Lock for A Folding Knife	: : : : : : :	ON PETITION

This is a decision on the petition filed July 13, 2006, under 37 CFR 1.137(b) to revive the above-identified application.

This application became abandoned for failure to timely submit the issue fee, as required by the Notice of Allowance and Fee (s) Due which was mailed February 22, 2006. The Notice of Allowance and Fee (s) Due set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on May 23, 2006. A Notice of Abandonment was mailed on July 10, 2006.

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

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

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

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JUN 09 2008

OFFICE OF PETITIONS

In re Application of
Yi Wang et al.
Application No. 10/944,302
Filed: September 17, 2004
Attorney Docket No.: 12008.0129US01

ON PETITION

This is a decision on the petition filed May 21, 2008 under 37 CFR 1.181 to withdraw the holding of abandonment in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition under 37 CFR 1.181(b) is **GRANTED.**

This application became abandoned for failure to timely reply to the non-Final Office Action mailed September 11, 2007. 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 December 12, 2007. Accordingly, a Notice of Abandonment was mailed March 24, 2008.

The file record discloses that the non-Final Office Action was mailed to what was believed to be the address of record. However, petitioner contends that it was not received provides statements from docketing personnel as well as copies of the docket to show non-receipt. Petitioner also asserts that a revocation and power of attorney was filed August 30, 2007 and was acknowledged by the USPTO on September 10, 2007. A review of the file reveals that both the August 30, 2007 filing and September 10, 2007 correspondence are of record but the office action was still sent to an incorrect address/addressee.

The statements and attachments corroborate non-receipt of the non-Final Office Action.

In view of the facts set forth in the petition and a review of the file record, it is concluded that due to an error on the part of the USPTO, the non-Final Office Action was sent to the wrong address and that it was therefore never received by the proper party of record. Accordingly, the holding of abandonment is withdrawn. No petition fee is due and none has been charged.

This matter is being referred to Technology Center 3736 for appropriate action on the amendment filed May 21, 2008.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Date Mailed : June 28, 2009

Patent No. :7,498,443
Inventor :Meckler et al.
Patent Issued :March 3, 2009
Title :PROCESS FOR PRODUCTION OF CAREBASTINE

Re: Request for Certificate of Correction

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

Inspection of the application for the patent reveals that in connection with the alleged error pertaining to Col. 20, lines 1-13 as referred to by applicant; the Letters Patent with regard to applicants request is printed in accordance with the records within the Patent and Trademark office. Accordingly, there being no fault on the part of the Patent and Trademark Office, it has no authority to a issue certificate of correction under the provisions of 35 U.S.C. 54 and Rule 322 and 323 of the Rules of Practice of the United States Patent and Trademark Office in Patent Cases.

To have the request further considered regarding this matter, a request for reconsideration filed under 37 CFR 1.323 which includes the required Certificate of Corrrection fee of $100.00 or a reconsideration filing together with documentation in support of applicants request filed under 1.322 should be submitted. Required documentation may include acknowledgement of receipt.

In view of the foregoing applicants request in this matter is hereby denied. Any telephone inquiry concerning this communication should be directed to Ms. A. Green at (703) 756-1541.

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 756-1580 or (703) 756-1541

Heslin, Rothenberg Farley & Mesiti P.C.
5 Columbia Circle
Albany, New York 12203-5160

/arg

UNITED STATES DEPARTMENT OF COMMERCE
COMMISSIONER FOR PATENTS
P. O. BOX 1450
ALEXANDRIA, VA 22313-1450

Date	: 10/07/2008
Patent No.	: 7,319.599 B2
Inventor(s)	: Harano et al.
Issue Date	: January 15, 2008
Title	: **MODULE INCORPORATING A CAPACITOR, METHOD FOR MANUFACTURING THE SAME, AND CAPACITOR USED THEREFOR**
Doc./File No.	: **10873.1541US01**

Re: Certificate of Correction

Consideration has been given your request for a certificate of correction, for the above-identified patent under the provisions of Rule 1.322 and 1.323.

Respecting the alleged errors in your request, the alleged errors is/are printed in accordance with the Notice of Allowance entered on 10/12/2007. Since the errors are attributed to the applicant, and are of typographical nature, a fee of 100.00 is required.

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

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

Ernest C. White, *LIE* (703) 308-9390 x122
Mary F. Diggs, *Supervisor* (703) 308-9390 x125
Decisions & Certificates of Correction Branch

HAMRE, SCHUMANN, MUELLER & LARSON P.C.
P.O. BOX 2902-0902
MINNEAPOLIS MN 55402

ecw

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100 SOUTH FIFTH STREET
SUITE 2250
MINNEAPOLIS MN 55402

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OFFICE OF PETITIONS

In re Application of	
David W. Hendrickson, et al.	
Application No. 10/944,318	DECISION ON PETITION
Filed: September 17, 2004	TO MAKE SPECIAL UNDER
Attorney Docket No. L343.101.102	37 CFR 1.102(c)(1)

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 13, 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 declaration statement signed by applicant Gerald J. Lipovetez. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 3692 for action on the merits commensurate with this decision.

April M. Wise

April M. Wise
Petitions Examiner
Office of Petitions

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CHERNOFF, VILHAUER, MCCLUNG &
STENZEL
1600 ODS TOWER
601 SW SECOND AVENUE
PORTLAND OR 97204-3157

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MAR 0 2 2009

OFFICE OF PETITIONS

In re Application of

Hao Pan.

Application No. 10/944,325

Filed: September 16, 2004

Attorney Docket No. SLA1568(7146.0212)

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed May 20, 2008.

The petition is **granted**.

This application was held abandoned January 5, 2008, after no reply was received to the non-final Office action mailed October 4, 2007. The notice set forth a shortened statutory period of reply of three months from its mailing date. No response was received within the allowable period and the application became abandoned on January 5, 2008. The instant petition was filed on May 20, 2008. Petitioner maintains that the non-final Office action was never received.

A review of the application file history reveals that the non-final Office action was returned to the USPTO on October 19, 2007, and that the envelope containing the final Office action had no mailing address. The evidence is convincing that petitioner did not receive the non-final Office action. The petition is granted. The holding of abandonment is, therefore, withdrawn.

The application file is being forwarded to Technology 2600, GAU 2624 for further processing that may include remailing the non-final Office action and resetting of the period for reply. It is noted that an amendment was filed May 20, 2008, that is intended to be responsive to the non-final Office action. The examiner should determine whether to accept this amendment or re-mail the non-final Office action and reset the period for reply thereto.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

ORUM & ROTH
53 W. JACKSON BLVD
CHICAGO IL 60604

In re Application of

Matthew Thomas Adams et al.
Application No. 10/944,332
Filed: September 17, 2004
Attorney Docket No. 13974

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 16, 2006.

The request is **APPROVED**.

A review of the file record indicates that Catherine L. Glemrich: (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, Catherine L. Glemrich 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 Catherine L. Glemrich attorney/agent of record on behalf of herself.

Catherine L. Glemrich has been withdrawn as attorney or agent of record; all other attorneys remain of record.

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

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

David Bucel
Petitions Examiner
Office of Petitions

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JUL 28 2005

In re Application of	:	
Mac Seelig et al.	:	
Serial No. 10/944,341	:	DECISION ON PETITION
Filed: September 15, 2004	:	
For: GAMING DEVICE BASE	:	

This is a decision on the petition to make special filed on April 29, 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 3711 will be notified of this decision, and will inform the assigned examiner to take action not inconsistent with this decision.

PETITION GRANTED.

Richard A. Bertsch

Richard A. Bertsch, Director
Technology Center 3700

Ian F. Burns & Associates
1575 Delucchi Lane, Suite 222
Reno, NV 89502

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OFFICE OF PETITIONS

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

In re Application of Jerald C. Seelig et al Application No. 10/944,341 Filed:September 15, 2004 Attorney Docket No. 560.806 ACC-TCM.CIP-SLOT	DECISION DISMISSING PETITION UNDER 37 CFR 3.81(b)

This is a decision on the petition, filed May 18, 2007 and supplemented on December 26, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **dismissed**.

Petitioner states that the correct assignee's name is **ATLANTIC CITY COIN & SLOT COMPANY,INC., & TC MILLWORK, INC.**, and that one of the assignee's name was inadvertently not included on the Issue Fee Transmittal Form PTOL-85(b) at the time of payment of the issue fee.

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

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

---

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

The instant request under 37 CFR 3.81(b) was not accompanied by a request for a certificate of correction (and fee) as required by 3.81(b). As petitioner has failed to comply with the provisions of 37 CFR 3.81(b), the request cannot be granted.

A review of Office database assignment records reflects that an assignment to **ATLANTIC CITY COIN & SLOT COMPANY,INC., & TC MILLWORK, INC.**, has been recorded. Therefore, upon submission of the required certificate of correction and fee, it would be appropriate for the Office to issue a certificate of correction to correct the front page of the Letters Patent to reflect that **ATLANTIC CITY COIN & SLOT COMPANY,INC., & TC MILLWORK, INC.**, was the assignee of record at the time of issuance of the instant application into a patent. *Note also* 35 U.S.C. § 152.

In view of the above, **the Certificates of Correction Branch is instructed to issue a certificate of correction upon submission by petitioner of a request for a certificate of correction (and fee) which sets forth ATLANTIC CITY COIN & SLOT COMPANY,INC., & TC MILLWORK, INC., as the assignee.** *No certificate of correction will be issued which sets forth an assignee other than the assignee set forth in the instant request. A copy of this decision* ***must*** *accompany the request for a Certificate of Correction.*

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

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3208. After the submission by petitioner of the request for a certificate of correction to correct the assignee data on the front page of the Letters Patent, any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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Myers Dawes Andras & Sherman, LLP
19900 MacArthur Blvd.
Suite 1150
Irvine, CA 92612

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OFFICE OF PETITIONS

In re Application of	:	
Daniel D. Gajski	:	
Application No. 10/944,365	:	DECISION ON PETITION
Filed: September 17, 2004	:	TO WITHDRAW
Attorney Docket No. UC1.PAU.42	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 29, 2008.

The request is **APPROVED**.

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

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

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

There is no outstanding Office action at this time.

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Law Office of Daniel L. Dawes**
5300 Warner Blvd, Suite 106
Huntington Beach, CA 92649

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/944,365	09/17/2004	Daniel D. Gajski	UC1.PAU.42

CONFIRMATION NO. 3081

POWER OF ATTORNEY NOTICE

23386
MYERS DAWES ANDRAS & SHERMAN, LLP
19900 MACARTHUR BLVD.
SUITE 1150
IRVINE, CA 92612

OC000000032310198

Date Mailed: 09/29/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/29/2008.

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

/tswilliams/

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

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660 S. FIGUEROA STREET
Suite 2300
LOS ANGELES, CA 90017

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OFFICE OF PETITIONS

In re Application of	:	
Tae Jin Park	:	
Application No. 10/944,389	:	DECISION GRANTING PETITION
Filed: September 17, 2004	:	UNDER 37 CFR 1.313(c)(1)
Attorney Docket No. 2080-3277	:	

This is a decision on the petition under 37 CFR 1.313(c)(1), filed April 3, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

37 CFR 1.313(c) provides that:

Once the issue fee has been paid, the application will not be withdrawn from issue upon petition by the applicant for any reason except:

(1) Unpatentability of one of more claims, which petition must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;

(2) Consideration of a request for continued examination in compliance with 37 CFR 1.114; or

(3) Express abandonment of the application. Such express abandonment may be in favor of a continuing application.

The petition complies with the requirements of 37 CFR 1.313(c)(1). Accordingly, the above-identified application is withdrawn from issue.

Petitioner is advised that the issue fee paid in this application 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 application is being referred to Technology Center AU 2622 for consideration of the amendment submitted with the petition.

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

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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COHEN, PONTANI, LIEBERMAN & PAVANE LLP
551 FIFTH AVENUE
SUITE 1210
NEW YORK NY 10176

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JUN 17 2009

OFFICE OF PETITIONS

In re Application of	:	
Dobereiner, Rolf	:	
Application No. 10/944,399	:	ON PETITION
Filed: September 17, 2004	:	
Attorney Docket No. 410001-348RCE	:	

This is a decision on the petition under 37 CFR 1.181, filed April 23, 2009, requesting the withdrawal of the holding of abandonment in the above-identified application and has been so treated.

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

The above-identified application was held abandoned for failure to timely reply to the non-final Office action mailed October 7, 2008, which set a shortened statutory period for reply of three (3) months. A reply was due on or before January 7, 2009. A Notice of Abandonment was mailed on April 14, 2009.

Petitioner states that the reply was in fact timely filed. To support this assertion, petitioner has submitted a copy of the return postcard, which acknowledges receipt by the U.S. Patent and Trademark Office (USTPO) on April 10, 2009 of 1. Amendment in response to OA; 2. Request for three-month extension of time; 3. Information Disclosure Statement; 4. Form PTO/SB/08A; 5. Reference cited; and 6. Check for $1290.00 for three-month extension of time and filing IDS. Additionally, petitioner has supplied a copy of the previously mailed correspondence, which bears a certificate of mailing date of April 7, 2009.

The reply acknowledged as having been received in the USPTO on April 10, 2009 (certificate of mailing date of April 7, 2009) has been located in the file. In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

A petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 does not require a fee and none has been charged.

This matter is being referred to Technology Center AU 3618 for further examination on the merits.

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

Liana Walsh
Petitions Examiner
Office of Petitions

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POSZ LAW GROUP, PLC
12040 SOUTH LAKE DRIVE
SUITE 101
RESTON, VA 20191

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In re Application of	:	
Kurt D'Mello, et al.	:	
Application No. 10/944,406	:	DECISION ON PETITION
Filed: September 2, 2004	:	TO WITHDRAW
Attorney Docket No. 57T-006	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 10, 2008.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Posz Law Group, PLC has been revoked by the assignee of the patent application on November 4, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

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

cc: SECURE ELEMENTS, INC.
198 VAN BUREN STREET
SUITE 110
HERNDON, CA 20170

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

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OFFICE OF PETITIONS

In re Application of :
Kurt D'Mello et al :
Application No. 10/944,406 : DECISION ON PETITION
Filed: September 20, 2004 :
Attorney Docket No. 2831.029US2 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 26, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final rejection mailed October 29, 2008, is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 2435 for appropriate action by the Examiner in the normal course of business on the reply received June 26, 2009.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

NATH & ASSOCIATES
112 SOUTH WEST STREET
ALEXANDRIA, VA 22314

In re Application of	:	
Thomas C. RILEY, et al	:	
Application No. 10/944,416	:	DECISION ON PETITION
Filed: September 20, 2004	:	TO WITHDRAW
Attorney Docket No. P025US	:	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, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Nath & Associates, has been revoked by the assignee of the patent application on December 21, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the address first copied below.

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: KV PHARMACEUTICAL COMPANY
4080B WEDGEWAY COURT
EARTH CITY, MO 63045

cc: RITA D. VACCA, ESQ.
KV PHARMACEUTICAL COMPANY
2503 SOUTH HANLEY RD.
ST. LOUIS, MISSOURI 63144-2555

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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

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In re Application of :
Braun, et al. :
Filed: September 20, 2004 : ON PETITION
Application No. 10/944,418 :
Dkt. No.: 037110.55197US :

This above-referenced application has been forwarded to the Office of Petitions in response to the "PETITION TO BE ACCORDED A FILING DATE," filed February 23, 2005. This response is being treated as a petition to accord the instant application a filing date of September 20, 2004.

The application was filed September 20, 2004. On November 23, 2004, the Initial Patent Examination Division mailed a Notice Incomplete Nonprovisional Application ("Notice") stating that the application had not been accorded a filing date because the application appeared to have been submitted without drawings as required. See, 35 USC 113 (first sentence).

The Notice indicated, *inter alia*, that the filing date would be the date of receipt of all items required and that any assertion that the items were submitted, or are not necessary for a filing date, must be by way of petition.

Petitioners herein argue that the application as filed is a continuation of international application No. PCT/EP03/02453, the entire disclosure of which was expressly incorporated into the instant application by reference. Petitioners have also included an amendment submitting a replacement drawing.

Petitioners' argument does have merit if the instant application incorporated by reference non-essential material of the prior filed international application. See, MPEP 608.01(p) which indicates that as a safeguard against the omission of a portion of a prior application for which priority is claimed under 35 U.S.C. 119(a)-(d) or (f), or for which benefit is claimed under 35 U.S.C. 119(e) or 120, applicant may include a statement at the time of filing of the later application incorporating by reference the prior application.

Hence, the instant application is entitled to a filing date of September 20, 2004 if the figure in question was properly incorporated by reference in accordance with the procedures set forth at MPEP 608.01(p). For the purpose of establishing a filing date, it is presumed that a valid incorporation by reference exists. However, petitioners are advised that the entry of the drawing figure into the record is contingent upon the consideration of the preliminary amendment by the examiner who will determine the validity of the incorporation by reference, i.e., that the omitted figure in question is in fact part of the disclosure of the application incorporated by reference.

The petition to accord the instant application a filing date of September 20, 2004 is hereby **GRANTED**.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of September 2, 2004 without entry of Figure 1 into the record.

Thereafter, the application will be forwarded to the appropriate group art unit for consideration by the examiner of the preliminary amendment filed requesting entry of the omitted drawing figure.

The required petition fee is currently $400.00. Petitioners have submitted $130.00. The deficit ($270.00) has been charged to petitioners' deposit account as authorized.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES DEPARTMENT OF COMMERCE
COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450

Date	: 11/10/2009
Patent No.	: 7,575,081 B2
Serial No.	: 10/944,435
Inventor(s)	: Obe et al.
Issue Date	: August 18, 2009
Title	: **WORK VEHICLE**
Doc./File No.	: **0388-045178**

Re: Certificate of Correction

Consideration has been given your request for a certificate of correction, for the above-identified patent under the provisions of Rule 1.322.

Respecting the alleged error(s) in the References Cited, the patent is printed in accordance with the record, since there is no record of a 1449 or 892 with reference(s) considered by the Examiner.

In view of the foregoing, your request in this matter is denied. However, further consideration will be given your request in this matter upon receipt of a copy of the 1449 or 892 with the requested reference(s) considered by the Examiner.

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

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

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

STRATTON BALLEW
213 S 12TH AVE
YAKIMA WA 9Russell D. Orkin
WEBB ZIESENHEIM LOGSDON ORKIN & HANSON, P.C.
700 Koppers Building
436 Seventh Avenue
Pittsburgh PA 15219-18188902 ecw

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Russell D. Orkin
WEBB ZIESENHEIM LOGSDON ORKIN & HANSON, P.C.
700 Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219-1818

Mail Date: 04/21/2010

Applicant	: Mitsuhiko Obe	: DECISION ON REQUEST FOR
Patent Number	: 7575081	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/944,435	: OF WYETH
Filed	: 09/17/2004	:
		:

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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FEB 0 2 2007

OFFICE OF PETITIONS

Applicant: Clausen et al.
Appl. No.: 10/944,436
Filing Date: September 17, 2004
Title: FOOT PROSTHESIS WITH RESILIENT MULTI-AXIAL ANKLE
Attorney Docket No.: OSSUR.050A
Pub. No.: US 2005/0267602 A1
Pub. Date: December 1, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on June 13, 2006, for the above-identified application

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains a material error, as the patent application publication does not include the drawings filed with the application.

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

The request for corrected publication received on June 13, 2006, was not timely filed under 37 CFR 1.221(b).

Due to the nature of the errors in this publication, the office will *sua sponte* publish a corrected patent application publication. The corrected patent application publication will be published in due course, unless the application is allowed and the patent issues before the application is republished.

---

[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).

It would greatly benefit the Office if **applicant did not provide copies of papers,** which were previously submitted, as it unnecessarily increases the cost to the Office. See 37 CFR 1.4(b). A request for corrected publication need only point out what was printed incorrectly in the application, where the error occurs in the publication and where the correct text or drawing is found in the application papers. Marked up relevant copies of the applications papers and the pre-grant publication may facilitate processing of the request, where it is not readily apparent where the error occurs. If it is not clear why the error is a material error, further explanation may be warranted.

The drawings that were incorrectly scanned into the application on January 6, 2005 have been relabeled as a miscellaneous incoming letter and removed from the active folder.

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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SAN JOSE, CA 95172-1120

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NOV 2 0 2008

OFFICE OF PETITIONS

In re Application of	:	
Steven E. SAUNDERS, et al	:	
Application No. 10/944,437	:	DECISION ON PETITION
Filed: September 16, 2004	:	TO WITHDRAW
Attorney Docket No. DROPP003A	:	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 2, 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. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because there is no indication that the act noted above at item 2, has been performed.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: STEVE SAUNDERS
DROPLET TECHNOLOGY, INC.
1600 ADAMS DRIVE, SUITE 216
MENLO PARK, CA 94025

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

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OFFICE OF PETITIONS

In re Application of

DIEWANIT, Ittipon et al.
Application No. 10/944,439
Filed: September 7, 2004
Attorney Docket No. **021612-002110US**

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 10, 2007.

The request is **APPROVED**.

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

The request was signed by George B.F. Yee on behalf of all attorneys of record who are associated. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **ITTIPON DIEWANIT**
119/60 SOI SIRICHAI 1
BANGKOK-NONTABURI ROAD
BANGKHEN
NONTABURI 11000
THAILAND

cc: **LORI C. DRIMBA**
MAGNECOMP CORPORATION
26201 YNEZ ROAD
SUITE 103
TEMECULA, CA 92591

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AUG 2 5 2005

OFFICE OF PETITIONS

In re Application of:	:	
Guthrie et al.	:	
Application No. 10/944,440	:	DECISION GRANTING
Filed: September 17, 2004	:	STATUS UNDER
Title of Invention:	:	37 CFR 1.47(a)
RELATIONSHIP-MANAGED COMMUNICATION	:	
CHANNELS	:	

This decision is in response to the Petition Under 37 CFR 1.47(a), filed June 13, 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 inventors, Paul D. Guthrie, Andrew L. Dale and Michael Tolson, refuse 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 petition fee has increased to $200.00. As such, an additional $70.00 has been charged to Applicant's deposit account as authorized in the instant petition.

The application file is being returned 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
Attorney
Office of Petitions

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Mr. PAUL D. GUTHRIE
1097 HOWARD STREET
#306
SAN FRANCISCO, CA 94103-2879

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AUG 25 2005

OFFICE OF PETITIONS

In re Application of:	:	
Guthrie et al.	:	
Application No. 10/944,440	:	LETTER
Filed: September 17, 2004	:	
Title of Invention:	:	
RELATIONSHIP-MANAGED COMMUNICATION	:	
CHANNELS	:	

Dear Mr. Guthrie:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3232. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Attorney Advisor
Office of Petitions

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

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COMMISSIONER FOR PATENTS
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Mr. MICHAEL TOLSON
11 MANZANITA COURT
CORTE MADERA, CA 94925

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AUG 25 2005
OFFICE OF PETITIONS

In re Application of:	:	
Guthrie et al.	:	
Application No. 10/944,440	:	LETTER
Filed: September 17, 2004	:	
Title of Invention:	:	
RELATIONSHIP-MANAGED COMMUNICATION	:	
CHANNELS	:	

Dear Mr. Tolson:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3232. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Attorney Advisor
Office of Petitions

cc: KNOBBE MARTENS OLSON & BEAR LLP
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IRVINE, CA 92614

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Mr. ANDREW L. DALE
2124 7TH STREET
BERKELEY, CA 94710

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AUG 25 2005

OFFICE OF PETITIONS

In re Application of:	:	
Guthrie et al.	:	
Application No. 10/944,440	:	LETTER
Filed: September 17, 2004	:	
Title of Invention:	:	
RELATIONSHIP-MANAGED COMMUNICATION	:	
CHANNELS	:	

Dear Mr. Dale:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3232. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Attorney Advisor
Office of Petitions

cc: KNOBBE MARTENS OLSON & BEAR LLP
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IRVINE, CA 92614

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OFFICE OF PETITIONS

In re Application of	:	
Paul D. Guthrie, et. al.	:	DECISION ON REQUEST
Application No. 10/944,440	:	TO WITHDRAW FROM
Filed: September 17, 2004	:	RECORD
Attorney Docket No. CJB.002A	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b) or 37 CFR § 10.40, filed on August 1, 2005.

The request is **APPROVED**.

A review of the file record indicates that Ted M. Cannon and all the attorneys/agents associated with Customer No. 20995: (1) do not have power of attorney in this patent application; but (2) have been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, Ted M. Cannon and all the attorneys/agents associated with Customer No. 20995 have been withdrawn from the present application and may not prepare or submit papers under 37 CFR § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 CFR § 1.32(b).

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 CFR 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 inquires concerning this decision should be directed to Andrea Smith at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Christopher L. Buchanan
207 Town Green Lane
Foster City, CA 94404

Convoii, Inc.
1900 South Norfolk Street, Suite 135
San Mateo, CA 94403

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Paper No.

Ted M. Cannon
KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 Main Street
Fourteenth Floor
Irvine, CA 92614

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TECHNOLOGY CENTER 2100

In re Application of:
Michael Tolson, et al.
Application No. 10/944,441
Filed: September 17, 2004
For: POLY MANAGED OBJECTS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed August 01, 2005.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. ∋ 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. ∋ 402.06. 37 C.F.R. ∋ 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request filed August 01, 2005 meets all the requirements. Accordingly the request is **GRANTED**.

Because no request was made for a change in correspondence address, all future communications from the United States Patent and Trademark Office (Office) will continue to be directed to the above-listed address until otherwise notified. Applicant is reminded of the obligation to promptly notify the Office of any change in correspondence address to ensure receipt of all communications from the Office.

James R. Matthews

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

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JACKSON WALKER LLP
901 MAIN STREET, SUITE 6000
DALLAS, TX 75202

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OFFICE OF PETITIONS

In re Application of	:	
Michael **TOLSON**, et al	:	
Application No. 10/944,441	:	DECISION ON PETITION
Filed: September 17, 2004	:	
Docket No. CJB.005A	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 2, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, November 21, 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 February 22, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $770; and (3) an the required statement of unintentional delay.

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

date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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

This application is being referred to Technology Center AU 2162 for appropriate action by the Examiner in the normal course of business on the reply received November 2, 2007.

Thurman Page
Petitions Examiner
Office of Petitions

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Schwegman, Lundberg & Woessner, P.A.
P.O. Box 2938
Minneapolis, MN 55402

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OFFICE OF PETITIONS

In re Application of	:	
Kent Vilendrer	:	
Application No. 10/944,462	:	DECISION ON PETITION
Filed: September 17, 2004	:	TO WITHDRAW
Attorney Docket No. 20070501.ORI	:	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 15, 2007.

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

A review of the file record indicates that the power of attorney to Schwegman, Lundberg & Woessner, P.A. has been revoked by the assignee of the patent application on August 14, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

T. Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **Nikolai & Mersereau, P.A.**
900 Second Avenue South
Suite 820
Minneapolis, MN 55402

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OFFICE OF PETITIONS

ORUM & ROTH
53 W. JACKSON BLVD.
CHICAGO IL 60604

In re Application of	:	
William Armstrong et al.	:	
Application No. 10/944,477	:	DECISION ON PETITION
Filed: September 17, 2004	:	TO WITHDRAW
Attorney Docket No. 13975	:	FROM RECORD
	:	

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

The request is **APPROVED**.

A review of the file record indicates that Catherine L. Glemrich: (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, Catherine L. Glemrich 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 Catherine L. Glemrich attorney/agent of record on behalf of herself.

Catherine L. Glemrich has been withdrawn as attorney or agent of record; all other attorneys remain of record.

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

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

David Bucci
Petitions Examiner
Office of Petitions

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SIDLEY AUSTIN BROWN & WOOD LLP (LAIP GROUP)
555 W. FIFTH ST., SUITE 4000
LOS ANGELES CA 90013

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In re Application of	:	
Alex Stenzler	:	
Application No. 10/944,479	:	ON PETITION
Filed: September 17, 2004	:	
Attorney Docket No. 23086-81503	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 13, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed on October 6, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 7, 2006.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3211. 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 3761.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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TWO EMBARCADERO CENTER
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OFFICE OF PETITIONS

In re Application of Acocella, Gimby, Kong, Bowen, Goodman, Tannenbaum, Moskal, and Foster Application No. 10/944,483 Filed: 16 September, 2004 Attorney Docket No. 019641-000510US:	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition filed under 37 CFR 1.47(a) on 18 January, 2005.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor cannot be found. Specifically, petitioners have shown, via the declaration of registered patent attorney Cathy E. Cretsinger, that a copy of the application was sent to non-signing joint inventor Foster at two different addresses believed to be the inventor's last known address. Petitioners have enclosed copies of the envelopes showing that the applications were returned as undeliverable. Accordingly, despite diligent efforts, the non-signing inventor could not be located.

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

The Office is construing 9549 Rimrock Road, Sonora, CA 95370, the address used in the Application Data Sheet (ADS), as the known address of the non-signing inventor. Petitioners must inform the Office if this is an incorrect interpretation.

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 application is being referred to Technology Center 2676 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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. None

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SEP 25 2006
OFFICE OF PETITIONS

GARLICK HARRISON & MARKISON
P.O. BOX 160727
AUSTIN TX 78716-0727

In re Application of Marcus W. May et al. Application No. 10/944,510 Patent No. 6,965,334 Filed: September 17, 2004 Issue Date: November 15, 2005 Attorney Docket No. SIG000086CON Title: VARIABLE BANDGAP REFERENCE	DECISION ON PETITION UNDER 37 C.F.R. §1.28(c)

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. The petition is **GRANTED** accordingly.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future

correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/123) is submitted for the above-identified application. For petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/123), may be found at http://www.uspto.gov/web/forms/sb0123.pdf.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[1]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

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

cc: Robert A. McLauchlan
P.O. Box 26780
Austin, TX 78755

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

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COMMISSIONER FOR PATENTS
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Sterne, Kessler, Goldstein & Fox, P.L.L.C.
1100 New York Avenue, NW
Washington DC 20005

COPY MAILED
MAR 01 2010

In re Application of
GLENTON HUGHES et al. : APPLICATION FOR PATENT
Application No. 10/944,521 : TERM ADJUSTMENT
Filed: September 17, 2004 :
Docket No. 2479.032000K/EKS/C-K :

This is a decision on the "Request for Reconsideration and Application for Patent Term Adjustment Pursuant to 37 C.F.R. § 1.705(b)" filed August 12, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is five hundred ninety-nine (599) days, not three hundred sixty-two (362) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants seek this correction partly on the basis that the Office will take in excess of three years to issue this patent.

The request for reconsideration of the patent term adjustment is **GRANTED to the extent indicated herein.**

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 **three hundred thirty-three (333) days**. A copy of the updated PALM screen, showing the corrected determination, is enclosed.

Initially, applicants disclose that they should have been assessed a period of delay of 117 days (not 88 days), pursuant to 37 CFR 1.704(c)(8), for the submission of an Information Disclosure Statement (IDS) after filing a reply to the non-final Office action on November 9, 2007. Applicants assert that PAIR

incorrectly notes the filing date of the IDS as February 5, 2008, instead of March 5, 2008.

Applicants' assertion is well taken and is supported by the record. The record does not support a conclusion that the examiner expressly requested the filing of the IDS. Further, a review of the IDS, filed March 5, 2008, reveals that applicants did not include a statement under 37 CFR 1.704(d).[1] Thus, pursuant to 37 CFR 1.704(c)(8), the period of adjustment should have been reduced by 117 days (not 88 days), counting the number of days beginning on the day after the date the initial reply was filed, November 10, 2007, and ending on the date that the IDS was filed, March 5, 2008. Accordingly, the period of reduction of 88 days will be removed and a period of reduction of 117 days will be entered.

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR

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[1] Pursuant to 37 CFR § 1.704(d):

> A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

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

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

In view of the additional period of reduction pursuant to 37 CFR 1.704(c)(8), the patent term adjustment determination at the time of the mailing of the notice of allowance should be **three**

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

hundred thirty-three (333) days (479 days of Office delay - 146 days of applicant delay).

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

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

Telephone inquiries specific 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

Enclosure: Copy of updated PALM screen

PALM INTRANET

Day : Monday
Date: 3/1/2010
Time: 09:24:04

PTA Calculations for Application: 10/944521			
Application Filing Date:	09/17/2004	PTO Delay (PTO):	479
Issue Date of Patent:	09/22/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	117
Post-Issue Petitions:	0	Total PTA (days):	333
PTO Delay Adjustment:	-29		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
117	03/01/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		117	
116	03/01/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	88		
111.5	09/02/2009	PTA 36 MONTHS			
111	09/22/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
110	08/25/2009	EXPORT TO FINAL DATA CAPTURE			
109	08/24/2009	FINISHED INITIAL DATA CAPTURE			
108	08/24/2009	DISPATCH TO FDC			
107	08/12/2009	RESPONSE TO REASONS FOR ALLOWANCE			
106	08/14/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
105	08/12/2009	ISSUE FEE PAYMENT VERIFIED			
104	08/12/2009	ISSUE FEE PAYMENT RECEIVED			
103	08/03/2009	SEQUENCE FORWARDED TO PUBS ON TAPE			
102	07/23/2009	RECEIPT INTO PUBS			
101	07/17/2009	EXPORT TO INITIAL DATA CAPTURE			
99	07/14/2009	MAIL NOTICE OF ALLOWANCE			
98	07/14/2009	ISSUE REVISION COMPLETED			
97	07/14/2009	DOCUMENT VERIFICATION			
96	07/14/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
95	07/14/2009	EXAMINER'S AMENDMENT COMMUNICATION			
94	07/07/2009	NOTICE OF ALLOWABILITY			
93	07/01/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
89	06/18/2009	DATE FORWARDED TO EXAMINER			
88	06/15/2009	AMENDMENT AFTER FINAL REJECTION		2	87
87	03/13/2009	MAIL FINAL REJECTION (PTOL - 326)			

86	03/12/2009	FINAL REJECTION			
85	12/18/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
84	06/19/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
83	12/18/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	81
82	01/08/2009	DATE FORWARDED TO EXAMINER			
81	12/18/2008	RESPONSE AFTER NON-FINAL ACTION			
80	12/18/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
79	09/18/2008	MAIL NON-FINAL REJECTION			
78	09/16/2008	NON-FINAL REJECTION			
76	06/19/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
75	07/02/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
74	07/02/2008	REFERENCE CAPTURE ON IDS			
73	07/02/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
72	06/19/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
71	07/13/2008	DATE FORWARDED TO EXAMINER			
70	06/19/2008	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
69	07/13/2008	DATE FORWARDED TO EXAMINER			
68	06/19/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
67	07/13/2008	DISPOSAL FOR A RCE / CPA / R129			
66	07/02/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
64	06/19/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
63	06/19/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
62	02/05/2008	REFERENCE CAPTURE ON IDS			
61	02/05/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		88	48
60	04/07/2008	CORRESPONDENCE ADDRESS CHANGE			
59	03/19/2008	MAIL FINAL REJECTION (PTOL - 326)	10		48
58	02/05/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			

57	02/05/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
56	02/29/2008	FINAL REJECTION			
50	11/09/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
49	12/03/2007	DATE FORWARDED TO EXAMINER			
48	11/09/2007	RESPONSE AFTER NON-FINAL ACTION		27	42
47	11/09/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
46	11/09/2007	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
45	11/09/2007	REFERENCE CAPTURE ON IDS			
44	11/09/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
43	11/09/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
42	07/13/2007	MAIL NON-FINAL REJECTION			
41	07/09/2007	NON-FINAL REJECTION			
40	05/09/2007	MISCELLANEOUS INCOMING LETTER			
39	06/11/2007	CORRESPONDENCE ADDRESS CHANGE			
38	06/12/2007	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
37	05/04/2007	DATE FORWARDED TO EXAMINER			
36	04/20/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
35	04/20/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
34	03/01/2007	MAIL RESTRICTION REQUIREMENT	469		-1
33	02/27/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
32	11/01/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
31	12/22/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
30	12/22/2006	REFERENCE CAPTURE ON IDS			
29.7	12/22/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
29	12/22/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
28	03/09/2005	RECEIPT OF ALL ACKNOWLEDGEMENT LETTERS			
27	03/09/2005	RECEIPT OF ACKNOWLEDGMENT LETTER			
26	12/01/2004	AGENCY REFERRAL LETTER MAILED			

25.7	11/01/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
25	11/01/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
24	11/23/2004	REFERRED BY L&R FOR THIRD-LEVEL SECURITY REVIEW. AGENCY REFERRAL LETTER GENERATED			
23	11/08/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
22	11/08/2004	CASE DOCKETED TO EXAMINER IN GAU			
21	09/17/2004	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
20	09/17/2004	PRELIMINARY AMENDMENT			
19	10/21/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
18	10/21/2004	CASE CLASSIFIED BY OIPE			
17	10/18/2004	APPLICATION RETURN FROM OIPE			
16	10/18/2004	APPLICATION RETURN TO OIPE			
15	10/18/2004	APPLICATION RETURN FROM OIPE			
14	10/18/2004	APPLICATION RETURN TO OIPE			
13	10/18/2004	APPLICATION RETURN FROM OIPE			
12	10/18/2004	APPLICATION IS NOW COMPLETE			
11	10/18/2004	APPLICATION RETURN TO OIPE			
10	10/18/2004	APPLICATION RETURN FROM OIPE			
9	10/18/2004	APPLICATION IS NOW COMPLETE			
8	10/18/2004	PRE-EXAM OFFICE ACTION WITHDRAWN			
7	10/18/2004	APPLICATION RETURN TO OIPE			
6	10/15/2004	APPLICATION DISPATCHED FROM OIPE			
5	10/15/2004	APPLICATION IS NOW COMPLETE			
4	10/07/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
3	09/27/2004	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
2	09/17/2004	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	09/17/2004	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Sterne, Kessler, Goldstein & Fox, P.L.L.C.
1100 New York Avenue, NW
Washington DC 20005

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MAR 01 2010

In re Patent No. 7,592,011	:	DECISION ON REQUEST FOR
HUGHES et al.	:	RECONSIDERATION OF
Issue Date: September 22, 2009	:	PATENT TERM ADJUSTMENT AND
Application No. 10/944,521	:	NOTICE OF INTENT TO ISSUE
Filed: September 17, 2004	:	CERTIFICATE OF CORRECTION
Docket No. 2479.032000K/EKS/C-K	:	

This is a decision on the petition filed on November 23, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by five hundred ninety-nine (599) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent** that the term of the above-identified patent is extended or adjusted by five hundred ninety-eight (598) days.

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 18, 2007, and ends on June 18, 2008, the day before the RCE was filed, and is 275 (not 276) days. See 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 598, not 599 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 Office acknowledges the submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

This matter is being referred 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 **five hundred ninety-eight (598) days**.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,592,011 B2

DATED : Sep. 22, 2009 **DRAFT**

INVENTOR(S) : Hughes 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 362 days

Delete the phrase "by 362 days" and insert – by 598 days--

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

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AUG 11 2009

OFFICE OF PETITIONS

In re Application of	:	
Jorge L. Garcia et al.	:	
Application No. 10/944,527	:	DECISION ON PETITION
Filed: September 17, 2004	:	
Attorney Docket No. CM06847K	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, September 19, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 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 an amendment, (2) the petition fee of $1,620, 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 Technology Center AU 2617 for appropriate action by the Examiner in the normal course of business.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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JAN 18 2006

OFFICE OF PETITIONS

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

In re Application of	:
Jong-Deuk Kim et al	:
Application No. 10/944,542	: DECISION GRANTING PETITION
Filed: September 17, 2004	: UNDER 37 CFR 1.137(b)
Attorney Docket No. 51876P251R	:

This is a decision on the petition under 37 CFR 1.137(b), filed October 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 Of Incomplete Reply (Reissue) mailed July 19, 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

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BAKER & BOTTS
30 ROCKEFELLER PLAZA
44TH FLOOR
NEW YORK NY 10112

COPY MAILED

AUG 1 0 2006

OFFICE OF PETITIONS

In re Application of	:	
Wilson	:	
Application No. 10/944,550	:	DECISION ON PETITION
Filed: September 17, 2004	:	TO WITHDRAW
Attorney Docket No. A36378 (71235.0125)	:	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 9, 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 firm, does not meet any the conditions set forth in 37 CFR 10.40. Furthermore, it is unclear whether the transfer is the request of the applicant or the assignee.

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 that was mailed on June 27, 2006 that requires a reply from the applicant.

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

David Bucci
Petitions Examiner
Office of Petitions

cc: Mr. Benjamin Hershkowitz
Kenyon & Kenyon
One Broadway
New York, NY 10004-1050

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JAN 23 2007

OFFICE OF PETITIONS

BAKER & BOTTS LLP
30 ROCKEFELLER PLAZA
44TH FLOOR
NEW YORK NY 10112-4498

In re Application of	:	
George A. Wilson, II	:	
Application No. 10/944,550	:	DECISION ON PETITION
Filed: September 17, 2004	:	TO WITHDRAW
Attorney Docket No. A36378 (071235.0125)	:	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 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, "assignee of record has made this request", 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).

There is an outstanding Office action mailed June 27, 2006 that requires a response by the applicant.

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: MR. BENJAMIN HERSHKOWITZ
KENYON & KENYON
ONE BROADWAY
NEW YORK, NY 10004-1050

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53 W. JACKSON BLVD
CHICAGO IL 60604

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SEP 28 2006

OFFICE OF PETITIONS

In re Application of	:	
Glenn Aspenns et al.	:	
Application No. 10/944,556	:	DECISION ON PETITION
Filed: September 17, 2004	:	TO WITHDRAW
Attorney Docket No. 13973	:	FROM RECORD
	:	

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

The request is **APPROVED**.

A review of the file record indicates that Catherine L. Glemrich: (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, Catherine L. Glemrich 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 Catherine L. Glemrich attorney/agent of record on behalf of herself.

Catherine L. Glemrich has been withdrawn as attorney or agent of record; all other attorneys remain of record.

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

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

David Bucci
Petitions Examiner
Office of Petitions

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MICHAEL TAVELLA
2051 BRIGADIER DRIVE
ANCHORAGE, AK 99507

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OFFICE OF PETITIONS

In re Application of James Robert Allen et al Application No. 10/944,558 Filed: September 17, 2004 For: METHOD OF MAKING AN ENVIRONMENTALLY SAFE SUBSTITUTE FOR LEAD SHOT	DECISION GRANTING PETITION UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed March 7, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before December 9, 2005, as required by the Notice of Allowance and Fee(s) Due mailed September 9, 2005. A Notice of Abandonment was mailed on January 20, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the $700 issue fee; (2) the petition fee of $750; 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) 272-3218.

The application file is being referred to Publishing Division.

Frances Hicks
Petitions Examiner
Office of Petitions

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YEE & ASSOCIATES, P.C.
P.O. BOX 802333
DALLAS TX 75380

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JUN 0 2 2008

OFFICE OF PETITIONS

In re Application of
Kay Schwendimann Anderson et al. :
Application No. 10/944,597 : ON PETITION
Filed: September 17, 2004 :
Attorney Docket No: YOR920040323US1 :

This is a decision on the petition to withdraw the holding of abandonment, filed March 27, 2008, under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition is **GRANTED**.

This application became abandoned on July 20, 2007, for failure to file a timely response to the Final Office Action mailed April 19, 2007, which set a three (3) month statutory period for reply. Accordingly, a Notice of Abandonment was mailed May 5, 2008 after the filing of the instant petition. Petitioner asserts that the Final Office Action was never received.

The file record discloses that the Office Action was mailed to the address of record which is the same address used on all correspondences from the USPTO including the Notice of Abandonment. Petitioner has provided a copy of the docket report, wherein receipt of the Office Action mailed April 19, 2007 would have been filed, had it been received. To show that the Notice mailed April 19, 2007 was not received, petitioner also explains that after searching the file jacket it was concluded that no correspondence was received for this matter from the USPTO.

In that the statement from the petitioner and the exhibit from the docket record for the instant matter show no entry indicating receipt of the Final Office Action mailed April 19, 2007, it is apparent that it was not received. The evidence submitted corroborates non-receipt of the Office Action.

In view of the facts set forth in the petition, it is concluded that the Office Action was never received at the address of record. Accordingly, the holding of abandonment is withdrawn and no petition fee is due.

This matter is being referred to Technology Center 2166 for a re-mailing of the Final Office Action and for a restarting of the period for response.

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

21 JAN 2005

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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DOCKETED
FEB 01 2005
DUE DATE
BY

Stephen H. Doctor
MCDONNELL BOEHNEN HULBET & BERGHOFF
300 South Wacker
Suite 3200
Chicago, IL 60606

In re Application of:
SIRNA THERAPEUTICS, INC.
PCT No.: PCT/US02/15876
International Filing Date: 17 May 2002
Priority Date: 18 May 2001
Attorney's Docket No.: 02-312-PCT;600.019
For: CONJUGATES AND COMPOSITIONS FOR CELLULAR DELIVERY

DECISION ON PETITION UNDER 37 CFR 1.10

This decision is issued in response to the "Petition To Accord Express Mail 'Date In' As Filing Date" filed 03 August 2004, treated herein under 37 CFR 1.10(c). The petition seeks to correct the international filing date to 17 May 2002. No petition fee is required.

BACKGROUND

Applicant initiated this international application by filing a Request (Form PCT/RO/101) and accompanying materials via "Express Mail" label number EL602855817US. The transmittal letter filed with the application materials lists this "Express Mail" label number, and identifies the date of deposit as 17 May 2002.

On 20 June 2002, the RO/US mailed a "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) identifying 20 May 2002 as the international filing date.

On 03 August 2004, applicant filed the petition considered herein. The petition seeks correction of the international filing date to 17 May 2002, the date on which applicant claims the application was deposited with the USPS. The submission includes, among other materials, a copy of the customer receipt for Express Mail label number EL602855817US, which bears a "date in" of 17 May 2002.

DISCUSSION

The present international application was accorded an international filing date of 20 May 2002. Applicant asserts that the proper international filing date is 17 May 2002, the date on which the Express Mail envelope containing the application materials was deposited with the USPS. As noted above, applicant has supplied a copy of the customer receipt for the Express

Mail envelope bearing a "date in" of 17 May 2002, and the Express Mail label number for this envelope was identified on the transmittal letter filed with the application papers. In addition, the USPTO Express Mail database identifies 17 May 2002 as the date on which this Express Mail envelope was accepted by the USPS.

Based on applicant's statements, the Express Mail database acceptance date of 17 May 2002, and the 17 May 2002 "date in" entered by the USPS on the Express Mail label, it is concluded that the present application was deposited as "Express Mail" with the USPS on 17 May 2002. Accordingly, pursuant to 37 CFR 1.10(c), the international filing date is appropriately corrected to 17 May 2002.

CONCLUSION

Applicant's petition for correction of the international filing date is **GRANTED**.

The international filing date is corrected to **17 May 2002**. The "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) mailed 20 June 2002, which identified 20 May 2002 as the international filing date, is hereby **VACATED**.

A corrected "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) which correctly identifies the international filing date as **17 May 2002** is issued herewith. Copies of this decision and the corrected Form PCT/RO/105 will be forwarded to the International Bureau.

This application is being forwarded to the RO/US for further processing in accordance with this decision.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

PATENT COOPERATION TREATY

From the RECEIVING OFFICE

To:
STEPHEN H. DOCTER
MCDONNELL BOEHNEN HULBERT & BERGHOFF
SUITE 3200
CHICAGO, ILLINOIS 60606

PCT

NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE

(PCT Rule 20.5(c))

Date of mailing (day/month/year): 27 JAN 2005

IMPORTANT NOTIFICATION

Applicant's or agent's file reference: 02-312-PCT;600.019		
International application No.: PCT/US02/15876	International filing date (day/month/year): 17 May 2002	Priority date (day/month/year): 18 May 2001
Applicant: SIRNA THERAPEUTICS, INC.		
Title of the invention: CONJUGATES AND COMPOSITIONS FOR CELLULAR DELVERY		

1. The applicant is hereby notified that the international application has been accorded the international application number and the international filing date indicated above.

2. The applicant is further notified that the record copy of the international application:

   [x] was transmitted to the International Bureau on 20 June 2002.

   [ ] has not yet been transmitted to the International Bureau for the reason indicated below and a copy of this notification has been sent to the International Bureau*:

   [ ] because the necessary national security clearance has not yet been obtained.

   [ ] because *(reason to be specified)*:

* The International Bureau monitors the transmittal of the record copy by the receiving Office and will notify the applicant (with Form PCT/IB/301) of its receipt. Should the record copy not have been received by the expiration of 14 months from the priority date, the International Bureau will notify the applicant (Rule 22.1(c)).

3. FOREIGN TRANSMITTAL LICENSE INFORMATION — Completed by: JM

   [ ] Additional license for foreign transmittal not required. This subject matter is covered by a license already granted or the equivalent U.S. national application. Refer to that license for information concerning its scope.

   [ ] License for foreign transmittal not required. 37 CFR 5.11(e)(1) or 37 CFR 5.11(e)(2). However, a license may be required for additional subject matter. See 37 CFR 5.15(b).

   [x] Foreign transmittal license granted. 35 U.S.C. 184; 37 CFR 5.11 on 15 June 2002 (date):

   [ ] 37 CFR 5.15(a) [x] 37 CFR 5.15(b)

Name and mailing address of the receiving Office: Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450	Authorized officer: Richard Ross RR
Facsimile No. 703-305-3230	Telephone No. 571-272-3286

Form PCT/RO/105 (July 1992)

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MICHAEL P. MORRIS
BOEHRINGER INGELHEIM USA CORPORATION
900 RIDGEBURY ROAD
P O BOX 368
RIDGEFIELD, CT 06877-0368

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JUL 06 2009

OFFICE OF PETITIONS

In re Application of	:	
Rajashehar Betaferi, et al.	:	
Application No. 10/944,615	:	DECISION DISMISSING PETITION
Filed: September 17, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 09-0240-1-C1	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 1, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED AS MOOT**.

Unfortunately, the petition was not referred to the appropriate deciding official for decision until after the issuance of this application into a patent. However, petitioner's attention is directed to 37 CFR 1.313(d), which states:

> A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**. (Emphasis added)

In this case, the petition was not received in the Office of Petitions for consideration until July 1, 2009. Therefore, as the case has now issued, the petition to withdraw from issue cannot be granted.

The request for continued examination (RCE) filed concurrently with the petition is improper in view of the issuance of this application into a patent and will not be processed. Accordingly, the $810 filing fee and the $130 petition fee submitted are unnecessary and will be refunded in due course.

The Information Disclosure Statement has been made of record in the file of the above-identified application without further consideration. *See* 37 CFR 1.97(i).

Petitioner is advised, that while petitions to withdraw from issue may be mailed to the Commissioner for Patents, as was done in this case, applicants were cautioned to hand carry or fax petitions to withdraw from issue directly to the Office of Petitions. *See* MPEP § 1308.

Telephone inquiries regarding 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.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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JONATHAN RIGDON SMITH , P.C
1612 UNION ST
BRUNSWICK GA 31520-6733

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JUN 09 2009

OFFICE OF PETITIONS

In re Application of Carlos R. Morales Application No. 10/944,635 Filed: September 17, 2004 Attorney Docket No. 1005.101	: : : : :	ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 28, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of October 17, 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). A three (3) month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. The application became abandoned on April 18, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to Technology Center AU 1797 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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SUITE 219
SCOTTSDALE AZ 85260

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OFFICE OF PETITIONS

In re Application of	:	
Rechterman et al.	:	
Application No. 10/944,636	:	ON PETITION
Filed: September 17, 2004	:	
Attorney Docket No. 0023	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 12, 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 2100 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

Commissioner for Patents
United States Patent and Trademark Office
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HOWISON & ARNOTT LLP
PO BOX 741715
DALLAS TX 75374-1715

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OFFICE OF PETITIONS

In re Application of
Kenneth W. Fernald :
Application No. 10/944,640 : DECISION ON
Filed: September 17, 2004 : PETITION
Attorney Docket No. CYGL-26,931 :

This is in response to the petition to revive under 37 CFR 1.137(b), filed February 6, 2006.

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

The above-identified application became abandoned for failure to pay the issue fee in response to the Notice of Allowance mailed October 3, 2005. No issue fee having been received, the application became abandoned on January 4, 2006. The mailing of this decision precedes the mailing of a Notice of Abandonment.

With the instant petition, petitioner paid the petition and issue fees, and made the proper statement of unintentional delay.

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

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SEP 02 2008

In re Application of	:	
Barbara J. **RECHTERMAN**, et al	:	
Application No. 10/944,645	:	DECISION ON PETITION
Filed: September 17, 2004	:	
Attorney Docket No. 0024	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 28, 2007, 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 June 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 (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 September 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 Notice of Appeal; (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

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 Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 2168 to await continued prosecution of the application.

Thurman K. Page

Thurman Page
Petitions Examiner
Office of Petitions

cc: CHRIS W. WATT
14455 N. HAYDEN ROAD, SUITE 226
SCOTTSDALE, AZ 85260

RAM Fee History Query

Revenue Accounting and Management

Name/Number: 10944645 Total Records Found: 9

Start Date: Any Date End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
02/07/2008	00003314	4	1402	$510.00	02/06/2008	DA 503134
02/07/2008	00003315	4	1806	$180.00	02/06/2008	DA 503134
12/28/2007	00012118	4	1453	$1,540.00	12/28/2007	DA 503134
12/28/2007	00012119	4	1401	$510.00	12/28/2007	DA 503134
10/09/2007	00000001	1	1251	$120.00	09/27/2007	DA 503134
03/07/2007	00000123	1	1202	$200.00	03/06/2007	DA 503134
03/07/2007	00000124	1	1201	$1,200.00	03/06/2007	DA 503134
09/24/2004	00000152	1	8021	$40.00	09/17/2004	DA 503134
09/22/2004	00000042	1	2001	$385.00	09/17/2004	DA 503134

PTO/SB/64 (12-07)
Approved for use through 12/31/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

First named inventor: Barbara J. Rechterman

Application No.: 10/944,645 Art Unit: 2168

Filed: 9/17/2004 Examiner: Mobin, Hasanul

Title: WEB PAGE CUSTOMIZATION BASED ON A SEARCH TERM EXPERTISE LEVEL

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee
☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☑ Other than small entity – fee $ 1,500 (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 Notice of Appeal (identify type of reply):

☐ has been filed previously on _____.
☑ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.
☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

☑ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

/Chris A. Watt/	December 28, 2007
Signature	Date
Chris A. Watt	60,947
Typed or printed name	Registration Number, if applicable
14455 N. Hayden Road Suite 226	480.624.2510
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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 7,438,989	:	
KYOUICHI WATANABE	:	
Issue Date: October 21, 2008	:	DECISION ON REQUEST FOR
Application No. 10/944,708	:	RECONSIDERATION OF
Filed: September 21, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. 040302-0415	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705" filed November 11, 2008, requesting that the patent term adjustment determination for the above-identified patent be corrected from seven hundred thirty-six (736) days to one thousand sixty-five (1,065) days.

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

On October 21, 2008, the above-identified application matured into Patent No. 7,438,989 with a patent term adjustment of 736 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

Patentee requests 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). Patentee asserts 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." Patentee maintains that a portion of the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR 1.703(b), 329 of 396 days, does not overlap with the 736-day period of adjustment due to examination delay, pursuant to 37 CFR 1.702(a), as these periods do not occur on

the same days. Thus, patentee requests that the determination of patent term adjustment be increased by 329 days to a total of 1,065 days.

The 396-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on September 21, 2004, and the patent having been issued on October 21, 2008, three years and 396 days later. Patentee asserts that in addition to this 396-day period, patentee is entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a) of 736 days for the failure by the Office to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a), pursuant to 37 CFR 1.702(a)(1). A nonfinal Office action was mailed November 27, 2007, 14 months and 736 days after the application was filed on September 21, 2004.

Under 37 CFR 1.703(f), patentee is 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 patentee failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, patentee is entitled to the period of Office delay reduced by the period of applicant delay. Patentee does not disagree with the period of reduction of zero (0) days for applicant delay.

Patentee does not dispute that the total period of Office delay is the sum of the period of Three Years Delay (396 days) and the period of Examination Delay (736 days) to the extent that these periods of delay are not overlapping. Patentee contends that 67 days of the period of delay of 736 days for the Office's failure to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed (November 22, 2005 to November 27, 2007) overlaps with the Three Year Delay period (September 22, 2007 to October 21, 2008). Patentee asserts that this overlapping period is the 67 days running from September 22, 2007 to October 21, 2008.

Accordingly, patentee submits that the total period of Office Delay is 1,065 days, which is the sum of the period of Three Year Delay (396 days) and the period of Examination Delay (736 days), reduced by the period of overlap (67 days). Thus,

patentee asserts entitlement to a patent term adjustment of 1,065 days (396 + 736 reduced by 67 overlap - 0 for applicant delay).

The Office agrees that the action detailed above was not taken within the specified time frame, and thus, the entry of period of adjustment for examination delay of 736 days is correct. At issue is whether patentee should accrue 329 days of patent term adjustment (adjusted for overlap, per patentee's calculations) for the Office taking in excess of three years to issue the patent, as well as 736 days for Office failure to take certain actions within specified time frames (or examination delay).

The Office contends that 396 days overlap. 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).

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

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

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[1]

As such, the period for over three-year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application. It is incorrect to treat the relevant period as starting on September 21, 2007, the date that is three years after the actual filing date of the application.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which

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[1] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

the application was pending before the Office, September 21, 2004, to the date the patent issued on October 21, 2008. Prior to the issuance of the patent, 736 days of patent term adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application. All of the 396 days for Office delay in issuing the patent overlap with the 736 days of Office delay. During that time, the issuance of the patent was delayed by 736 days, not 736 + 396 days.

The Office took 14 months and 736 days to issue a first Office action. Otherwise, the Office took all actions set forth in 37 CFR 1.702(a) within the prescribed time frames. Nonetheless, given the 736 days of Office delay and the 0 days of applicant delay and the time allowed within the time frames for processing and examination, as of the date the patent issued, the application was pending three years and 396 days. The Office did not delay 736 days and then an additional 396 days. Accordingly, 736 days of patent term adjustment (not 736 and 396 days) was properly entered because the period of delay of 396 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 736 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted. Thus, 736 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 396 days over three years to the issuance of the patent.

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment for the Office taking in excess of three years to issue the patent.

In view thereof, no adjustment to the patent term will be made.

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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WASHINGTON DC 20037

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OFFICE OF PETITIONS

In re Patent No. 7,080,666 Issue Date: July 25, 2006 Application No. 10/944,746 Filed: September 21, 2004 Attorney Docket No. Q83537	: : : : :	DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed March 11, 2009, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

The Office of Data Management is directed to issue a duplicate Letters Patent.

A review of Office records indicates that the Letters Patent was mailed on July 25, 2006 for the above application. As authorized, the $400 fee for the petition under 37 CFR 1.182 has been assessed to petitioner's deposit account.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3208. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to Niomi Farmer in the Office of Data Management at (703) 308-9250, Ext. 139.

A copy of this decision is being faxed to the Office of Data Management for issuance of a duplicate Letters Patent.

Karen Creasy
Petitions Examiner
Office of Petitions

cc: Niomi Farmer, South Tower, 8th Floor, Room C23 (Fax No. (571) 270-9753)

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TECHNOLOGY CENTER 2100

REED SMITH LLP
Suite 1400
3110 Fairview Park Drive
Falls Church VA 22042

In re Application of: MUROTANI
Application No. 10/944,787
Filed: September 21, 2004
For: NETWORK STORAGE SYSTEM AND HANDOVER METHOD BETWEEN PLURALITY OF NETWORK STORAGE DEVICES

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed 05 October 2005 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

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

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

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

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

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

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

In those instances where the request for this special status does not meet all the prerequisites set forth above, **applicant will be notified and the defects in the request will be stated**. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Technology Center (TC) Special Program Examiner.

The petition filed 05 October 2005 fails to adequately meet requirement (e) of the criteria set forth above. The discussion of the references does not point out with the particularity required by 37 CFR 1.111(b) and (c) how the claimed subject matter is patentable over the references. The statement attempting to distinguish the references from the claims for each of the references deemed most closely related states that essentially the entirety of claim 1 and most of claim 14 is not taught or suggested by the references. Such a statement is not sufficient.

Also, it is suggested that if the identical statement is being made to distinguish each reference from an independent claim, then the statement should simply be made once in the petition. (E.g., "Regarding independent claim 1, none of the references disclose . . . .")

Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Pinchus M. Laufer

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

ds

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AUG 16 2006

Technology Center 2100

Stanley P. Fisher
REED SMITH LLP
Suite 1400
3110 Fairview Park Drive
Falls Church, VA 22042

In re Application of: MUROTANI, AKIRA
Application No. 10/944,787
Filed: 21 September 2004
For: NETWORK STORAGE SYSTEM AND HANDOVER METHOD BETWEEN PLURALITY OF NETWORK STORAGE DEVICES

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER M.P.E.P. §708.02 (VIII)

This is a decision on the renewed petition filed 04 January 2006, to make the above-identified application special, under 37 CFR § 102(d) and MPEP § 708.02(VIII): Accelerated Examination.

The Petition is **GRANTED**.

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

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

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

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

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

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

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

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

The application is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

Brian L. Johnson
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

GO

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 06/07/07

TO SPE OF : ART UNIT 1725

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/944802** Patent No.: **7214637**

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

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

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

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

_____

_____

_____

_____

SPE — Art Unit 1725

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ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Application of
Wang
Application No. 10/944,808
Filed: September 21, 2004
Attorney Docket No. WANG3272/REF

Decision on Petition

This is a decision in response to the petition filed January 11, 2005, which is entitled, "Petition Under 37 CFR 1.53(b) Requesting Withdrawal of the Notice of Omitted Item(s)."

The petition is **dismissed**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are not permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.53(b)."

The merits of a petition will not be considered until the full petition fee has been paid. As of November 1, 2004, the fee for a petition under 37 CFR 1.53(b) is $400.[1] Petitioner has only paid $130. If petitioner chooses to file a request for reconsideration, it must be accompanied by $270.

Petitioner may wish to note the Notice of Omitted Items gave petitioner three options:

(1) File a petition (with fee) and evidence establishing the missing drawing(s) were part of the application submitted to the PTO.
(2) File a petition, petition fee, the drawings, and request a filing date as of the date that the petition and missing Figure(s) are submitted.
(3) Accept the application as deposited.

When an applicant wishes to choose option (3) and to amend the specification (by relabeling figures or otherwise) then a formal amendment must be filed *rather than* a petition.

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

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

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

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[1] See Revision of Patent Fees for Fiscal Year 2005, 69 Fed. Reg. 52604 (Aug. 27, 2004) and Changes to Support Implementation of the United States Patent and Trademark Office 21st Century Strategic Plan, 1287 Off. Gaz. Pat. Office 67 (Oct. 12, 2004).

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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ON PETITION

In re Application of	:	
Wang	:	
Application No. 10/944,808	:	
Filed: September 21, 2004	:	
Attorney Docket No. WANG3272/REF	:	

This is a decision on the renewed petition filed June 8, 2005, requesting, in effect, that the "Notice Of Omitted Item(s)" mailed November 12, 2004, be withdrawn to the extent that it states that Figure 36E is missing.

The petition is **dismissed**.

Facts:

The application was filed on September 21, 2004.

The specification filed on September 21, 2004, described drawing Figure 36E. The drawings did not contain a Figure 36E.

On November 12, 2004, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s)" stating that the application had been accorded a filing date of September 21, 2004, and advising applicants that Figure 36E described in the specification appeared to have been omitted.

In response, a petition was filed on January 11, 2005. The petition alleged that the reference in the specification to Figure 36E was a typographical error and that a Figure 36E had not been filed. The petition was accompanied by an amendment to the specification deleting the reference to Figure 36E.

A decision dismissing the petition the petition was mailed on May 4, 2005. The decision stated that the merits of a petition under 37 CFR 1.53(b) will not be considered until the $400 petition fee has been paid.

As a courtesy, the decision reminded petitioner that the Notice of Omitted Items gave petitioner three options:

(1) File a petition (with fee) and evidence establishing the missing drawing(s) were part of the application submitted to the PTO.
(2) File a petition, petition fee, the drawings, and request a filing date as of the date that the petition and missing Figure(s) are submitted.
(3) Accept the application as deposited.

As a courtesy, the decision reminded application that, when an applicant wishes to choose option (3) and to amend the specification (by relabeling figures or otherwise), a formal amendment must be filed *rather than* a petition.

The instant petition was filed on June 8, 2005.

Analysis:

The Notice of Omitted Items will not be withdrawn.

The Notice correctly stated that Figure 36E described in the specification was not present in the papers filed. Petitioner has not shown that a Figure labeled Figure 36E was filed with the original application papers.[1]

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

The Office of Initial Patent Examination will be informed of the instant decision so that it may consider the preliminary amendment filed on January 11, 2005, and so that it may continue to process the application.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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[1] Attention is directed to MPEP 601.01(g) which reads in part:

The Office of Initial Patent Examination (OIPE) reviews application papers to determine whether all of the figures of the drawings that are mentioned in the specification are present in the application. If the application is filed without all the drawing figure(s) referred to in the specification, and the application [is entitled to a filing date], OIPE will mail a "Notice of Omitted Item(s)" indicating that the application papers . . . are lacking some of the figures of drawings described in the specification.

Each application received by OIPE must be individually reviewed for compliance with both the statutory requirements for according an application a filing date and for compliance with various requirements of the rules. Many of the applications concern complex technology. Accordingly, the employees of OIPE, who are not trained engineers or scientists, are not expected to make a detailed comparison of the written description and drawings. To do so would require a greater expenditure of time and resources, with a resulting increased cost, than are currently allocated. In the past, applicants and practitioners have indicated to the PTO that such increases are undesired. Therefore, if a Figure listed in the specification is not present, OIPE sends a Notice of Missing Parts and does not examine the content of the drawings and specification to determine whether the Figure may have been unlabeled or mislabeled.

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In re Application of	:	
Brent Marsh	:	
Application No. 10/944,818	:	DECISION ON PETITION
Filed: September 21, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. **33251-2022**	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed October 6, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

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

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

The rule at 37 CFR § 1.78(a)(3) requires a statement that the entire delay between the date the claim was due under 37 CFR § 1.78(a)(2)(ii) and the date the claim was filed was unintentional. Since the statement appearing in the petition varies from the required language, the statement is

being construed as the statement required by 37 CFR §1.78(a)(3). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

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

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, has been mailed under separate cover.

The revocation and power of attorney submitted concurrently with the present petition is unacceptable. In this regard, the statement under 37 CFR 3.73(b) fails to set forth the chain of title from the inventor in the above-identified application to the current assignee. A review of the chain of title in the assignment records indicates that an assignment from the inventor to Re-Energy, Inc., was recorded against Application No. 08/630,361. However, as the claim for priority in this application indicates that intermediate Application No. 09/598,009 is a continuation-in-part of Application No. 08/630,361, new assignment papers must be submitted in this application (or in prior-filed Application No. 09/598,009) since assignments do not carry in a continuation-in-part application. *Note* MPEP 306. It is noted that, while this application indicates that intermediate Application No. **09/598,009 is a continuation-in-part of Application No. 08/630,361,** the claim for priority in **Application No. 09/598,009** indicates that it **is** a **continuation of Application No. 08/630,361**. It is further noted that the claim for priority in Application No. 10/414,714 states that it is a **continuation of Application No. 09/598,009, which in turn is a continuation-in-part of Application No. 08/630,361**.

In view of the nonacceptance of the revocation and power of attorney, a courtesy copy of this decision is being mailed to petitioner. However, all future correspondence will be mailed to the above noted-address of record until such time as an acceptable power of attorney is received.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3218. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2875 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Marshall S. Honeyman
Lathrop & Gage LLC
2345 Grand Boulevard, Suite 2300
Kansas City, MO 64108

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20061002

DATE : August 26, 2008

TO SPE OF : ART UNIT 3748

SUBJECT : Request for Certificate of Correction on Patent No.: 7,100,546

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:

/THOMAS E DENION/
Supervisory Patent Examiner.Art Unit 3748

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OBLON, SPIVAK, MCCLELLAND, MAIER
& NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

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FEB 26 2007

OFFICE OF PETITIONS
ON PETITION

In re Patent No. 7,083,992 :
Issue Date: August 1, 2006 :
Application No. 10/944,842 :
Filed: September 21, 2004 :
Attorney Docket No. 259368US2X :

This is a decision on the petition filed September 20, 2006, and resubmitted on December 12, 2006, which is being treated under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is granted.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3208. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

[1]See Official Gazette of June 22, 2004

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ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-3873

MAILED

DEC 30 2005

TECHNOLOGY CENTER 2100

In re Application of NAKAMURA	:	
Application No.: 10/944,851	:	DECISION ON PETITION
Filing Date: September 21, 2004	:	FOR ACCELERATED
For: CLUSTERED STORAGE SYSTEM AND	:	EXAMINATION UNDER
INTER-CLUSTER DATA	:	M.P.E.P. §708.02(VIII)
COMMUNICATION METHOD	:	

This is a decision on the petition filed November 15, 2005 under 37 CFR §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

M.P.E.P. §708.02, Section VIII, which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 CFR §1.102(d), states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status. The election may be made by applicant at the time of filing the petition for special status. Should applicant fail to include an election with the original papers or petition and the Office determines that a requirement should be made, the established telephone restriction practice will be followed. If otherwise proper, examination on the merits will proceed on claims drawn to the elected invention. If applicant refuses to make an election without traverse, the application will not be further examined at that time. The petition will be denied on the ground that the claims are not directed to a single invention, and the application will await action in its regular turn. Divisional applications directed to the nonelected inventions will not automatically be given special status based on papers filed with the petition in the parent application. Each such application must meet on its own all requirements for the new special status;

(C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. >The pre-examination search must be directed to the invention as claimed in the application for which special status is requested.< A search made by a foreign patent office satisfies this requirement >if the claims in the corresponding foreign application are of the same or similar scope to the claims in the U.S. application for which special status is requested<;

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

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

Because the petition filed November 15, 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

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JUL 13 2005

OFFICE OF PETITIONS

In re Application of :
Ali Rusta-Sallehy and Michael Vale :
Application No. 10/944,868 : DECISION GRANTING PETITION
Filed: September 21, 2004 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 9351-514 :

This is in response to the petition under 37 CFR 1.47(b), filed May 3, 2005, and supplemented on July 6, 2005, which has been treated as a petition under 37 CFR 1.47(a).[1]

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 1700 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

[1] A petition under 37 CFR 1.47(b) is inappropriate in this instance since all but one of the inventors has signed the declaration. A petition under 37 CFR 1.47(b) is only appropriate where none of the inventors will sign, accordingly the petition will be treated as a petition under 37 CFR 1.47(a).

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ALI RUSTA-SALLEHY
163 ELMWOOD AVENUE
RICHMOND HILL, ONTARIO L4C 1L2
CANADA

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JUL 13 2005

OFFICE OF PETITIONS

In re Application of
Ali Rusta-Sallehy and Michael Vale
Application No. 10/944,868
Filed: September 21, 2004
Attorney Docket No. 9351-514

Dear ALI RUSTA-SALLEHY:

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

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LOWE HAUPTMAN BERNER, LLP
1700 DIAGONAL ROAD
SUITE 300
ALEXANDRIA VA 22314

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MAY 10 2007

OFFICE OF PETITIONS

In re Application of	:	
Alejandro Javier Delgado Araujo	:	DECISION ON PETITION
Application No. 10/944,877	:	TO WITHDRAW HOLDING
Filed: 21 September, 2004	:	OF ABANDONMENT
For: METHOD FOR PREPARING A	:	
BEANLESS-FLAVOR SOYMILK AND/OR	:	
OKARA USING CARBON DIOXIDE IN A	:	
STATE OF SUBLIMATION	:	

This is a decision on the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 C.F.R. §1.181," filed on 27 February, 2007, requesting withdrawal of the holding of abandonment in the above-identified application.

This application was held abandoned for failure to respond in a timely manner to the Notice of Allowance and Fee(s) Due mailed on 25 September, 2006. A Notice of Abandonment was mailed 23 January, 2007.

Petitioner asserts 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 10 August, 2006, acknowledging receipt of, *inter alia*, a Request for Continued Examination (RCE) Request Transmittal Form, an Information Disclosure Statement (IDS), and a fee authorization form. The postcard identifies the application by applicant's name, application number, filing date, attorney docket number, and invention title. A copy of the Response was included with this petition.

A review of the record reveals that the RCE and IDS filed on 10 August, 2006, are located in the official file. However, the Notice of Allowance mailed on 25 September, 2006, was mailed *subsequent* to the filing of the RCE and submission filed on 10 August, 2006. As such, the RCE and submission filed on 10 August, 2006, could not have been filed in reply to the Notice of Allowance mailed on 25 September, 2006.

As petitioners have provided no evidence of a timely reply to the Notice of Allowance mailed on 25 September, 2006, the application was properly held abandoned.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision. **This period may not be extended.**[1]

The address in the petition is different than the correspondence address. A courtesy copy of this decision is being mailed to the address in the petition. All future correspondence, however, will be mailed solely to the address of record.

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

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

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

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

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

Cc: MERCHANT & GOULD, P.C.
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

---

[1] 37 CFR 1.181(f).

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JUL 19 2007

OFFICE OF PETITIONS

In re Application of :
Alejandro Javier Delgado Araujo :
Application No. 10/944877 : DECISION ON PETITION
Filed: 09/21/2004 :
Atty Docket No. 70073.0001US01 :

This is a decision on the petition filed on 16 May, 2007, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 26 December, 2006, for failure to timely submit the issue and publication fees in response to the Notice of Allowance and Fee(s) Due mailed on 25 September, 2006, which set a three (3) month statutory period for reply. Notice of Abandonment was mailed on 23 January, 2007. The petition to withdraw the holding of abandonment filed on 27 February, 2007, was dismissed on 10 May, 2007.

It is noted that two duplicate payments of the issue and publication fees have been charged to counsel's deposit account.

---

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

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

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

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

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

The duplicate payments will be credited to counsel's account. It is also noted that petitioner states applicant is no longer claiming small entity status. The petition and issue fees have been charged at the large entity amount, small entity status will no longer apply.

The application is being referred to the Office of Patent Publication for processing into a patent.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Cc:

MERCHANT & GOULD
901 15TH STREET NW, SUITE 850
WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Application of	:	
Rusta-Sallehy and Vale	:	
Application No. 10/944,878	:	DECISION REFUSING STATUS
Filed: 21 September, 2004	:	UNDER 37 CFR 1.47(a)
Atty Dckt No. 9351-484	:	

This is in response to the petition filed under 37 CFR 1.47(a)[1] on 17 May, 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 21 September, 2004, without an executed oath or declaration.

Accordingly, on 18 November, 2004, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application requiring the an executed oath or declaration and a surcharge for its late filing. A two (2) month period for reply was set.

In response, on 17 May, 2005, petitioners filed a four (4) month extension of time, authorization to charge the petition fee and

[1] A petition under 37 CFR 1.47(b) is inappropriate in this instance since all but one of the inventors has signed the declaration. A petition under 37 CFR 1.47(b) is only appropriate where none of the inventors will sign. Accordingly, the petition will be treated as a petition under 37 CFR 1.47(a).

surcharge, the present petition, and a declaration naming Ali Rusta-Sallehy and Michael Vale as joint inventors and signed on behalf of non-signing inventor Rusta-Sallehy and himself by joint inventor Vale.

Petitioners assert that the non-signing inventor has refused to sign the oath or declaration for the application for patent.

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 respect to item (1), petitioners must provide proof that a copy of the application (specification, including claims, drawings, if any, and the declaration) was sent or given to each non-signing inventor at his or her last known address for review.[2] Petitioners may provide proof by providing a copy of the cover letter transmitting the application papers to the non-signing inventors 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 can be alleged petitioners must show that a copy of the application papers (specification, including claims, drawings, if any, and the declaration) were sent or given to each non-signing inventor. If there is a written refusal, petitioners must provide 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.

---

[2] MPEP 409.03(d).

The petition fee and extension of time fees will be charged to counsel's deposit account, No. 02-2095, as authorized in the present petition.

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

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

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

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

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:
Rusta-Sallehy and Vale	:
Application No. 10/944,878	: DECISION ACCORDING STATUS
Filed: 21 September, 2004	: UNDER 37 CFR 1.47(a)
Atty Dckt No. 9351-484	:

This is in response to the renewed petition filed under 37 CFR 1.47(a) on 6 July, 2005.

The Office apologizes for the delay in responding to the present petition.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Ali Rusta-Sallehy, has refused to review the sign the declaration after having been sent a copy of the application papers. Specifically, petitioners have shown, via the statement of Ulf A. Wittblad, that a copy of the application papers were sent to the non-signing inventor's last known address, but that the non-signing inventor stated orally that he would not sign the declaration unless he was paid additional compensation to do so. Additionally, the non-signing inventor has failed to sign and return the declaration naming him as a joint inventor along with Michael Vale.

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 2125 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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Ali Rusta-Sallehy
5601 Seminary Road, #1315
Falls Church VA 22041

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FEB 21 2007

OFFICE OF PETITIONS

In re Application of
Rusta-Sallehy et al.
Application No. 10/944,878
Filed: 21 September, 2004
For: ELECTROLYZER CELL STACK SYSTEM

Dear Mr. Rusta-Sallehy:

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 571-272-3150. 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 571-272-3150 or 1-800-972-6382 (outside the Washington D.C. area).

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Rusta-Sallehy and Vale	:	
Application No. 10/944,879	:	DECISION REFUSING STATUS
Filed: 21 September, 2004	:	UNDER 37 CFR 1.47(a)
Atty Dckt No. 9351-493	:	

This is in response to the petition filed under 37 CFR 1.47(a)[1] on 20 May, 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 21 September, 2004, without an executed oath or declaration.

Accordingly, on 22 November, 2004, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application requiring the an executed oath or declaration and a surcharge for its late filing. A two (2) month period for reply was set.

In response, on 20 May, 2005, petitioners filed a four (4) month extension of time, authorization to charge the petition fee and

[1] A petition under 37 CFR 1.47(b) is inappropriate in this instance since all but one of the inventors has signed the declaration. A petition under 37 CFR 1.47(b) is only appropriate where none of the inventors will sign. Accordingly, the petition will be treated as a petition under 37 CFR 1.47(a).

surcharge, the present petition, and a declaration naming Ali Rusta-Sallehy and Michael Vale as joint inventors and signed on behalf of non-signing inventor Rusta-Sallehy and himself by joint inventor Vale.

Petitioners assert that the non-signing inventor has refused to sign the oath or declaration for the application for patent.

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 respect to item (1), petitioners must provide proof that a copy of the application (specification, including claims, drawings, if any, and the declaration) was sent or given to each non-signing inventor at his or her last known address for review.[2] Petitioners may provide proof by providing a copy of the cover letter transmitting the application papers to the non-signing inventors 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 can be alleged petitioners must show that a copy of the application papers (specification, including claims, drawings, if any, and the declaration) were sent or given to each non-signing inventor. If there is a written refusal, petitioners must provide 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.

---

[2] MPEP 409.03(d).

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

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

By FAX: (703) 872-9306
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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:

DATE : March 16, 2007

TO SPE OF : ART UNIT 2857

SUBJECT : Request for Certificate of Correction on Patent No.: 10/944,879

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

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

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

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

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

Note your decision on the appropriated box.

☐ **Approved** All changes apply.

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

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

Comments:

The request for adding references at the end of the "References Cited - U.S. Patent Documents" section is denied because those references cited in the IDS was filed after the issue fee was paid. Information disclosure statements filed after payment of the issue fee will not be considered, but will be placed in the file. However, the application may be withdrawn from issue in order to file a request for continued examination (RCE) under 37 CFR 1.114 upon the grant of a petition under 37 CFR 1.313(c)(2), or a continuing application under 37 CFR 1.53(b) (or a continued prosecution application (CPA) under 37 CFR 1.53(d) if the CPA is for a design patent and the prior application of the CPA is a design application) upon the grant of a petition filed under the provisions of 37 CFR 1.313(c)(3). Alternatively, the other provisions of 37 CFR 1.313 may apply, e.g., a petition to withdraw the application from issue under the provisions of 37 CFR 1.313(c)(1) may be filed together with an unequivocal statement by the applicant that one or more claims are unpatentable over the information contained in the statement. The information disclosure statement would then be considered upon withdrawal of the application from issue under 37 CFR 1.313(c)(1).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Comments:

SPE:	2863 Art Unit

John Barlow
Supervisory Patent Examiner
Technology Center 2800

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7-9-07

TO SPE OF : Technology Center 2857

10/944879

SUBJECT : Request for Certificate of Correction on Patent No.: 7117106 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.

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

Comments:

IDS filed on April 5, 2005 was never shown on PALM until a certificate of correction filed by Applicant on March 16, 2007. The error may be caused by contractor.

ELISEO RAMOS-FELICIANO
SUPERVISORY PATENT EXAMINER
SPE

2857
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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STEIN,MCEWEN & BUI
1400 EYE STREET, NW.
SUITE 300
WASHINGTON, DC. 20005

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JAN 0 5 2006

OFFICE OF PETITIONS

In re Application of :
Hyun-Jeong Lim et al :
Application No. 10/944,886 : ON PETITION
Filed: September 21, 2004 :
Attorney Docket No. 1567.1072 :

This is a decision on the petition, filed December 28, 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 November 8, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

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).

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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RADER FISHMAN & GRAUER PLLC
LION BUILDING
1233 20TH STREET NW, SUITE 501
WASHINGTON, DC 20036

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JAN 31 2007

OFFICE OF PETITIONS

In re Application of	:
Akihiro Kikuchi et al	:
Application No. 10/944,915	: DECISION GRANTING PETITION
Filed: September 21, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. SON-3100	:

This is a decision on the petition, filed January 31, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 3, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2618 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\Jan10\944915.wpd

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

Christopher B. Fagan, Esq.
Fay, Sharpe, Fagan, Minnich & McKee, LLP
Seventh Floor
1100 Superior Avenue
Cleveland OH 44114-2518

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MAY 0 6 2005

OFFICE OF PETITIONS

In re Application of :
David L. Robison :
Application No. 10/944,961 : DECISION ON PETITION
Filed: September 20, 2004 :
Attorney Docket No.: :
PERZ 2 00280 :
Title: HEAT TRAP :
:

This is a decision on the petition filed February 9, 2005, requesting that Figure 7 be accorded a filing date of September 20, 2004, as part of the original disclosure.

The application was deposited on September 20, 2004. However, on January 18, 2005, the Office of Initial Patent Examination (OIPE) mailed a "Notice to File Corrected Application Papers (notice)," stating that the application had been accorded a filing date, and advising applicants that the application appeared to have been deposited without Figure 7. The notice set a two-month period for response, and further indicated that replacement drawings would be required.

In response, on February 9, 2005, applicants filed the present petition. The petition is further accompanied by replacement drawings (including Figure 7) and a copy of applicants' postcard receipt acknowledging receipt of "5 Sheet(s) of Drawings Figs. 1-10" in the United States Patent and Trademark Office (Office) on September 20, 2004. Applicants request that Figure 7 be accorded

a filing date of September 20, 2004 as part of the original disclosure.

It is noted that 4 sheets of drawings have been located in the electronic file, containing Figures 1-6 and 8-10.

Upon review of the record, the above-mentioned figure has not been located among the application papers. However, the evidence is convincing that the application papers deposited on September 20, 2004 included Figure 7, and the sheet containing this figure was subsequently misplaced in the Office.

Therefore, the application, including Figure 7, was complete on filing and this figure is entitled to a filing date of September 20, 2004 as part of the original disclosure.

Accordingly, the petition is **GRANTED**.

The notice mailed January 18, 2005 was sent in error, and is hereby **VACATED**. Therefore, no petition fee is necessary. The petition fee of $400 has been refunded to Petitioner's Deposit Account, as authorized in the petiiton.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of September 20, 2004, using the original application papers filed on that date, as well as Figure 7 submitted on February 9, 2005 with the instant petition and for indication in Office records that this figure was present on filing.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED

FEB 23 2009

OFFICE OF PETITIONS

In re Application of
James C. Peterson
Application No. 10/944,963
Filed: September 20, 2004
Attorney Docket No: **15895US05**

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3) filed November 12, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of prior-filed non-provisional application 09/803,355 filed March 9, 2001.

The petition is **GRANTED**.

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

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

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

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

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

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

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2432 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. 120 to the prior-filed application.

Anthony Knight
Supervisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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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
10/944,963	09/20/2004	2432	1827	15895US05	138	4

CONFIRMATION NO. 4771

CORRECTED FILING RECEIPT

23446
MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

OC000000034671856

Date Mailed: 02/23/2009

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)

James C. Peterson, Menomonee Falls, WI;

Assignment For Published Patent Application

PKWare, Inc.

Power of Attorney: The patent practitioners associated with Customer Number 23446

Domestic Priority data as claimed by applicant

This application is a CON of 10/620,960 07/16/2003 ABN
and is a CIP of 09/803,355 03/09/2001 PAT 6,879,988
which claims benefit of 60/187,969 03/09/2000

Foreign Applications

If Required, Foreign Filing License Granted: 11/12/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/944,963**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

Method and system for encryption of file characteristics of .ZIP files

Preliminary Class

713

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS, MN 55432-9924

In re Application of
John E. Burnes, et al.
Application No. 10/944,982
Filed: September 20, 2004
Attorney Docket No. P0011678.00

ON PETITION

This is a decision in response to the petition, filed October 21, 2009, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned on July 16, 2009 for a failure to reply in a timely manner to the non-final Office action mailed April 15, 2009, which set a shortened statutory period for reply of three (3) months. This decision precedes the mailing of a Notice of Abandonment. On October 21, 2009, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) a proposed reply in the form of an amendment; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

Extensions of time under 37 CFR 1.136 are available only if asked for prior to or with the response. In no case, however, may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response has expired. Since, no extension of time fees are due upon the filing of a petition to revive, the $1,110 extension fees are being credited to counsel's deposit account.

The application is being referred to Technology Center AU 3626 for appropriate action by the Examiner in the normal course of business on the response filed October 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

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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ROBERT D. GUNDERMAN, JR.
4149 CLOVER ST
HONEOYE FALLS, NY 14472

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OFFICE OF PETITIONS

In re Application of	:	
Robert B. Stevens	:	
Application No. 10/944,983	:	DECISION ON REQUEST
Filed: September 20, 2004	:	TO WITHDRAW
Attorney Docket No. RBS-730	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed July 14, 2005. The request was signed by Robert D. Gunderman, Jr.

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 and include a proper reason for the withdrawal as set forth in 37 CFR 10.40(b) or (c). A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 CFR § 1.136(a).

A review of the file record indicates that Robert D. Gunderman, Jr. does not have power of attorney in this patent application; but, has been employed or otherwise engaged in the proceedings in this patent application. However, the Office cannot approve the request to withdraw as agent at this time since the reason provided does 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 -- Robert D. Gunderman, Jr., Reg. No. 55231, has left the firm of Howard J. Greenwald, P.C. (Customer Number 37282) -- 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 correspondence address of record until otherwise properly notified by applicant.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: HOWARD J. GREENWALD P.C.
349 W. COMMERCIAL STREET SUITE 2490
EAST ROCHESTER NY 14445-2408

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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PITNEY BOWES INC.
35 WATERVIEW DRIVE
P.O. BOX 3000
MSC 26-22
SHELTON, CT 06484-8000

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FEB 1 2 2008

OFFICE OF PETITIONS

In re Application of	:	
Leon A. Pintsov, et. al.	:	
Application No. 10/944,991	:	DECISION ON PETITION
Filed: September 20, 2004	:	
Attorney Docket No. F-754-01	:	

This is a decision on the petition under 37 CFR 1.137(b) filed on December 26, 2006, which is being treated as a petition under 37 CFR 1.181 (no fee), requesting withdrawal of the holding of abandonment in the above-identified application. The delay in responding is regretted.

This application was held abandoned for failure to timely respond to the non-final Office action mailed February 17, 2006. A Notice of Abandonment was mailed on December 4, 2006.

Petitioner states that a reply was timely sent to the Office on May 2, 2006, but was directed to the wrong application number. To support this assertion, petitioner has submitted a copy of a return postcard, which acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on May 5, 2006 of, *inter alia,* an amendment and transmittal. A copy of the previously submitted reply accompanies the present petition.

The Office concurs with petitioner, in that, a response was timely submitted to the Office on May 5, 2006[1], but the documents contained the wrong application number; and as a result, the response was incorrectly matched to an unrelated application.

[1] The amendment filed on May 5, 2006, contained a Certificate of Mailing under 37 CFR 1.10 dated May 2, 2006.

Under current Office procedure, if a paper contains the incorrect application number, but contains sufficient information to identify the correct application and was timely filed, the holding of abandonment will be withdrawn. In reviewing the papers submitted, it is concluded that the information contained thereon (i.e., inventor's name, title of the invention, etc.) was sufficient to associate the papers with the above-identified application.

In view of the above, the petition is **GRANTED**. Accordingly, the holding of abandonment for failure to timely file a reply to the non-final Office action mailed February 17, 2006, is hereby withdrawn and the application is restored to pending status.

Petitioner is cautioned to ensure that the correct identifying data appears on all correspondence submitted to the USPTO to avoid situations of the nature which occurred in the present application.

In view of the above, the $1,500 petition fee submitted on December 26, 2006, will be refunded to petitioner's deposit account.

This application file is being referred to Technology Center Art Unit 3628, for consideration of the response filed on May 5, 2006.

Telephone inquiries regarding this decision should be directed to Andrea Smith at (571) 272-3226. Questions concerning the processing of the application should be directed to the Technology Center.

Andrea Smith
Petitions Examiner
Office of Petitions

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

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JUL 03 2006

Technology Center 2100

In re Application of: Pettey, et al.	)	
Application No. 10/945,003	)	
Filed: September 20, 2004	)	**DECISION ON PETITION TO MAKE**
For: HIGH SPEED PERIPHERAL	)	**SPECIAL UNDER M.P.E.P.§708.02(II):**
INTERCONNECT APPARATUS,	)	**INFRINGEMENT**
METHOD AND SYSTEM	)	

This is a decision on the petition, filed July 28, 2005, and supplemented on November 9, 2005,under 37 C.F.R. 1.102(d) and M.P.E.P. §708.02(II): Infringement, to make the above-identified application special.

A grantable petition under 37 C.F.R. 1.102(d), and M.P.E.P. §708.02, Section II, must be accompanied by payment of the fee under 37 C.F.R. 1.17(h) and a statement under 37 C.F.R. 1.102 by the applicant or assignee or statements by an attorney/agent registered to practice before the Patent and Trademark Office that: (A) there is an infringing device or product actually on the market or method in use; (B) a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the 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.

The petition filed July 28, 2005 and supplemented on November 9, 2005, includes all of the requirements set forth above and, therefore, the petition is **GRANTED**.

The application is being forwarded to the examiner to be advanced out of turn for examination in accordance with the procedures set forth in M.P.E.P. §708.02 and 37 C.F.R. 1.102.

Brian L. Johnson
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(571) 272-3595

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JUL - 8 2005

In re Application of	:	
Sal Falciglia, Sr.	:	
Serial No. 10/945,025	:	DECISION ON PETITION
Filed: September 20, 2004	:	TO MAKE SPECIAL
For: SYSTEM AND METHOD FOR PLAYING	:	
A MULTIPLE-ROW MATCHING GAME		
WITH A BONUS FEATURE	:	

Applicant's petition, filed November 22, 2004, requests that this application be rendered special for examination in that applicant is over sixty-five (65) years of age.

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

PETITION GRANTED.

Richard A. Bertsch

Richard A. Bertsch, Director
Technology Center 3700

George Likourezos
Carter, DeLuca, Farrell & Schmidt, LLP
445 Broad Hollow Road
Melville, NY 11747

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DANIEL S.Y. KIM
215 DUBOIS COURT
VANCOUVER, WA 98661

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JAN 09 2007

OFFICE OF PETITIONS

In re Application of	:	
Kim, Daniel S. Y.	:	
Application No. 10/945,033	:	ON PETITION
Filed: September 21, 2004	:	
Attorney Docket No. KIM07	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 15, 2006, to revive the above-identified application.

The petition is **GRANTED.**

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

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.

The change of correspondence address filed November 8, 2006, cannot be accepted because it was not signed by an attorney of record. See MPEP §§ 601.03 and 405. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

This 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

CC: KURT M. RYLANDER
RYLANDER & ASSOCIATES, P.C.
406 WEST 12TH STREET
VANCOUVER, WA 98660

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.
10/945,053	09/20/2004	Geoffrey Fielding Strouse	G&C 30794.111-US-U1	6364

22462 7590 03/03/2008
GATES & COOPER LLP
HOWARD HUGHES CENTER
6701 CENTER DRIVE WEST, SUITE 1050
LOS ANGELES, CA 90045

EXAMINER
LANGEL, WAYNE A

ART UNIT	PAPER NUMBER
1793	

MAIL DATE	DELIVERY MODE
03/03/2008	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
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WASHINGTON, D.C. 20231
www.uspto.gov

caf

3-3-08

In re Application of: Geoffrey F. Strouse et al.	:
Application No. 10/945,053	: DECISION ON
Filed: September 20, 2004	: PETITION
For: METHOD FOR SYNTHESIS OF COLLOIDAL	:
NANOPARTICLES	:

This is a decision on the PETITION UNDER 37 C.F.R. 1.181 filed on December 10, 2007.

On June 26, 2007, a non-final office action was mailed to Applicant. On December 10, 2007, the instant petition was filed to formally request that the date for responding to the June 26, 2007 office action be restarted.

DECISION

In regard to the showing required to establish non-receipt of an Office communication MPEP 711.03(c) states:

> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner **>describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in

question.

The instant petition does not 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 nor does it include a copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received. Accordingly, the petition for re-mailing the non-final office action is **DENIED.**

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

GATES & COOPER LLP
HOWARD HUGHES CENTER
6701 CENTER DRIVE WEST, SUITE 1050
LOS ANGELES CA 90045

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 04292009

DATE : 04/21/09

TO SPE OF : ART UNIT 2117

SUBJECT : Request for Certificate of Correction for Appl. No.: 10945056 Patent No.: 7475302 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 Director's SPE response to 571-270-9990

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

Thank You For Your Assistance

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

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

Formatted: Indent: Left: 88 pt

Comments: _____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/John J. Tabone, Jr./ 04/27/2009

SPE :/Robert Beausoliel/

Art Unit 2117

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OFFICE OF PETITIONS

BRACEWELL & GIULIANI LLP
P.O. BOX 61389
HOUSTON, TX 77208-1389

In re Application of Gardner et al.	:	
Application No. 10/945,057	:	Decision on Petition
Filing Date: September 20, 2004	:	
Attorney Docket No. TA-00686	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 30, 2008, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action including a requirement for restriction/election mailed September 15, 2006, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on Tuesday, October 17, 2006. A Notice of Abandonment was mailed May 25, 2007.

The instant petition requests revival of the application.

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

(1) The reply required to the outstanding Office action or notice, unless previously filed,
(2) The petition fee,
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) A terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

As to item (1), petitioner has supplied a reply to the September 15, 2006 Office action.

As to item (2), petitioner has supplied the required petition fee.

As to item (3), 37 CFR 1.137(b)(3) requires "a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) [was] unintentional." The statement in the petition is not identical to the

statement set forth in 37 CFR 1.137(b)(3). However, to the extent any statement of delay in the petition varies from this exact language, the statement will be construed as the equivalent of the statement above. If the entire delay from the date of abandonment, October 17, 2006, until the date the petition was filed, January 30, 2008, was not unintentional, petitioner must notify the Office.

The petition is signed by Attorney Keith Derrington. However, Attorney Derrington was not an attorney of record at the time the application became abandoned. Therefore, it appears Derrington may not have been in a position to have firsthand or direct knowledge of the facts and circumstances of the delay. Nevertheless, the statement by Attorney Derrington that the entire delay was unintentional is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.[1] 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 a portion of the delay from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was intentional, petitioner must notify the Office.

As to item (4), a terminal disclaimer is not required because the instant application is a utility application filed after June 8, 1995.

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 1771 will be informed of the instant decision and the application will be further examined in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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

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MARK J. PANDISCIO
PANDISCIO & PANDISCIO, P.C.
470 TOTTEN POND ROAD
WALTHAM, MA 02451-1914

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Rodney B. Miller :
Application No. 10/945,072 :
Filed: September 20, 2004 :
Attorney Docket No. MILLERWV-1 :

This is a decision on papers filed on March 22, 2005, which is being treated as a petition under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of September 20, 2004, including Figures 25-27.

The application was submitted on September 20, 2004. However, on January 18, 2005, the Office of Initial Patent Examination (OIPE) mailed a "Notice to File Missing Parts of Nonprovisional Application" (Notice) that stated the application had been accorded a filing date, and that Figures 25-27 described in the specification appear to have been omitted.

In response, on March 22, 2005, the instant petition and two (2) sheets of drawings, which contain Figure 25-27, were submitted. Petitioner argues that Figures 25-27 described in the specification were filed on September 20, 2004. In support, petitioner has submitted declarations by James A. Sheridan, a registered practitioner and the attorney for applicant, and Lisa (Elisabeth) L. Cook, an assistant to James A. Sheridan.

Both James A. Sheridan and Lisa (Elisabeth) L. Cook state in their respective declarations that Figures 25-27 were enclosed and submitted with the application papers on September 20, 2004.

The declarations have been considered, but are not persuasive. The Patent and Trademark Office (Office) file is the official record of the papers originally filed in this application. A review of the official file reveals twenty-one (21) pages of drawings were filed on September 20, 2004. The two (2) sheets of drawings, which contain Figure 25-27, were not filed on September 20, 2004, since no such pages are present in the file. An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence. The declarations relied on contain the declarants' recall of routine events which occurred almost six months earlier and are not more persuasive than the record of what was filed as shown by the official file, which does not contain Figures 25-27.

The Office has a well-established and well-publicized practice of providing a receipt for papers filed in the Office to any applicant desiring a receipt. The practice requires that any paper for which a receipt is desired be filed in the Office with a self-addressed postcard identifying the paper. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the Office of all the items listed thereon on the date stamped thereon by the Office. See MPEP 503.

Petitioner states that a copy of the postcard receipt that indicates the receipt of twenty-three (23) pages of drawings on September 20, 2004 was submitted with the instant petition, however, this item cannot be located in the application file.

At the present time, the petition must be dismissed. However, this decision is made without prejudice to reconsideration. If petitioner has a postcard receipt date stamped by the Office that indicates receipt of Figures 25-27 on September 20, 2004, then the postcard receipt or a copy thereof should be supplied, accompanied by a letter requesting reconsideration of this decision. No additional petition fee is required for such a request.

Any request for reconsideration should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely. This time period may not be extended pursuant to 37 CFR 1.136.

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

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

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

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

Telephone inquiries 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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WALTHAM, MA 02451-1914

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In re Application of :
Rodney B. Miller :
Application No. 10/945,072 : ON PETITION
Filed: September 20, 2004 :
Attorney Docket No. MILLERWV-1 :

This is a decision on papers styled, "REQUEST FOR RECONSIDERATION OF THE PETITION TO ACCEPT ALLEGEDLY OMITTED ITEM IN NON-PROVISIONAL PATENT APPLICATION AND TO ACCORD ORIGINAL FILING DATE FOR THIS ITEM," filed on June 23, 2005, which is being treated as a request for reconsideration of petition under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of September 20, 2004, including Figures 25-27.

The application was submitted on September 20, 2004. However, on January 18, 2005, the Office of Initial Patent Examination (OIPE) mailed a "Notice to File Missing Parts of Nonprovisional Application" (Notice) that stated the application had been accorded a filing date, and that Figures 25-27 described in the specification appear to have been omitted.

In response, on March 22, 2005, the original petition and two (2) sheets of drawings, which contain Figures 25-27, were submitted. Petitioner argues that Figures 25-27 described in the specification were filed on September 20, 2004. A copy of applicant's postcard receipt that acknowledges receipt of "Formal Drawings (23 sheets)" on September 20, 2004, accompanies the instant request for reconsideration. A review of the application file indicates the presence of only twenty-one (21) sheets of drawings originally filed on September 20, 2004, with the sheets containing Figures 25-27 missing. It is assumed that the missing sheets of drawings containing Figures 25-27 were misplaced by the Office.

In view of the above, the petition is granted.

The $400.00 petition fee will be refunded to deposit account no. 16-0221.

This application will be returned to OIPE for processing with a filing date of September 20, 2004, using the sheets of drawings, containing Figures 25-27, that were submitted with the petition on March 22, 2005.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Comcast Cable Communications, LLC.
One Comcast Center, 50th Floor
1701 John F Kennedy Blvd
Philadelphia, PA 19103-2838

Mail Date: 04/26/2010

Applicant	: Walt Michel	: DECISION ON REQUEST FOR
Patent Number	: 7634792	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/945,085	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/20/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1148** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND, WA 98052

Mail Date: 04/21/2010

Applicant	: Joseph C. Ballantyne	: DECISION ON REQUEST FOR
Patent Number	: 7587566	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/945,093	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/21/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **319** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON DC 20006-1109

In re Application of	:	
Jeffrey Alan Middlesworth Et al.	:	
Application No. 10/945,104	:	DECISION ON PETITION
Filed: September 21, 2004	:	TO WITHDRAW
Attorney Docket No. 44904.000752	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed November 14, 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 21967. 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).

Patrick A. Doody signed the request on behalf of all attorneys of record.

Patrick A. Doody 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 Buoci
Petitions Examiner
Office of Petitions

Cc: Jeffrey Alan Middlesworth
116 West Maple Avenue
Wauconda, IL 60084

cc: JOSEPH A TESSARI
TREDEGAR FILM PRODUCTS
1100 BOULDERS PARKWAY
RICHMOND, VA 23225

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BRAKE HUGHES BELLERMANN LLP
c/o CPA Global
P.O. Box 52050
Minneapolis, MN 55402

Mail Date: 04/20/2010

Applicant	: Mohan Kalkunte	: DECISION ON REQUEST FOR
Patent Number	: 7593403	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/945,115	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/21/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1201** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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BRAKE HUGHES BELLERMANN LLP
c/o CPA Global
P.O. Box 52050
Minneapolis, MN 55402

Mail Date: 05/17/2010

Applicant : Mohan Kalkunte
Patent Number : 7593403
Issue Date : 09/22/2009
Application No : 10/945,115
Filed : 09/21/2004

: 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 **1244** 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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Michael L. Greenberg
GREENBERG & LIEBERMAN, LLC
2141 Wisconsin Avenue, N.W.
Suite C-2
Washington, DC 20007

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OFFICE OF PETITIONS

In re Application of :
Stevens J. ENDRES :
Application No. 10/945,125 :
Filed 20 September 2004 :
Attorney Docket No.: 23400413/2004 :

DECISION
ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile on 14 September 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed 04 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 05 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 abstract on a separate sheet of paper and a replacement sheet 1 of the specification, (2) the petition fee for a small entity, and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of 04 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

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Trademark Office

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PETITION DECISION

10/28/04

Jay Sandvos
Bromberg & Sunstein LLP
125 Summer Street
Boston, MA 02110-1618

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/945144 received on 10/05/04 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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SHUMAKER & SIEFFERT, P. A.
1625 RADIO DRIVE
SUITE 300
WOODBURY, MN 55125

Mail Date: 07/09/2010

Applicant	: Jason J. Netherton	: DECISION ON REQUEST FOR
Patent Number	: 7534754	: RECALCULATION of PATENT
Issue Date	: 05/19/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/945,165	: OF WYETH
Filed	: 09/20/2004	:
		:

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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CERTIFICATE OF CORRECTION

PATENT NO.: 7572534

DATED: August 11, 2009

FIRST NAMED INVENTOR: FREY, MATTHEW H.

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

Title Page

Item [56], References Cited, Other Publications, Page 2, Column 1, Line 3; delete " Membrance " and insert — — Membranes — — therefor.

Item [56], References Cited, Other Publications, Page 2, Column 2, Line 9; delete " Maimi " and insert — — Miami — — therefor.

Column 8

Line 57, delete " 14 " and insert — — 1 – 4 — — therefor.

Column 10

Line 3, delete " n-propano1/water " and insert — — n-propanol/water — — therefor.

Column 12

Claim 6, Line 55, delete " which, " and insert — — which — — therefor.

Claim 6, Line 59, delete " gaps " and insert — — groups — — therefor.

Column 14

Claim 25, Line 20, delete " of cations, " and insert — — of — — therefor.

Claim 27, Line 33, delete " function " and insert — — functional — — therefor.

MAILING ADDRESS OF SENDER:

OFFICE OF INTELLECTUAL PROPERTY COUNSEL
3M INNOVATIVE PROPERTIES COMPANY
3M CENTER - P.O. BOX 33427
SAINT PAUL, MINNESOTA 55133-3427

PATENT NO. 7572534

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CHRISTIAN D. ABEL
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NORWAY N-013-0 NO NORWAY

In re Application of
Gisle Bjontegard
Application No. 10/954,195
Filed: October 1, 2004
For: **CALCULATION OF INTERPOLATED PIXEL VALUES**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed December 27, 2005, under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

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

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

Applicant's submission is deficient in that it does not comply with item (6) above. Applicant is required to fully discuss each of the references considered most relevant and point out with the particularity of 37 C.F.R. §1.111(b) how the claims distinguish from the relevant art and also must clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited, in accordance with 37 C.F.R. §1.111(c).

Accordingly, the petition is **DENIED**.

Should applicant desire reconsideration, he/she should supplement this petition by supplying the information as outlined above. No further petition fee is required.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

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OFFICE OF PETITIONS

LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

In re Application of :
Matthias STEINWACHS :
Application No. 10/945,207 :
Filed: September 20, 2004 :
Attorney Docket No. **OSTEONICS 3.0-476** :

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 20, 2009.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The Office 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, "file has been transferred", does not meet any of the conditions set forth in 37 CFR 10.40.

It is also noted that petitioner has not complied with current USPTO requirements, set forth in 37 CFR 10.40 concerning Request for Withdrawal as Attorney and Change of Correspondence Address. Specifically, pursuant to 37 CFR 10.40, 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, that the practitioner(s) intends to withdraw from employment;
>
> (2) delivered to the client or 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.

Petitioner has not complied with the above certifications.

It is suggested that petitioner submit a properly completed PTO/SB/83 (effective date May 12, 2008), which provides a section wherein practitioners may certify the completion of the above-listed activities necessary for the request to withdraw from representation to be granted.

Further, the Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71*, or if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71 (c) states:

> ***An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73 (b) that is signed by a party who is authorized to act on behalf of the assignee.***

The Office will also no longer change the correspondence address to that of a new practitioner unless the Request is accompanied by a power of attorney to a new practitioner (e.g., Form PTO/SB/82). All future communications from the Office will be directed to the above-listed address until otherwise properly notified by the applicant or a proper change of correspondence address has been submitted.

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

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DICKINSON WRIGHT PLLC
38525 WOODWARD AVENUE
SUITE 2000
BLOOMFIELD HILLS, MI 48304-2970

Mail Date: 04/21/2010

Applicant	: Philip S. Hall	: DECISION ON REQUEST FOR
Patent Number	: 7607807	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/945,217	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/20/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **432** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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MARSHALL, GERSTEIN & BORUN LLP
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SEARS TOWER
CHICAGO IL 60606

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In re Patent No. 7,221,988
Issue Date: 05/22/2007
Application No. 10/945,221
Filed: 09/20/2004
Attorney Docket No. 30203/37167B

ON PETITION

This is a decision on the petition filed July 10, 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 $130.00 processing fee will be charged to the Deposit Account as authorized.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3211. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

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.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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

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DANIEL MCCARTHY
PARSONS BEHLE & LATIMER
201 SOUTH MAIN STREET, STE. 1800
P.O. BOX 45898
SALT LAKE CITY, UT 84145-0898

In re Application of	:	
Calvin D. Ostler	:	
Application No. 10/945,249	:	DECISION ON PETITION
Filed: September 20, 2004	:	TO WITHDRAW
Attorney Docket No. 5172 P	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed January 17, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Parsons, Behle & Latimer has been revoked by the assignee of the patent application on March 21, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: CAO GROUP, INC.
4628 WEST SKYHAWK DRIVE
WEST VALLEY CITY, UT 84084

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Ronald Craig Fish
Ronald Craig Fish,
A Law Corporation
Post Office Box 820
Los Gatos, CA 95032

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In re Application of	:	
Chi Yao	:	
Application No. 10/945,276	:	DECISION ON PETITION
Filed: September 18, 2004	:	
Attorney Docket No. BDN-004	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 9, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 19, 2006, which set a shortened statutory period for reply of three (3) months. A two month extension of time was obtained under 37 CFR 1.136(a). Accordingly, the application became abandoned on May 20, 2007. A Notice of Abandonment was mailed on January 15, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of replacement drawings, (2) the petition fee of $770, and (3) a proper statement of unintentional delay. Accordingly, the replacement drawings 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 2163 for appropriate action by the Examiner in the normal course of business on the reply received June 9, 2008.

Carl Friedman
Petitions Examiner
Office of Petitions

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THE FARRELL LAW FIRM, LLP
290 Broadhollow Road
Suite 210E
Melville, NY 11747

Mail Date: 04/21/2010

Applicant	: Won-Bae Jeong	: DECISION ON REQUEST FOR
Patent Number	: 7623891	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/945,301	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/20/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1069** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Paul A. Leipold
Patent Legal Staff
Eastman Kodak Company
343 State Street
Rochester NY 14650-2201

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OFFICE OF PETITIONS

Applicant: Schunk, et al.
Appl. No.: 10/945,305
Filing Date: September 20, 2004
Title: PROTECTIVE FILMS CONTAINING COMPATIBLE PLASTICIZER COMPOUNDS USEFUL IN POLARIZING PLATES FOR DISPLAYS AND THEIR METHOD OF MANUFACTURE
Attorney Docket No.: 87291CPK
Pub. No.: US 2006/0062933 A1
Pub. Date: March 23,2006

This is in response to the "Request for Corrected or Revised Patent Application Publication under 37 CFR 1.221(b)," which was received on May 2, 2006, for the above-identified application.

The request is DISMISSED as moot.

Since the application has already issued as U.S. Patent No. 7,252,865 on August 7, 2007, the request is deemed moot.

It would greatly benefit the Office if **applicant did not provide complete copies of papers**, which were previously submitted or **complete copies of the publication**, as it unnecessarily increases the cost to the Office. See 37 CFR 1.4(b). A request for corrected publication need only point out what was printed incorrectly in the application, where the error occurs in the publication and where the correct text or drawing is found in the application papers. Marked up relevant pages of the applications papers and the pre-grant publication may facilitate processing of the request, where it is not readily apparent where the error occurs. If it is not clear why the error is a material error, further explanation may be warranted.

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

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

United States
Patent And
Trademark Office

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

PETITION DECISION

10/28/04

Jay Sandvos
Bromberg & Sunstein LLP
125 Summer Street
Boston, MA 02110-1618

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/945323 received on 10/05/04 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Kaletus King, Office of Pre-Grant Publication 703 605-4283.

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HOFFMAN WARNICK LLC
75 STATE ST
14TH FLOOR
ALBANY, NY 12207

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OCT 16 2008

OFFICE OF PETITIONS

In re Application of
Jason A. Sholl
Application No. 10/945,328
Filed: September 20, 2004
Attorney Docket No. RSW920040141US1

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 2, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action mailed October 31, 2007. A Notice of Abandonment was mailed on June 26, 2008. On July 2, 2008, the present petition was filed.

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).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), including the fee of $810; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 2175 for processing of the RCE in accordance with 37 CFR 1.114.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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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PHILIP M. WEISS, ESQ.
WEISS & WEISS
300 OLD COUNTRY ROAD
SUITE 251
MINEOLA NY 11501

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MAY 26 2009
OFFICE OF PETITIONS

In re Application of :
Winick :
Application No. 10/945,343 : DECISION
Filed/Deposited: 20 September, 2005 :
Attorney Docket No. P/141-2 :

This is a decision on the petition filed on 1 April, 2009, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application

The petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

As to the Request to Withdraw
the Holding of Abandonment

Petitioners always are directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness and showing requirements for relief under 37 C.F.R. §1.181.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the non-final Office action mailed on 9 September, 2008, with reply due absent extension of time on or before 9 December, 2008.

The application went abandoned after midnight 9 December, 2008.

On 19 March, 2009, the Office mailed a Notice of Abandonment.

On 1 April, 2009, Petitioner filed a petition requesting withdrawal of the holding of abandonment pursuant to 37 C.F.R. §1.181, and averred timely reply. Petitioner included therewith a copy of

the date-stamped (MAR 9 2009) receipt card and a printout of the U.S.Postal Service (USPS) Express Mail tracking record for packet EM409053973US, along with a copy of the papers averred to be filed via that service on that date, and so satisfied Petitioner's burden is to make a showing pursuant to 37 C.F.R. §1.181 (with narrative and documentary support) consistent with the guidance in the Commentary at MPEP 711.03(c)(I), which provides in pertinent part:

***

> 37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), (e), or (g) (see MPEP §513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.
>
> Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP §503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.
>
> Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. §1.8(b) and MPEP §512. As stated in 37 C.F.R. §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).
>
> 37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. §1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes

> abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP §512. [1]
>
> ***

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), and those registered to practice and all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And the regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[3],[4]

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

---

[1] *See*: MPEP §711.03(c) (I)(B).

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

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

[4] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

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.[5]

Allegations as to the Request to
Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required, when it is to be made and how it is to be supported.

It appears that Petitioner has satisfied the showing required.

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.181 is **granted**, and the 19 March, 2009, Notice of Abandonment is **vacated**.

The instant application is released to Technology Center/AU 1611 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

---

[5] 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).

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[6]) 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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Robert A. Goetz
Medlen & Carroll, LLP
Suite 350
101 Howard Street
San Francisco, CA 94105

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JUL 1 2 2005

OFFICE OF PETITIONS

In re Application of	:
Wade L. Gibson	:
Application No. 10/945,368	: DECISION GRANTING PETITION
Filed: September 20, 2004	:
Attorney Docket No. GIBSON-09614	:

This is a decision on the petition filed May 23, 2005 (certificate of mailing dated May 19, 2005), requesting that the above-identified application be accorded a filing date of September 20, 2004, with page 19 of the specification as part of the original disclosure.

On September 20, 2004, applicant filed the above-identified application. On March 21, 2005, the Office of Initial Patent Examination mailed a Notice of Omitted Item(s) in a Nonprovisional Application, stating that the application had been accorded a filing date of September 20, 2004, and advising applicant that page 19 of the specification appeared to have been omitted.

In response, on May 23, 2005 (certificate of mailing dated May 19, 2005), applicant filed the present petition, a copy of page 19 of the specification and the $400.00 petition fee. Additionally, applicant submitted a copy of the postcard receipt, acknowledging receipt of, *inter alia*, 24 pages of a Utility Patent Application.

Upon review of the record, page 19 of the specification, deposited on September 20, 2004, has not been located among the application papers. However, the evidence is convincing that the application papers deposited on September 20, 2004, included page 19 of the specification, which was subsequently misplaced in the United States Patent and Trademark Office. Therefore,

complete on filing and will be granted a filing date of September 20, 2004.

Accordingly, the petition is granted.

The Notice of Omitted Items mailed on March 21, 2005, was sent in error and is hereby vacated. Accordingly, the $400.00 petition fee is unnecessary and will be refunded to Deposit Account No. 08-1290.

The Office of Initial Patent Examination is directed to **accord the above-identified application a filing date of September 20, 2004**, using the application papers submitted on that date, and page 19 of the specification submitted on May 23, 2005.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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DIW Feb-06

GREENBERG TRAURIG
3773 HOWARD HUGHES PARKWAY
SUITE 500 NORTH
LAS VEGAS NV 89109

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FEB 27 2006

OFFICE OF PETITIONS

In re Application of	:	
Stephen R. Packer	:	DECISION ON PETITION
Application No. 10/945,392	:	
Filed: 20 September, 2004	:	
Atty Docket No. 5335.00004	:	

This is a decision on the petition, filed on 24 August, 2005, under 37 CFR 1.137(f) which is treated as a petition to revive the above-identified nonprovisional application under the unintentional provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of a foreign or international application filed on 1 June, 2005. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

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

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

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

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

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

The present petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded.

A Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing, which sets forth the projected publication date of 8 June, 2006, is enclosed herewith.

The application is being referred to Technology Center Art Unit 3637 for examination in due course.

Any inquiries concerning this decision may be directed to the undersigned at 571.272.3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/945,392	09/20/2004	Stephen R. Packer	5335.00004

CONFIRMATION NO. 6581

29747
GREENBERG TRAURIG
3773 HOWARD HUGHES PARKWAY
SUITE 500 NORTH
LAS VEGAS, NV 89109

Date Mailed: 02/24/2006

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

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 06/08/2006.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

UNITED STATES PATENT AND TRADEMARK OFFICE

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2

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/945,416	09/20/2004	Michael J. Renn	31508-3400-CONT	6070

5179 7590 10/30/2007
PEACOCK MYERS, P.C.
201 THIRD STREET, N.W.
SUITE 1340
ALBUQUERQUE, NM 87102

EXAMINER
TALBOT, BRIAN K

ART UNIT	PAPER NUMBER
1762	

MAIL DATE	DELIVERY MODE
10/30/2007	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. RENN, MICHAEL J.	:	
Issue Date: September 18, 2007	:	**DECISION DISMISSING**
Appl. No.: 10/945,416	:	**PETITION**
Filed: September 20, 2004	:	*37 CFR 1.324*
For: DIRECT WRITETM SYSTEM	:	
	:	
	:	
	:	

This is a decision on the petition filed September 17, 2007 to correct inventorship under 37 CFR 1.324.

The petition is dismissed.

A petition to correct inventorship as provided by 37 CFR 1.324 requires (1) a statement from each person who is being added as an inventor that the inventorship error occurred without any deceptive intention on their part, (2) a statement from the current named inventors (including any "inventor" being deleted) who have not submitted a statement as per "(1)" either agreeing to the change of inventorship or stating that they have no disagreement in regard to the requested change, (3) a statement from all assignees of the parties submitting a statement under "(1)" and "(2)" agreeing to the change of inventorship in the patent; such statement must comply with the requirements of 37 CFR 3.73(b); and (4) the fee set forth in 37 CFR 1.20(b). This petition lacks item(s) (2).

Timothy H. Meeks
Supervisory Patent Examiner
Art Unit 1792
Patent Examining Group 1700

PEACOCK MYERS, P.C.
201 THIRD STREET, N.W.
SUITE 1340
ALBUQUERQUE, NM 87102

UNITED STATES PATENT AND TRADEMARK OFFICE

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MACMILLAN SOBANSKI & TODD, LLC
ONE MARITIME PLAZA FIFTH FLOOR
720 WATER STREET
TOLEDO, OH 43604-1619

Mail Date: 04/21/2010

Applicant	: Ullrich Joseph Arnold	: DECISION ON REQUEST FOR
Patent Number	: 7633772	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/945,420	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/20/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **967** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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FITCH EVEN TABIN AND FLANNERY
120 SOUTH LA SALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

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SEP 2 6 2005

OFFICE OF PETITIONS

In re Application of :
Masters et al. :
Application No. 10/945,421 :
Filed: September 20, 2004 :
Attorney Dkt. No.: 83139 :
Title of Invention: High Energy Ignition :
Method and System Using Pre-Dwell :
Control :

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), September 19, 2005, to revive the above-identified application.

This above-identified application became abandoned for failure to file a response to a Notice to File Corrected Application Papers which was mailed on November 29, 2004. The Notice to File Corrected Application Papers set an extendable two (2) month period for reply. No timely request for extension of time was obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on January 30, 2005. A Notice of Abandonment was mailed on August 16, 2005.

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 Initial Patent Examination for further processing of the application.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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Steptoe & Johnson, LLP
Attn: Docket Administrator-Box USPTO
1330 Connecticut Avenue, NW
Washington, DC 20036

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MAY 27 2005
OFFICE OF PETITIONS

In re Application of :
Salwa Elgebaly : DECISION GRANTED
Application No. 10/945,442 :
Filed: September 21, 2004 :
Attorney Docket No.: :
15111.0002/IM0078

This is a decision on the petition filed March 16, 2005, requesting to accept omitted item(s)(figures 2 and 3) in a nonprovisional application.

The application was filed on September 21, 2004. However, on January 21, 2005, the Office of Initial Patent Examination (OIPE) mailed a Notice stating that the application had been accorded a filing date of September 21, 2004 but figures 2 and 3 as described in the specification appeared to have been omitted.

In response, the present petition was filed wherein Petitioner contends figures 2 and 3 were filed on September 21, 2004. In support, the petition is accompanied by a copy of applicant's return postcard which lists "2 sheets drawings (Figs 1-3)". The petition is further accompanied by a copy of figures 2 and 3.

Applicant's postcard receipt is prima facie evidence that 2 sheets of drawings including figures 2 and 3 as described in the specification were received on September 21, 2004, but figures 2 and 3 are not present in the file. Therefore, it is concluded that figures 2 and 3 were received on September 21, 2004, as shown in counsel's file, and later misplaced in the office.

The petition is Granted to the extent it applies to the omitted figures. The $130.00 submitted towards the petition fee will be refunded 19-4293.It should however be noted, the current petition fee is $400.00.

Since figures 2 and 3 as described in the specification cannot be located in the Office, figures 2 and 3 supplied on March 16, 2005, will be used for processing and examination purposes.

The application will be returned to the Office of Initial Patent Examination for further processing with a filing date of September 21, 2004, using the drawings submitted on September 21, 2004 and substitute figures 2 and 3 supplied with the petition on March 16, 2005.

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

Charlema R. Grant

Charlema R. Grant
Petition Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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AUG - 9 2006

CROWELL & MORNING, LLP
INTELLECTUAL PROPERTY GROUP
P. O. BOX 14300
WASHINGTON, DC 20044-4300

In re Application of	:
Claudia Mann et al	:
Serial No.: 10/945,443	: PETITION DECISION
Filed: September 21, 2004	:
Attorney Docket No.: 100341.55121	:

This is in response to the petition under 37 CFR 1.144, filed April 22, 2006, requesting withdrawal of an improper restriction requirement.

BACKGROUND

A review of the file history shows that this application was filed under 35 U.S.C. 111 on September 21, 2004, and contained claims 1-12. In a first Office action, mailed September 26, 2005, the examiner required restriction between the inventions (i.e. – compounds) set forth in claims 1-10, as follows:

Group I – wherein morpholine and thiomorpholine are the only heterocyclic substituents;
Group II – wherein piperadine, pyridine and pyridyl are the only heterocyclic substituents;
Group III – wherein piperizine and pyrazoline are the only heterocyclic substituents;
Group IV – wherein pyrrole and imidazole are the only heterocyclic substituents;
Group V – wherein quinoline and isoquinoline are the only heterocyclic substituents;
Group Vi - wherein pyrimidine is the only heterocyclic substituent;
Group VII - wherein azopine and diazopine are the only heterocyclic substituents;
Group VIII - wherein azocine is the only heterocyclic substituent;
Group IX - wherein thiene, benzothiene and dibenzothiene are the only heterocyclic substituents;

Group X - wherein furan, benzofuran and dibenzofuran are the only heterocyclic substituents;

Group XI - wherein carbazolyl is the only heterocyclic substituent;

Group XII - wherein phenothiazine and phenoxazine are the only heterocyclic substituents;

Group XIII - wherein oxazolyl and benzoxazolyl are the only heterocyclic substituents;

Group XIV - wherein oxadizole and thiadiazole are the only heterocyclic substituents;

Group XV - wherein thiazole and benzothiazole are the only heterocyclic substituents;

Group XVI - wherein there are no heterocyclic substituents; and

Group XVII – wherein the substituents are not in any group classified above.

An election of species was also required for whichever group was elected. Claims 11 and 12, to a product, were indicated as examined with whichever Group was elected.

The examiner reasoned that the compounds with their numerous different substituents were separate and distinct inventions based on their classification and also that compounds within a Markush group could be divided based upon *In re Harnish* and *Ex parte Hozumi.* The examiner also stated that upon identification of a species the scope of the compounds to be examined would be determined by the examiner.

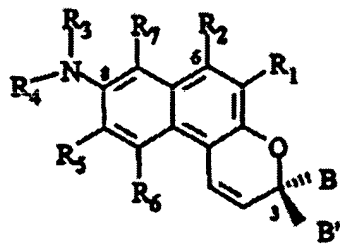
Applicants replied on November 28, 2005, electing the compounds of Group I with traverse. Applicants argued that all of the compounds formed a proper Markush group in accordance with M.P.E.P. 803.02 which prohibits restriction within a Markush group or claim. Applicants argued that all compounds shared the naphtho-pyran core and all had photochromic activity, a shared utility. Applicants also objected to the examiner's statement that upon election of a species the examiner would determine the scope of the claimed compounds to be examined. Applicants also elected a species, as required.

The examiner mailed a new Office action to applicants on January 23, 2006, acknowledging the election of Group I and the species, but maintaining the requirement, and making it Final. The examiner argued that the naphtho-pyran core did not have photochromic activity or, that if it did it would still be a serious burden to search all of the compounds. The examiner also stated that M.P.E.P. 803.02 states that the search will not be extended unnecessarily to cover all non-elected species. The examiner then graphically depicted (page 3 of the Office action) the core structure of the compounds elected and to be examined and defined R^1-R^7 and B as stated in claim 1 and B' to be 4-N-morpholinophenyl or 4_N-thiomorpholinophenyl and that B and B' would not form a ring. The examiner indicated claims limited to the scope defined were considered allowable and requested cancellation of non-elected subject matter.

This petition was filed on April 22, 2006, objecting to the examiner's action in attempting to limit the scope of the claims. A response to the Office action was filed on April 22, 2006, and traverses the restriction requirement as improper.

DISCUSSION

A review of the claims, as filed, shows that they are directed to compounds based on the following structure:



Each of the variables R^1-R^7, B and B' are defined. It is noted that R^1, R^5, R^6 and R^7 may be any of the 31 values in an α group or any one of 19 values in a β group. R^2 may be an α group value or one of 48 other, mostly heterocyclic, values or one of 72 cationic structures, any one of which may be substituted by a β value or may be one of 13 Y-naphthyl groups (Y being a linker) or R^2 and R^4 may form one of over 300 different rings or R^2 and R^7 may form a different ring system. R^3 and R^4 may be selected from one of six substituents or together may also form a 3-10 member heterocyclic ring. Likewise, R^4 and R^5 or R^3 and R^7 may form a ring. B and B' are defined as one of 11 values or one of the α group values or may together form a spiro ring to the naphtho-pyran core structure.. As can be seen literally millions of structures are covered by the Markush group.

The examiner based the restriction requirement on different heterocyclic values mainly from the β group. The examiner contended that not all of the compounds within the Markush group had the same activity – in this case, photochromic activity. The examiner did not directly address the instances where additional rings are fused to the core structure or where B and B' from a spiro ring to the core structure, but appears to have placed them under an all-encompassing Group XVII of any other compounds not covered by the above groups.

Based on the above it is found that many compounds having values from either the α or β group retain the common core of the naphtho-pyran structure. Since the naphtho-pyran structure has photochromic activity, as asserted by applicants (the examiner hedges as to whether it has such activity or not), the compounds form a proper Markush group and must be examined in accordance with the guidelines of M.P.E.P. 803.02. No limitation or restriction of the scope of the claims may be made based on the common core structure, as asserted by the examiner, but the elected species must be examined, and if found patentable, an expansion of the examination to related species must be made until the examiner is satisfied that the entire Markush group is patentable under all applicable parts of the statute. It is noted that the examiner has begun this and indicated allowability for a limited number of compounds, but not all compounds, within the proper scope of the Markush group.

On the other hand, numerous compounds are included within the Markush group of claim 1 which do not have the same common core as the one noted above. All compounds in which an

additional ring is formed in fused or spiro relationship to the naphtho-pyran structure form a different core structure outside the scope of the naphtho-pyran core structure and are improperly included within the Markush Group of claim 1, even though they may also have photochromic activity. These compounds are properly excluded by restriction requirement from the naphtha-pyran compounds

Consonant with review of the restriction requirement it is noted that the examiner has further limited the examination of applicants' claimed compounds to a subgenus set forth in the last Office action and based on the Groups set forth in the restriction requirement. Such is not in accordance with M.P.E.P. 803.02 which requires an examiner, following an election of species, to examine and determine the patentability of that species. Should the species be found allowable, the examination must be expanded to a reasonable number of related species. If all related species are found to be patentable, then the entire genus is considered patentable. The examiner is directed to not usurp applicants' right to claim the invention desired by limiting the compounds examined to a defined subgenus.

In summary, the examiner's restriction requirement is generally improper in that it sets forth a restriction between compounds of a Markush group having a common core structure and the same utility. Only an election of species may be made in such instances and the guidelines of M.P.E.P. 803.02 must then be followed. The restriction of other fused or spiro ring structures from the naphtho-pyran structure is proper. Thus all structures within Groups I-XVI which possess the common naphtho-pyran core structure form a proper Markush Group and must be examined under the guidelines of M.P.E.P. 803.02. All other compounds are excluded from the elected compounds possessing the naphtho-pyran core. Search or examination burden is not a consideration under this section.

DECISION

The petition is **GRANTED-IN-PART** as set forth above.

The application will be forwarded to the examiner for consideration of applicants' reply filed May 23, 2006, and further action not inconsistent with this decision.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number, 571-273-8300.

George C. Elliott

George C. Elliott.
Director, Technology Center 1600

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AUG 1 0 2005

OFFICE OF PETITIONS

In re Application of	:
Rusta-Sallehy et al.	:
Application No. 10/945,444	: DECISION GRANTING STATUS
Filed: September 21, 2004	: UNDER 37 CFR 1.47(a)
Attorney Docket Number: 9351-536	:
Title of Invention: Separator For Removing Liquid From:	
Fluid	:
	:

This is in response to the renewed petition under 37 CFR 1.47(a), filed May 31, 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 after having been presented with the application papers. The petition has provided evidence that correspondence sent to non-signing inventor was received and non-signing inventor refused to execute the application papers.

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

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

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

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Ali Rusta-Sallehy
5601 Seminary Road #1315
Falls Church, Virginia 22041

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AUG 1 0 2005

OFFICE OF PETITIONS

In re Application of
Rusta-Sallehy et al.
Application No. 10/945,444
Filed: September 21, 2004
Attorney Docket Number: 9351-536
Title of Invention: Separator For Removing Liquid From Fluid

: LETTER

Dear Mr. Rusta-Sallehy:

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

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

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

Shawn D. Jacka
Bereskin and Parr
40 King Street West
Box 401
Toronto ON M5h 3Y2 CA Canada

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IRVINE CA 92614

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OFFICE OF PETITIONS

In re Application of

PATEL, et al.
Application No. 10/945,455
Filed: September 20, 2004
Attorney Docket No. **OACHAR.001A**

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 August 1, 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 Kyle Schlueter on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed August 13, 2007 that requires a reply from the applicant.

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **ON A CHART, LLC**
1801 S. LINCOLN BOULEVARD, SUITE 252
LOS ANGELES, CA 90291

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

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JUN 18 2010

OFFICE OF PETITIONS

In re Application of :
James C. PETERSON :
Application No. 10/945,464 : DECISION GRANTING PETITION
Filed: September 20, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **15895US03** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 17, 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 May 14, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2432 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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In re Patent No. BADEN ET AL.	:	
Issue Date: April 10, 2007	:	**DECISION GRANTING**
Appl No.: 10/945,471	:	**PETITION**
Filed: September 20, 2004	:	*37 CFR 1.324*
For: Fused Pentacyclic Polyethers	:	
	:	
	:	
	:	

This is a decision on the petition filed July 3, 2007 to correct inventorship under 37 CFR 1.324.

The petition is granted.

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

Janet L. Andres
Supervisory Patent Examiner
Art Unit 1625
Technology Center 1600

MCDONNELL BOEHNAN HULBERT & BERGHOFF, LLP
300 SOUTH WACKER DRIVE
SUITE 3100
CHICAGO, IL 60606

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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DATE: September 17, 2007
TO: Certificates of Correction Branch
FROM: Janet L. Andres
SPE, Art Unit 1625
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 7,202,271 as specified on the attached Certificate.

Janet L. Andres, SPE
Art Unit 1625

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 7,202,271
Patented: April 10, 2007

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

Daniel G. Baden, Wilmington, NC
William M. Abraham, Miami, FL
Andrea J. Bourdelais, Wilmington, NC
Sophie Michelliza, Wilmington, NC

Janet L. Andres
Supervisory Patent Examiner
Art Unit 1625

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CHICAGO, IL 60661

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APR 22 2009

OFFICE OF PETITIONS

In re Application of
James C. Peterson
Application No. 10/945,475
Filed: September 20, 2004
Attorney Docket No. 15895US09

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 8, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **GRANTED**.

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

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

The rule at 37 CFR § 1.78(a)(3) requires a statement that the entire delay between the date the claim was due under 37 CFR § 1.78(a)(2)(ii) and the date the claim was filed was unintentional. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR §1.78(a)(3). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

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

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

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

This application is being forwarded to Technology Center Art Unit 2432 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.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3226. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Andrea Smith
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/945,475	09/20/2004	2432	495	15895US09	25	2

CONFIRMATION NO. 6175

CORRECTED FILING RECEIPT

23446
MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

OC000000035539488

Date Mailed: 04/22/2009

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

Applicant(s)

James C. Peterson, Menomonee Falls, WI;

Assignment For Published Patent Application

PKWare, Inc.

Power of Attorney: The patent practitioners associated with Customer Number 23446

Domestic Priority data as claimed by applicant

This application is a CON of 10/620,960 07/16/2003 ABN
and is a CIP of 09/803,355 03/09/2001 PAT 6,879,988

Foreign Applications

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 **US 10/945,475**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

Method and system for asymmetrically decrypting .ZIP files

Preliminary Class

380

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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DIW 12-04

ROBERT S. TURNER
35809 MALIBU DR.
STERLING HEIGHTS MI 48312

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DEC 2 0 2004

OFFICE OF PETITIONS

In re Application of	:	
Robert Stephen Turner	:	
Application No. 10/945,483	:	DECISION DISMISSING
Filed: 20 September, 2004	:	PETITION
For: Base Four Processor	:	

This is a decision in reference to the paper filed on 23 November, 2004, which is treated as a petition, requesting that the above-identified application be accorded a filing date of 20 September, 2004, with Page 24 of the specification as a part of the original disclosure.

On 20 September, 2004, the application was filed.

Accordingly, on 5 November, 2004, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application stating, *inter alia*, that Page 24 described in the specification (description and claims) appeared to have been omitted from the application.

In response, the present petition was filed on 23 November, 2004, along with a copy of Page 24 of the specification. Petitioner asserts that Page 24 was among the application papers filed on 20 September, 2004.

The petition is dismissed.

The argument and evidence presented are not persuasive. The Office file is the official record of the papers originally filed in this application. A review of the official record reveals that no Page 24 was filed with the original application papers. Where the records of the Office (e.g. the file of the application) contain any document(s) or fee(s) corresponding to

the contents of the correspondence at issue, the Office will rely upon its official record of the contents of such correspondence in the absence of convincing evidence (e.g. a postcard receipt under MPEP 503 containing specific itemization of the document(s) or fee(s) purported to have been filed with the correspondence at issue) that the Office received and misplaced any document(s) or fee(s) that is not among the official records of the Office. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard (e.g. the number of pages of specification (including written description, claims, and abstract), number of claims, number of sheets of drawings, and number of pages of oath/declaration. The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. As petitioner has provided no convincing evidence that Page 24 was filed in the USPTO on 20 September, 2004, the petition must be dismissed.

A request for reconsideration (no further petition fee is required) must be filed within **TWO MONTHS** of the date of this decision in order to be considered timely.[1] **This two month period is not extendable under 37 CFR 1.136(a).** If a timely petition is not filed the original disclosure will include only those papers present in the PTO on the date of deposit.

The application will be processed using only the application papers present on filing. The copy of Page 24 filed on 23 November, 2004, will not be used for processing or examination, but will be retained in the application file.

As this petition was necessitated by applicants' filing error rather than an error on the part of the Office, the petition fee will not be refunded.

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

[1] 37 CFR 1.181(f).

By hand: U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop Petitions
Crystal Plaza 2, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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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OIW 02-05

ROBERT S. TURNER
35809 MALIBU DR.
STERLING HEIGHTS MI 48312

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FEB 0 2 2005

OFFICE OF PETITIONS

In re Application of	:
Robert Stephen Turner	:
Application No. 10/945,483	: DECISION DISMISSING
Filed: 20 September, 2004	: PETITION
For: Base Four Processor	:

This is a decision in reference to the paper filed on 23 December, 2004, which is treated as a renewed petition, requesting that the above-identified application be accorded a filing date of 20 September, 2004, with Page 24 of the specification as a part of the original disclosure.

On 20 September, 2004, the application was filed.

Accordingly, on 5 November, 2004, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application stating, *inter alia*, that Page 24 described in the specification (description and claims) appeared to have been omitted from the application. In response, a petition was filed on 23 November, 2004, along with a copy of Page 24 of the specification. Petitioner asserts that Page 24 was among the application papers filed on 20 September, 2004. The petition was dismissed on 20 December, 2004.

Petitioner has now filed a renewed petition, accompanied by a postcard bearing an Office-stamp dated 09/08/00 and Application No. 09/657,541, itemizing the filing of, *inter alia*, 46 pages of specification.

The petition is again <u>dismissed</u>.

The argument and evidence presented are not persuasive. The postcard receipt has been stamped by the Office with a different application number than the present application. Obviously this postcard was not filed with Application No. 10/945,483, on 20 September, 2004, because it was stamped with Application No. 09/657,541, filed on 8 September, 2000. As petitioner's postcard

was not filed with the present application, or even on the same date as the present application, it cannot serve as evidence of what papers were filed in the present application on 20 September, 2004. Petitioner must provide a copy of the postcard filed with the application papers for Application No. 10/945,483, on 20 September, 2004, to show proof that Page 24 was among the application papers filed on 20 September, 2004.

As petitioner has provided no convincing evidence that Page 24 was filed in the USPTO on 20 September, 2004, the petition must be dismissed.

A request for reconsideration (no further petition fee is required) must be filed within **TWO MONTHS** of the date of this decision in order to be considered timely.[1] **This two month period is not extendable under 37 CFR 1.136(a).** If a timely petition is not filed the original disclosure will include only those papers present in the PTO on the date of deposit.

The application will be processed using only the application papers present on filing. The copy of Page 24 filed on 23 November, 2004, will not be used for processing or examination, but will be retained in the application file.

As this petition was necessitated by applicants' filing error rather than an error on the part of the Office, the petition fee will not be refunded.

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 Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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[1] 37 CFR 1.181(f).

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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ROBERT S. TURNER
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STERLING HEIGHTS MI 48312

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JUN 1 6 2005

OFFICE OF PETITIONS

In re Application of	:	
Robert Stephen Turner	:	
Application No. 10/945,483	:	DECISION ON PETITION
Filed: 20 September, 2004	:	
For: Base four processor	:	

This is a decision in reference to the paper filed on 7 February, 2005, which is treated as a renewed petition, requesting that the above-identified application be accorded a filing date of 20 September, 2004, with Page 24 of the specification as a part of the original disclosure.

On 20 September, 2004, the application was filed.

Accordingly, on 5 November, 2004, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application stating, *inter alia*, that Page 24 described in the specification (description and claims) appeared to have been omitted from the application.

In response, a petition was filed on 23 November, 2004, along with a copy of Page 24 of the specification. Petitioner asserts that Page 24 was among the application papers filed on 20 September, 2004. The petition was dismissed on 2 February, 2005, however, because petitioner had not provided sufficient evidence that Page 24 had been received in the USPTO along with the application papers deposited on 20 September, 2004.

In support, a copy of petitioner's postcard receipt was supplied with the present petition. The postcard receipt shows an Office date stamp of 20 September, 2004, including the above-identified application number, and identifies the application by the inventor's name and invention title, and acknowledges receipt of, *inter alia*, "Specification, Claims, Abstract 44 Sheets". Petitioner requests that the application, including Page 24 of

the specification, be accorded a filing date of 20 September, 2004.

A review of the record reveals that Page 24 of the specification has been located among the application papers received on 20 September, 2004. However, the evidence is convincing that the application papers deposited on 20 September, 2004, included Pages 1-43 of the specification, including the claims, as well as one (1) page of abstract, and that Page 24 of the specification was subsequently misplaced in the Office. Therefore, the application, including Page 24, is entitled to a filing date of 20 September, 2004.

The "Notice" mailed on 5 November, 2004, is vacated.

In view of the above, the petition is granted. A refund of the $130.00 petition fee will be scheduled.

The application will be processed with the copy of Page 24 filed on 23 November, 2004, as a part of the original disclosure.

The application is being referred to Initial Patent Examination Division for further processing with a filing date of 20 September, 2004, using the application papers filed on that date, and the copy of Page 24 supplied with the original petition.

Telephone inquires should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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CANADA

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JUL 13 2005

OFFICE OF PETITIONS

In re Application of Ali Rusta-Sallehy, Michael Vale, David Frank and Nathaniel Ian Joos Application No. 10/945,492 Filed: September 21, 2004 Attorney Docket No. 9351-460	: : : : : :	DECISION GRANTING PETITION UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(b), filed May 9, 2005, and supplemented on July 6, 2005, which has been treated as a petition under 37 CFR 1.47(a).[1]

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 1700 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

[1] A petition under 37 CFR 1.47(b) is inappropriate in this instance since all but one of the inventors has signed the declaration. A petition under 37 CFR 1.47(b) is only appropriate where none of the inventors will sign, accordingly the petition will be treated as a petition under 37 CFR 1.47(a).

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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ALI RUSTA-SALLEHY
163 ELMWOOD AVENUE
RICHMOND HILL, ONTARIO L4C 1L2
CANADA

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JUL 1 3 2005

OFFICE OF PETITIONS

In re Application of
Ali Rusta-Sallehy, Michael Vale, David Frank and
Nathaniel Ian Joos
Application No. 10/945,492
Filed: September 21, 2004
Attorney Docket No. 9351-460

Dear ALI RUSTA-SALLEHY:

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

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40 KING STREET WEST
BOX 401
TORONTO, ONTARIO M5H 3Y2
CANADA

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DIW Feb-06

STEUBING MCGUINNESS & MANARAS LLP
125 NAGOG PARK
ACTON MA 01720

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OFFICE OF PETITIONS

In re Application of	:	
John Andrew Patterson	:	DECISION ON PETITION
Application No. 10/945,493	:	
Filed: 20 September, 2004	:	
Atty Docket No. 121-027	:	

This is a decision on the petition, filed on 10 November, 2005, under 37 CFR 1.137(f) which is treated as a petition to revive the above-identified nonprovisional application under the unintentional provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of a foreign or international application filed on 19 September, 2005. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

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

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

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

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

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

The present petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded.

It is noted that petitioner filed a Request to Rescind the Nonpublication Request concurrently with the present petition. A Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing, showing the projected publication date of 23 March, 2006, was mailed on 15 December, 2005.

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.[1] 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 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 mailed. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

The application is being referred to Technology Center Art Unit 2182 for examination in due course.

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[1] See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1208 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

Any inquiries concerning this decision may be directed to the undersigned at 571.272.3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

cf: Michael J. Ries
1747A Vermont Drive
Elk Grove Village IL 60007

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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JOSEPH FRANCIS RENOSKY
P.O. BOX 1198
INDIANA PA 15701

COPY MAILED
JUL 28 2006
OFFICE OF PETITIONS

In re Application of
Joseph Francis Renosky
Application No. 10/945,499
Filed: September 20, 2004
Title of Invention: **BENDABLE FISHERS LURE WITH METHOD OF MANUFACTURE AND ASSEMBLY**

: DECISION ON PETITION

This is a decision on the petition, filed April 3, 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 **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. No additional petition fee is required.

Petitioner states that the instant non-provisional application is the subject of an application filed in a foreign country and the U. S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country. A review of the file record shows that a Request to Rescind was filed on April 3, 2006, with the instant petition. However, petitioner has not provided the exact filing date of the foreign application. Before a proper determination on the merits of the petition can be decided, petitioner must supply the filing date of the foreign application.

Additionally, there is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all

submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

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

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

cc:

HAMMER & HANF, PC
3125 SPRINGBANK LANE
SUITE G
CHARLOTTE, NC 28226

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 FRANCIS RENOSKY
P.O. BOX 1198
INDIANA PA 15701

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OCT 0 2 2006

OFFICE OF PETITIONS

In re Patent No. 7,104,004 :
Issued: September 12, 2006 :
Application No. 10/945,499 : DECISION ON PETITION
Filed: September 20, 2004 :
Title of Invention: **BENDABLE FISHERS LURE WITH METHOD OF MANUFACTURE AND ASSEMBLY** :

This is a decision on the petition, filed August 28, 2006, under 37 CFR 1.137(f) which is treated as a petition to revive the above-identified nonprovisional application under the unintentional provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of a foreign or international application filed on September 19, 2005. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

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

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

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

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

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

The present petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(I) has been rescinded. A publication date of December 7, 2006 has already been communicated to the applicant in a notice mailed August 31, 2006.

Since this application has matured into a patent in the interim between the time the petition was filed and the time the decision was rendered, no further action is needed in this matter. However, with respect tot he power of attorney, petitioner will need to file a copy of the power of attorney in this matter even though it was provided with the PCT application.

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

cc:

HAMMER & HANF, PC
3125 SPRINGBANK LANE
SUITE G
CHARLOTTE, NC 28226

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

Patent Group
Microsoft Corporation
One Microsoft Way
Redmond, WA 98052

Mail Date: 04/21/2010

Applicant	: Clifford P. Strom	: DECISION ON REQUEST FOR
Patent Number	: 7644446	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/945,542	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/20/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1054** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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PATTERSON & SHERIDAN, L.L.P.
3040 POST OAK BOULEVARD, SUITE 1500
HOUSTON TX 77056

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OCT 17 2007

OFFICE OF PETITIONS

In re Application of	:	
Allen Keith Thomas, Jr. et al	:	
Application No. 10/945,544	:	DECISION GRANTING PETITION
Filed: September 20, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. WEAT/0507	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 6, 2007, to revive the above-identified application. This is also a decision on the petition to expedite under 37 CFR 1.182, filed October 15, 2007.

The petitions are **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue and publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance of April 3, 2007, is accepted as having been unintentionally delayed.

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

This matter is being referred to Patent Publication.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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PORTSMOUTH, NH 03801

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AUG 0 2 2007

OFFICE OF PETITIONS

In re Application of	:	
Jeffrey L. Strunk	:	
Application No. 10/945,549	:	ON PETITION
Filed: September 20, 2004	:	
Attorney Docket No. AM9192US02	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 16, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on April 12, 2007.

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

This matter is being referred to Technology Center AU 3677 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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DANIEL MCCARTHY
PARSONS BEHLE & LATIMER
201 SOUTH MAIN STREET, SUITE 1800
POST OFFICE BOX 45898
SALT LAKE CITY, UT 84145-0898

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OFFICE OF PETITIONS

In re Application of	:	
Densen Cao, et al.	:	
Application No. 10/945,550	:	DECISION ON PETITION
Filed: September 20, 2004	:	TO WITHDRAW
Attorney Docket No. 5173 P	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed January 17, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Parsons, Behle & Latimer has been revoked by the assignee of the patent application on April 30, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: CAO GROUP, INC
4628 WEST SKYHAWKE DRIVE
WEST VALLEY CITY, UT 84084

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CHARLES D. HOLLAND
MORRISON & FOERSTER LLP
755 PAGE MILL ROAD
PALO ALTO, CA 94304

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OFFICE OF PETITIONS

In re Application of	:	
Thaddeus C. EZEJI, et al	:	
Application No. 10/945,551	:	DECISION ON PETITION
Filed: September 20, 2004	:	TO WITHDRAW
Attorney Docket No. 64-03	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed September 10, 2008.

The request is **NOT APPROVED**.

A review of the file record indicates that Charles D. Holland 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 inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: JOHN KILYCK, JR.
LEYDIG, VOIT AND MAYER, LTD.
TWO PRODENTIAL CENTER
180 NORTH STETSON AVENUE, SUITE 4900
CHICAGO, IL 60601-6731

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MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO CA 92130-2040

In re Application of	:
Thomas L. Cantor et al	:
Serial No.: 10/945,608	: PETITION DECISION
Filed: September 20, 2004	:
Attorney Docket No.: ARC2416USCNT3	:

This is a response to the petition under 37 CFR 1.59(b), filed August 10, 2007, to expunge information from the above identified application.

Petitioner requests that the Proprietary Information Disclosure Statement, filed August 10, 2007, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public.

The information has not yet been reviewed by the examiner, nor has the application been allowed or abandoned As stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application petition may be made for return of Proprietary Information Disclosure Statements.

The petition is **DISMISSED**. Applicants may resubmit the petition subsequent to allowance or other action being mailed in the application which closes prosecution. No additional petition fee will be required at that time.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, at the above address, or by telephone at 571-272-0519 or by facsimile transmission at the Office facsimile number, 571-273-8300.

John LeGuyader
Director, Technology Center 1600

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SAN DIEGO CA 92130-2040

In re Application of	:
Cantor et al.	:
Serial No.: 10/945,608	: PETITION DECISION
Filed: September 20, 2004	:
Attorney Docket No.: 532212000603	:

This is in response to the petition under 37 CFR § 1.59(b), filed July 21, 2008, to expunge information from the above identified application.

Petitioner requests that a Supplemental Information Disclosure Statement and the seven references cited therein filed on July 21, 2008 be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate as the references are proprietary. The file entry for this document has been closed and as such the document is no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper.

Therefore, the petitioners' petition is GRANTED.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

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In re Application of :
Thomas L. Cantor
Serial No.: 10/945,608
Filed: September 20, 2004
Attorney Docket No.: **532212000603**

: PETITION DECISION

This is in response to the renewed petition under 37 CFR § 1.59(b), filed August 19, 2008, to expunge information from the above identified application. This application has been allowed.

Petitioner requests that the Proprietary Information Disclosure Statement, filed August 10, 2007 be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entries for those documents have been closed and as such the documents are no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper.

Therefore, petitioner's petition is GRANTED.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

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SAN DIEGO CA 92130-2040

In re Application of :
Thomas L. Cantor
Serial No.: 10/945,608
Filed: September 20, 2004
Attorney Docket No.: **532212000603**

: PETITION DECISION

This is in response to the renewed petition under 37 CFR § 1.59(b), filed November 12, 2008, to expunge information from the above identified application. This application has not been allowed.

Petitioner requests that the Proprietary Information Disclosure Statement, filed November 12, 2007 be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

This is an examined application which is currently under non-final rejection. As such the information provided has been reviewed, in part, but proceedings in the application have not been terminated. As stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application, petition may be made for return of Proprietary information. The information cannot be expunged at this time.

The petition is **DISMISSED**. Petitioner may resubmit the petition subsequent to a Notice of Allowability or *ex parte Quayle* action being mailed in the application. No additional petition fee will be required at that time

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

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SAN DIEGO CA 92130-2040

In re Application of:
Cantor et al.
Serial No.: 10/945,608
Filed: September 20, 2004
Attorney Docket No.: **532212000603**

: PETITION DECISION

This is in response to the petition under 37 CFR § 1.59(b), filed April 27, 2009, to expunge information from the above identified application. This application has been allowed.

Petitioner requests that the Proprietary Information Disclosure Statement, filed April 27, 2009 containing 3 documents be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entries for those documents have been closed and as such the documents are no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper.

Therefore, petitioner's petition is GRANTED.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Thomas L. Cantor et al :
Application No. 10/945,608 :
Filed: September 20, 2004 :
Attorney Docket No. 532212000603

This is a decision on the petition, filed October 1, 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 April 28, 2009 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 1641 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/945,608	09/20/2004	Thomas L. Cantor	532212000603	5822

25225 7590 11/09/2009
MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO, CA 92130-2040

EXAMINER
CHEU, CHANGHWA J

ART UNIT	PAPER NUMBER
1641	

MAIL DATE	DELIVERY MODE
11/09/2009	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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NOV 0 9 2009

In re Application of :
Cantor et al.
Serial No.: 10/945,608
Filed: September 20, 2004
Attorney Docket No.: **532212000603**

: PETITION DECISION

This is in response to the petition under 37 CFR § 1.59(b), filed November 3, 2009, to expunge information from the above identified application. This application has not been allowed.

Petitioner requests that the documents submitted with the Supplemental Information Disclosure Statement filed on November 3, 2009 be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

This is an examined application. As such the information provided has been reviewed, in part, but proceedings in the application have not been terminated. As stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application, petition may be made for return of Proprietary information. The information cannot be expunged at this time.

The petition is **DISMISSED**. Petitioner may resubmit the petition subsequent to a Notice of Allowability or *ex parte Quayle* action being mailed in the application. No additional petition fee will be required at that time.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/945,608	09/20/2004	Thomas L. Cantor	532212000603	5822

25225 7590 03/09/2010
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SUITE 100
SAN DIEGO, CA 92130-2040

EXAMINER
CHEU, CHANGHWA J

ART UNIT	PAPER NUMBER
1641	

MAIL DATE	DELIVERY MODE
03/09/2010	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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SAN DIEGO CA 92130-2040

In re Application of:
Cantor et al.
Serial No.: 10/945,608
Filed: September 20, 2004
Attorney Docket No.: **532212000603**

: PETITION DECISION

This is in response to the renewed petition under 37 CFR § 1.59(b), filed February 26, 2010, to expunge information from the above identified application. This application has been allowed.

Petitioner requests that the documents submitted with the Supplemental Information Disclosure Statements filed on April 28, 2008; November 3, 2008; and November 12, 2009 be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entry for this document has been closed and as such the document is no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper.

Therefore, petitioner's petition is GRANTED.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/945,608	09/20/2004	Thomas L. Cantor	532212000603	5822

25225 7590 03/09/2010
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EXAMINER
CHEU, CHANGHWA J

ART UNIT	PAPER NUMBER
1641	

MAIL DATE	DELIVERY MODE
03/09/2010	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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SUITE 100
SAN DIEGO CA 92130-2040

In re Application of:
Cantor et al.
Serial No.: 10/945,608
Filed: September 20, 2004
Attorney Docket No.: **532212000603**

: PETITION DECISION

This is in response to the renewed petition under 37 CFR § 1.59(b), filed February 25, 2010, to expunge information from the above identified application. This application has been allowed.

Petitioner requests that the documents submitted with the Supplemental Information Disclosure Statement filed on February 25, 2010 be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entry for this document has been closed and as such the document is no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper.

Therefore, petitioner's petition is GRANTED.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

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William P. Dani
900 Fifth Third Center
111 Lyon Street, NW
Grand Rapids, MI 49503-2487

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OCT 21 2005

OFFICE OF PETITIONS

In re Application of
Nair et al.
Application No. 10/945,609
Filed: September 21, 2004
Attorney Docket No. NP4039.1.D1

Decision on Petition

This is a decision on the petition filed October 3, 2005, to accord the above-identified application a filing date of September 21, 2004.

The application was filed on September 21, 2004. However, the application was not filed with a specification.

On November 8, 2004, the Office of Initial Patent Examination mailed a Notice stating that the specification was missing and that a filing date would be accorded upon receipt of the missing specification.

On January 10, 2005, petitioner supplied a copy of 67 pages of specification, including 8 pages of claims and 1 page of abstract, from application no. 10/084,575. Petitioner also submitted a copy of 5 sheets of drawings from application no. 10/084,575. The application was accorded a filing date of January 10, 2005.

The instant petition requests the application be accorded a filing date of September 21, 2004.

The Utility Patent Application Transmittal sheet incorporated by reference the entire disclosure of the parent application - application no. 10/084,575.

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.

Based on the incorporation by reference, it appears that the specification and drawings were present in the Office on September 21, 2004, albeit in the file of another application, i.e., application No. 10/084,575. Therefore, on petition, the application may be accorded the requested filing date of September 21, 2004.

In view of the above, the petition is **granted**. The copy of the specification, drawings and claims submitted with the petition will be used for examination purposes.

Fees:

The application, a filing fee of $770, and a signed declaration, were originally filed on September 21, 2004.

Since the application was accorded a later filing date, the Office charged an additional $830 to petitioner's deposit account.

The fee for the instant petition is $400. The petition states a check for $400 is enclosed but a check has not been located. Therefore, the Office will retain $400 of the $830 charged to petitioner's deposit account and will credit $430 back to petitioner's deposit account.

Correspondence address:

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

The correction of the filing date:

The Office of Initial Patent Examination will be informed of the instant decision and will further process the application with a filing date of September 21, 2004, using the application papers filed on September 21, 2004, along with the 67 pages of specification, including 8 pages of claims and 1 page of abstract, and 5 sheets of drawings filed on January 10, 2005.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

Mail Date: 07/23/2010

Applicant	: Judith LaRocca	: DECISION ON REQUEST FOR
Patent Number	: 7649939	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/945,617	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/20/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1519** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN, TX 78767-0398

Mail Date: 04/20/2010

Applicant	: Lynne M. Brocco	: DECISION ON REQUEST FOR
Patent Number	: 7646760	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/945,633	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/21/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1386** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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BRINKS HOFER GILSON & LIONE/CHICAGO/COOK
PO BOX 10395
CHICAGO, IL 60610

Mail Date: 04/26/2010

Applicant	: David N. Armstrong	: DECISION ON REQUEST FOR
Patent Number	: 7645229	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/945,634	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/21/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **472** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 : 06/29/09

TO SPE OF : ART UNIT 2132

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/945,644
Patent No.: 6,973,568

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)

Randolph Square
Palm Location 7580

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

703-756-1573

Thank You For Your Assistance

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

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

Comments: Approve all

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/KAMBIZ ZAND/ 2434

SPE Art Unit

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Alexandria, VA 22313-1450
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WESTMAN CHAMPLIN & KELLY, P.A.
900 SECOND AVENUE SOUTH, SUITE 1400
MINNEAPOLIS MN 55402-3319

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OCT 10 2006

OFFICE OF PETITIONS

In re Application of

EGLOFF
Application No. 10/945,662
Filed: September 21, 2004
Attorney Docket No. E242.12-0004

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 2, 2006.

The request is **APPROVED**.

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

The request was signed by Z. Peter Sawicki on behalf of all attorneys of record who are associated with customer No. 27367. All attorneys/agents associated with the Customer Number 27367 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 Monica A. Graves at 571-272-7253.

David Bucci
Petitions Examiner
Office of Petitions

cc: **E. Ralph Egloff**
5328 Crain Street
Skokie, IL 60077

cc: **Electronic Materials LLC**
17689 Lake Oak Circle
Lakeville, MN 55044

UNITED STATES PATENT AND TRADEMARK OFFICE

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NOVARTIS VACCINES AND
DIAGNOSTICS, INC.
CORPORATE INTELLECTUAL PROPERTY
P.O. BOX 8097
EMERYVILLE, CA 94662-8097

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MAY 29 2008

OFFICE OF PETITIONS

In re Application of :
Y. Tom TANG, et al :
Application No. 10/945,678 :
Filed: September 20, 2004 :
Attorney Docket No. 20366-140001/PP023417.0 :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 8, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 19, 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 October 20, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required

by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

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

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.

This application is being referred to Technology Center AU 1631 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.

April Wise
Petitions Examiner
Office of Petitions

cc: FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

UNITED STATES PATENT AND TRADEMARK OFFICE

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MORRISON & FOERSTER LLP
425 MARKET STREET
SAN FRANCISCO, CA 94105-2482

Mail Date: 04/21/2010

Applicant	: Eugene R. Cooper	: DECISION ON REQUEST FOR
Patent Number	: 7585517	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/945,682	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/20/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1071** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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OCT 2 7 2009

OFFICE OF PETITIONS

Naum Sapozhnikov
Apt. 210
1550 N. Poinsettia Pl.
Los Angeles CA 90046

In re Application of	:	
Naum Sapozhnikov	:	
Application No. 10/945,693	:	DECISION ON PETITION
Filed: September 21, 2004	:	TO MAKE SPECIAL UNDER
	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed September 14, 2009, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a copy of the applicant driver's license proving 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 Johnson 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 3671 for action on the merits commensurate with this decision.

Terri Johnson

Terri Johnson
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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LADAS & PARRY LLP
224 SOUTH MICHIGAN AVENUE
SUITE 1600
CHICAGO, IL 60604

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APR 2 8 2008

OFFICE OF PETITIONS

In re Application of	:	
Katsuya Sakayori	:	
Application No. 10/945,697	:	DECISION ON PETITION
Filed: September 21, 2004	:	
Attorney Docket No. CU-6016	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 25, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, October 7, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 8, 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 $1540, 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 so notify the Office.

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

This application is being referred to Technology Center AU 1713 for appropriate action by the Examiner in the normal course of business on the reply received October 25, 2007.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Steven R. LeBlanc
Dority & Manning, PA
PO Box 1449
Greenville, SC 29602

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DEC 09 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Battista :
Application No. 10/945,701 :
Filed: September 21, 2004 :
Attorney Docket No. MWW-44 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c), filed October 12, 2004.

The deficiency payment of $522.00 is hereby accepted.

The change of status to large entity has been entered and made of record.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

OIPE JC112
OCT 12 2004
PATENT & TRADEMARK OFFICE

EFW/DAE

ATTORNEY DOCKET NO.: MWW-44

DIVISION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

OCT 15 AM 11:50

In re Application of: Christopher Battista)
)
Serial No.: 10/945701) Examiner: Unknown
)
Filed: 9/21/04) Deposit Acct. No.: 04-1403
)
Title: A Tapestry Display Kit)

Submission to Correct Entity Status

RECEIVED
OCT 19 2004
OFFICE OF PETITIONS

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

Dear Sir:

The Applicant has discovered that a previous good faith claim of small entity status was in error without any deceptive intent. Therefore, the Applicant submits the following itemization of the deficiency payment, pursuant to 37 C.F.R. Section 1.28(c)(2)(ii), along with payment for the total deficiency:

Fee Description	Fee Paid	Date Paid	Deficiency
Utility Filing Fee	$385.00	9/9/04	$405.00
Extra Claim Fees	$117.00	9/9/04	$117.00
Recording Assignment	$40.00	9/9/04	$0.00
Total Deficiency Payment Owed			**$522.00**

Please charge any additional fees or credit any refunds to Deposit Account No. 04-1403.

Respectfully submitted,

October 7, 2004

Steven R. LeBlanc

Steven R. LeBlanc
DORITY & MANNING, P.A.
P.O. Box 1449
Greenville, SC 29602
(864) 271-1592
(864) 233-7342

10/18/2004 DALLEN 00000007 10945701
01 FC:1461 522.00 OP

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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STEVEN W. SMITH
7237 BIRCHWOOD DRIVE
DALLAS, TX 75240

MAILED

NOV 19 2009

OFFICE OF PETITIONS

In re Patent No. 6,916,776	:	
Issue Date: July 12, 2005	:	
Application No. 10/945,722	:	ON PETITION
Filed: September 21, 2004	:	
Patentee(s) Jeffrey S. Svendsen	:	

This is a decision on the petition under 37 CFR 1.378(c); filed August 25, 2009, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

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

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Steven W. Smith
4224 Hartlee Field Road
Denton, TX 76208-3579

RAM Fee History Query

Revenue Accounting and Management

Name/Number: 6916776 Total Records Found: 1

Start Date: Any Date End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
08/28/2009	00000063	2	1599	$2,620.00	08/25/2009	CC

Adjustment date: 11/19/2009 LDIEP1
08/28/2009 DALLEN 00000033 6916776
01 FC:1599 -2620.00 OP

11/19/2009 LDIEP1 00000006 6916776

01 FC:1551 980.00 OP
02 FC:1558 1640.00 OP

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OFFICE OF PETITIONS

KEITH M. TACKETT
PATTERSON & SHERIDAN, L.L.P.
3040 POST OAK BLVD. SUITE 1500
HOUSTON, TX 77056

In re Patent No.: 7,051759	:	
Issue Date: May 30, 2006	:	
Application No.: 1 0/945,727	:	ON PETITION
Filed: September 21, 2004	:	
Attorney Docket No.: AMAT/2981.D1/AGS/IBSS/LAP	:	

This is a decision on the petition under 37 CFR 1.182, filed, August 22, 2006, to correct the name of the inventor on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**. The $400 petition fee has been charged to counsel's deposit account as authorized.

It is noted that, while a grantable petition was filed on August 22, 2006, a decision on the petition was not rendered. However, on November 14, 2006, the Office issued the requested Certificate of Correction. Accordingly, the present petition is granted *nunc pro tunc*.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

16623 U.S.PTO

PATENT APPLICATION TRANSMITTAL LETTER
(Small Entity)

Docket No.
UR-0209

092104

22278 U.S.PTO
10/945753
092104

COMMISSIONER FOR PATENTS

Transmitted herewith for filing under 35 U.S.C. 111 and 37 C.F.R. 1.53 is the patent application of:

Kenneth L. Marshall

For: **LIQUID CRYSTAL DEVICES ESPECIALLY FOR USE IN LIQUID CRYSTAL POINT DIFFRACTION INTERFEROMETER SYSTEMS**

Enclosed are:

- ☒ Certificate of Mailing by Express Mail Label No. **EV 325176987 US**
- ☒ **Seven (7)** sheets of drawings.
- ☐ A certified copy of a application.
- ☒ Declaration ☒ Signed. ☐ Unsigned.
- ☒ Power of Attorney
- ☐ Information Disclosure Statement
- ☒ Request for Non-Publication of Application
- ☒ Applicant claims small entity status. See 37 CFR 1.27.
- ☒ Other: **Assignment of Invention with Recordation Form Cover Sheet and Check for $40.00.**

CLAIMS AS FILED

For	#Filed	#Allowed	#Extra		Rate	Fee
Total Claims	31	- 20 =	11	x	$9.00	$99.00
Indep. Claims	4	- 3 =	1	x	$43.00	$43.00
Multiple Dependent Claims (check if applicable) ☐						$0.00
					BASIC FEE	$385.00
					TOTAL FILING FEE	$527.00

- ☒ A check in the amount of **$527.00** to cover the filing fee is enclosed.
- ☒ The Director is hereby authorized to charge and credit Deposit Account No. **50-1101** as described below.
  - ☐ Charge the amount of as filing fee.
  - ☒ Credit any overpayment.
  - ☒ Charge any additional filing fees required under 37 C.F.R. 1.16 and 1.17.
  - ☐ Charge the issue fee set in 37 C.F.R. 1.18 at the mailing of the Notice of Allowance, pursuant to 37 C.F.R. 1.311(b).
- ☐ Payment by credit card. Form PTO-2038 is attached.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

Signature

Dated: **September 21, 2004**

Customer Number: **024,902**

KJL/tsm
cc:

Kenneth J. LuKacher
Attorney for Applicant
Registration No. 38,539
South Winton Court
3136 Winton Road South, Suite 204
Rochester, New York 14623
Telephone: 585-424-2670
Facsimile: 585-424-6196

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT EXAMINING OPERATION

Applicant: Kenneth L. Marshall

Serial No.: N/A

Filed: Concurrently herewith

For: LIQUID CRYSTAL DEVICES ESPECIALLY FOR USE IN LIQUID CRYSTAL POINT DIFFRACTION INTERFEROMETER SYSTEMS

Examiner: N/A Art Unit: N/A

Atty Docket: UR-0209

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR NON-PUBLICATION OF APPLICATION

Dear Sir:

Pursuant to 35 U.S.C. §122(b), Applicant requests non-publication of the above-identified application. Applicant certifies that the invention disclosed in the above-identified application has not and will not be the subject of an application filed in another country, or under a multi-lateral international agreement, that requires eighteen-month publication.

Respectfully submitted,

Dated: September 21, 2004

Kenneth J. LuKacher
Attorney for Applicant
Registration No. 38,539

South Winton Court
3136 Winton Road South, Suite 204
Rochester, New York 14623
Telephone: (585) 424-2670
Facsimile: (585) 424-6196

CERTIFICATE OF MAILING BY "EXPRESS MAIL" (37 CFR 1.10) Applicant(s): **Kenneth L. Marshall**	Docket No. **UR-0209**

Application No.	Filing Date	Examiner	Customer No.	Group Art Unit
N/A	**Concurrently herewith**	**N/A**	**024,902**	**N/A**

Invention: **LIQUID CRYSTAL DEVICES ESPECIALLY FOR USE IN LIQUID CRYSTAL POINT DIFFRACTION INTERFEROMETER SYSTEMS**

I hereby certify that the following correspondence:

PATENT APPLICATION

(Identify type of correspondence)

is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on

September 21, 2004
(Date)

Tammy S. Moynihan
(Typed or Printed Name of Person Mailing Correspondence)

Tammy S. Moynihan
(Signature of Person Mailing Correspondence)

EV 325176987 US
("Express Mail" Mailing Label Number)

Note: Each paper must have its own certificate of mailing.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No.

Christopher M. Turoski
Cargill, Incorporated
14507 McGinty Road West
Wayzata MN 55391-5624

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MAR 16 2009

OFFICE OF PETITIONS

In re Application of	:	
Allen et al.	:	DECISION ON PETITION
Application No. 10/945,760	:	
Filed: September 21, 2004	:	
Attorney Docket No. 6720.12	:	

This is a decision on the "PETITION UNDER 37 CFR §1.181(a) TO WITHDRAW HOLDING OF ABANDONMENT" filed September 19, 2008.

The above-identified application became abandoned for failure to file a proper response to the final Office action mailed October 11, 2005. This Office action set a three-month shortened statutory period for reply, with extensions of time obtainable under § 1.136(a). A reply was filed on December 16, 2005; however, it was determined not to place the application in condition for allowance (See Advisory Action mailed December 27, 2005). No reply considered received and no extension considered obtained, the above-identified application became abandoned on January 12, 2006. A Notice of Abandonment was mailed on October 5, 2006.

In response, applicants filed the instant petition, asserting that a request for continued examination (RCE) was timely filed on January 13, 2006 (with a certificate of mailing dated January 11, 2006). In support thereof, applicants submit a copy of the RCE and a copy of their itemized and date-stamped return postcard.

Preliminarily, applicants are reminded that any petition under 37 CFR 1.181 not filed within two months of the action complained of may be dismissed as untimely without consideration

on the merits. In this instance, the petition was filed more than 2 years after the abandonment of the application. The petition includes an explanation of the circumstances of the delay in filing the petition and notes during that time believing that prosecution had continued they filed a supplemental information disclosure statement. Considering applicants' showing of timely filing of the response and their explanation on petition of the delay in filing the petition, it is determined that the petition will not be dismissed as untimely filed, but will be considered on the merits.

Consideration now turns to the merits of the petition. Applicants have submitted *prima facie* evidence in the form of an itemized and date-stamped postcard that the RCE and fee transmittal were received in the Office on January 13, 2006. Further, a review of the copies of the documents reveals that they were timely filed by virtue of a certificate of mailing thereon. 37 CFR 1.8(b) provides that:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received 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.

Neither the transmittal nor the RCE were received in the Office. On instant petition, petitioner has satisfied the requirements of 1.8(b) to have the response considered timely filed by virtue of the certificate of mailing dated January 11, 2006.

Moreover, the RCE fee is of record in the application with a date of receipt of January 13, 2006.

Accordingly, the Notice of Abandonment mailed October 5, 2006, and the holding of abandonment are hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center AU 3643 has been advised of this decision. The application is, thereby, forwarded to the Technology Center's technical staff to withdraw the holding of abandonment and for the examiner to consider the RCE resubmitted on petition filed September 19, 2008.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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MAY - 9 2005

KNOBBE MARTENS OLSON & BEAR LLP
2040 Main Street
Fourteenth Floor
Irvine, CA 92614

In re application of
Scott R. Mallett et al
Application No. 10/945,773
Filed: September 21, 2004
For: METHODS OF SORTING WASTE

DECISION ON PETITION TO MAKE SPECIAL (ENVIRONMENTAL QUALITY)

This is a decision on the petition submitted on September 21, 2004, under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section V: Environmental Quality.

A grantable petition to make an application special under 37 C. F. R. 1.102(c), MPEP 708.02, Section V for an invention which materially enhances the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life-sustaining elements-air, water and soil, must be accompanied by affidavits or declaration under 37 CFR 1.102 by the applicant or his attorney explaining how the invention contributes to the maintenance or restoration of one of these life sustaining elements.

Applicant's invention relates to a process and apparatus for the quick, accurate and inexpensive sorting of hazardous waste material. The petition states, "Because medical waste will be properly sorted by embodiments of Applicant's invention the waste can be properly treated. Accordingly, contamination of the ground water and soil will be minimized."

This statement is insufficient to grant a petition under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section V: Environmental Quality. In this regard, without some details setting forth how and in what manner applicant's invention functions to reduce contamination of ground water and soil, the above statements are nothing more than conclusions and, as such, are inadequate to establish for the record that the invention contributes to the maintenance or restoration of the basic life-sustaining elements-air, water and soil.

The petition to make special based on Environmental Quality is **DISMISSED.**

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Should petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving the information as outlined above. Applicants should promptly submit a renewed petition to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(571) 272-6611

SNM/jwk: 5/3/05

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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O'MELVENY & MYERS LLP
610 NEWPORT CENTER DRIVE
17TH FLOOR
NEWPORT BEACH CA 92660

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MAR 0 6 2007

OFFICE OF PETITIONS

In re Application of
Keith Bradley et al. :
Application No. 10/945,803 : ON PETITION
Filed: September 20, 2004 :
Attorney Docket No: 612,407-21 :

This is a decision on the petition filed February 9, 2007, under 37 CFR 1.181, to withdraw the holding of abandonment.

The petition to withdraw the holding of abandonment is **GRANTED**.

The application was held abandoned on June 30, 2006, for failure to file a timely response to the Notice of Non-Compliant Amendment (37 CFR 1.121) mailed May 30, 2006, which set the longer of one month, or thirty days for reply. Accordingly, a Notice of Abandonment was mailed on February 9, 2007, on even date with the filing of the instant petition.

Petitioner asserts that a response was timely filed on June 15, 2006 and submits as proof, a copy of the response and the postcard receipt date-stamped on June 15, 2006 by the USPTO.

A review of the file reveals that the response is of record with a post mark of June 15, 2006, however, the response was filed with an incorrect serial number.

While, the requirement for filing papers with the USPTO is that every paper bear an appropriate application no. or identifier, other identifiable information was found to be on the papers filed as the response and the response was matched with the proper file on February 26, 2007. In view thereof, the response was timely filed and the Notice of Abandonment mailed February 9, 2007 is hereby withdrawn. No petition fee is due and none has been charged.

This matter is being referred to Technology Center 2826 for treatment of the response filed June 15, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MERCHANT & GOULD P.C.
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

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OFFICE OF PETITIONS

In re Application of

BIERING, Holger et al.
Application No. 10/945,816
Filed: September 20, 2004
Attorney Docket No. **13470.1682USC1**

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 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. The correspondence address of record remains unchanged.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

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FROM DIRECTORS OFFICE

MAR 16 2005

TECHNOLOGY CENTER 3600

SCHMEISER OLSEN & WATTS
18 E UNIVERSITY DRIVE
SUITE #101
MESA, AZ 85201

In re application of	:	**DECISION ON PETITION**
Stanley B. Klonowski III	:	**TO MAKE SPECIAL**
Application No. 10/945,819	:	**(ACCELERATED**
Filed: September 20, 2004	:	**EXAMINATION)**
For: HINGE BASE PLATE MOUNTING TOOL		

This is in response to the petition filed on September 20, 2004 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED.**

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/slb: 03/04/05

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JUN 21 2007

OFFICE OF PETITIONS

CARL J CONFORTI
30 RIVER VIEW ST
FALL RIVER MA 02724

In re Application of	:
Conforti	: DECISION ON PETITION
Application No. 10/945,822	:
Filed: September 20, 2004	:
For: 05 -02CC	:

This decision is in response to the "Petition to Withdraw the Holding of Abandonment," filed May 4, 2007. This matter is being treated under 37 CFR 1.181.

The petition is hereby **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." This is not a final agency decision.

This application became abandoned March 29, 2007 for failure to timely submit a proper reply to the Notice of Allowance (Notice) mailed December 28, 2006. The Notice set a three month statutory period of time for reply. Notice of Abandonment was mailed April 30, 2007.

Petitioner alleges non-receipt of the Notice mailed December 28, 2006.

In the absence of any irregularity in the mailing of the Notice, there is a strong presumption that the Notice was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement that the Office communication was not received 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 the petition. *See*, MPEP 711.03(c).

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

Office records indicate the Office communication was properly mailed to the correspondence address of record at the time of mailing. Accordingly, there was no irregularity in mailing the Office communication on the part of the United States Patent and Trademark Office.

The instant petition fails to establish petitioners' contention of non-receipt of the Notice as no supporting documentation to this effect has been provided.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	**Mail Stop Petition** Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By hand delivery:	U.S. Patent and Trademark Office Customer Window, **Mail Stop Petition** Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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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FALL RIVER MA 02724

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JUN 2 1 2007

OFFICE OF PETITIONS

In re Application of :
Conforti : DECISION ON PETITION
Application No. 10/945,822 :
Filed: September 20, 2004 :
For: 05 -02CC :

This decision is in response to the "Petition for Application # 10/945,822 Correction," filed July 20, 2006. This matter is being treated under 37 CFR 1.181.

The petition is hereby **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition." This is not a final agency decision.

Petitioner argues that the instant application was filed as a continuation application of U.S. App. No. 10/612,512. Petitioner further argues that the instant application was filed within the appropriate time period allowed by the United States Patent Office and references a return receipt from the application filed as a continuation. Petitioner argues the application was also filed with an appropriate cover page and marked as a continuation. Petitioner requests that the application be amended to indicate that the instant application is a continuation of U.S. App. No. 10/612,512.

A new application containing a copy of an oath or declaration under 37 CFR 1.63 referring to an attached specification is indistinguishable from a continuation or divisional application containing a copy of an oath or declaration from a prior application submitted pursuant to 37 CFR 1.63(d). Unless an application is submitted with a statement that the application is a continuation or divisional application, see 37 CFR 1.78(a)(2), the Office will process the application as a new non-continuing application. Applicants are advised to clearly designate any continuation, divisional, or continuation-in-part application as such by submitting a reference to the prior-filed

application with the appropriate relationship (i.e., continuation, divisional, or continuation-in-part) in compliance with 37 CFR 1.78(a) in the first sentence(s) of the specification or in an application data sheet to avoid the need for a petition to accept an unintentionally delayed claim under 37 CFR 1.78(a) and the surcharge set forth in 37 CFR 1.17(t), and the issuance of a filing receipt that does not indicate that the application is a continuation, divisional, or continuation-in-part. *See*, MPEP §§ 201.11 and 201.06(c).

Review of the application history for the instant application reveals that applicant failed to comply with the requirements of 37 CFR 1.78(a)(2)(i) in that "[e]xcept for a continued prosecution application filed under § 1.53(d), any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending nonprovisional applications or international applications designating the United States of America 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) or international application number and international filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (see § 1.14).

See, also, 37 CFR 1.78(a)(2)(ii) where in it states that "[t]his reference must be submitted during the pendency of the later-filed application. If the later-filed application is an application filed under 35 U.S.C. 111(a), this reference must also be submitted within the later of four months from the actual filing date of the later-filed application or sixteen months from the filing date of the prior-filed application. If the later-filed application is a nonprovisional application which entered the national stage from an international application after compliance with 35 U.S.C. 371, this reference must also be submitted within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371 (b) or (f) in the later-filed international application or sixteen months from the filing date of the prior-filed application. These time periods are not extendable. Except as provided in paragraph (a)(3) of this section, the failure to timely submit the reference required by 35 U.S.C. 120 and paragraph (a)(2)(i) of this section is considered a waiver of

any benefit under 35 U.S.C. 120, 121, or 365(c) to such prior-filed application.

See, also, 37 CFR 1.78(a)(2)(iii) wherein it states that "[i]f the later-filed application is a nonprovisional application, the reference required by this paragraph **must** be included in an application data sheet (§ 1.76), or the specification must contain or be amended to contain such reference in the first sentence(s) following the title. (Emphasis added.)

Petitioner's attention is directed to 37 CFR 1.78(a)(3) wherein it provides: "[i]f the reference required by 35 U.S.C. 120 and paragraph (a)(2) of this section is presented after the time period provided by paragraph (a)(2)(ii) of this section, the claim under 35 U.S.C. 120, 121, or 365(c) for the benefit of a prior-filed copending nonprovisional application or international application designating the United States of America may be accepted if the reference identifying the prior-filed application by application number or international application number and international filing date was unintentionally delayed. A petition to accept an unintentionally delayed claim under 35 U.S.C. 120, 121, or 365(c) for the benefit of a prior-filed application must be accompanied by: (i) The reference required by 35 U.S.C. 120 and paragraph (a)(2) of this section to the prior-filed application, unless previously submitted; (ii) The surcharge set forth in § 1.17(t); and (iii) A statement that the entire delay between the date the claim was due under paragraph (a)(2)(ii) of this section and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Petitioner is advised that the appropriate remedy to correct applicant's filing error is a petition under 37 CFR 1.78 petitions for an unintentionally delayed domestic priority claim.

Petitioner is also again reminded that the claim must be presented during the pendency of the non-provisional application, the instant application is currently ABANDONED.

A decision on petitioner's petition to withdraw the holding of abandonment is being concurrently mailed.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300

By hand: U.S. Patent and Trademark Office
Customer Window
Mail Stop Petition
Randolph Building
Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
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FALL RIVER MA 02724

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JUN 15 2009

OFFICE OF PETITIONS

In re Application of :
Conforti :
Application No. 10/945,822 :
Filed: September 20, 2004 :
Attorney Docket No. 05 -02CC :

ON PETITION

This decision is in response to the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181 filed June 28, 2007.

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).

The application became abandoned March 29, 2007 for failure to timely submit the issue fee in response to the Notice of Allowance and Issue Fee Due mailed December 28, 2006. The Notice set a three shortened statutory period to reply. Notice of Abandonment was mailed April 30, 2007. A petition was filed May 4, 2007 and dismissed June 21, 2007.

In the present petition, petitioner requests that the Office withdraw the holding of abandonment due to non-receipt of the Notice. Specifically, petitioner states that he received the Notice of Allowability, but did not receive the Notice of Allowance and Issue Fee Due.

DISCUSSION OF PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

A review of the record indicates no irregularity in the mailing of the Notice of Allowance and Issue Fee Due, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record.

As petitioner is a pro-se applicant, the Office understands that petitioner may not keep a formal docket record system for his correspondence. Nevertheless, petitioner must provide some sort of showing explaining the manner in which petitioner receives mail from the USPTO, maintains files for patent matters, and treats mail received for such matter. Specifically, petitioner must explain the system for keeping track of patent matters - where petitioner keeps the correspondence; where he writes down due dates; how he knows replies are due, etc. In essence, petitioner must explain how he reminds himself of response due dates and show that the due date for the Notice of Allowance and Issue Fee Due of December 28, 2006 was not entered into that

system. Petitioner should include any available documentary evidence of the mail received, covering a reasonable period after December 28, 2006, to demonstrate non-receipt of the Notice of Allowance and Issue Fee Due. Petitioner should also provide the USPTO with copies of any records or other methods, which could serve as a reminder of the due date for a response to an Office action, and where petitioner would have entered the receipt date of the Office action had petitioner received it (for example, a copy of the outside of a file or a calendar maintained by petitioner), if these documents are available. Furthermore, petitioner must include a statement from himself, or any other person at the address who may have handled the Office action, indicating that a search was conducted of the location where the correspondence from the USPTO would have been kept; however, the Notice of Allowance and Issue Fee Due was not found. Lastly, petitioner must state that he was, in fact, residing at the correspondence address of record for a reasonable time after December 28, 2006; the period when he would have received the Notice of Allowance and Issue Fee Due.

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 of Allowance and Issue Fee Due. Therefore, the petition to withdraw the holding of abandonment is **dismissed**. A copy of the Notice of Allowance and Issue Fee Due accompanies this decision for petitioner's convenience.

ALTERNATIVE VENUE

Petitioner may wish to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181 or a petition under 37 CFR 1.137(a).

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

> (1) The reply required to the outstanding Office action or notice, unless previously filed. In nonprovisional utility application abandoned for failure to respond to a non-final Office action, the required reply may be met by filing either (A) an argument or amendment under 37 CFR 1.111 or (B) a continuing application under 37 CFR 1.53(b).
>
> (2) The petition fee as set forth in 37 CFR 1.17(m), **$810.00 for a small entity**;
>
> (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

A form for filing a petition to revive an unintentionally abandoned application accompanies this decision for petitioner's convenience. If petitioner desires to file a petition under 37 CFR 1.137(b) instead of filing a request for reconsideration, petitioner must complete the enclosed petition form (PTO/SB/64) and pay the $810.00 petition fee.

Petitioner may wish to consider hiring a registered patent attorney or agent to assist in the prosecution of this application. Additionally, petitioner is encouraged to contact the Inventors Assistance Center (IAC) by telephone at 800-786-9199 or 571-272-1000, Monday through

Friday from 8:30 AM to 5:30 PM (EST). The IAC provides patent information and services to the public and is staffed by former Supervisory Patent Examiners and experienced Primary Examiners who answer general questions concerning patent examining policy and procedure.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
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 Notice of Allowance and Issue Fee Due

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

NOTICE OF ALLOWANCE AND FEE(S) DUE

7590 12/28/2006

CARL J CONFORTI
30 RIVER VIEW ST
FALL RIVER, MA 02724

EXAMINER	
VERBITSKY, GAIL KAPLAN	
ART UNIT	PAPER NUMBER
2859	

DATE MAILED: 12/28/2006

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/945,822	09/20/2004	Carl J. Conforti	05 -02CC	6325

TITLE OF INVENTION: TEMPERATURE MEASURE DEVICE

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	~~$700~~ $755	$300	$0	$1000	03/28/2007

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PTOL-85 (Rev. 07/06) Approved for use through 04/30/2007.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail **Mail Stop ISSUE FEE**
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (571)-273-2885

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

7590 12/28/2006

CARL J CONFORTI
30 RIVER VIEW ST
FALL RIVER, MA 02724

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission
I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/945,822	09/20/2004	Carl J. Conforti	05 -02CC	6325

TITLE OF INVENTION: TEMPERATURE MEASURE DEVICE

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	~~$700~~ $755-	$300	$0	$1000	03/28/2007

EXAMINER	ART UNIT	CLASS-SUBCLASS
VERBITSKY, GAIL KAPLAN	2859	374-158000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).
☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list
(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,
(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.
1 _____
2 _____
3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)
PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.
(A) NAME OF ASSIGNEE (B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent) : ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:
☐ Issue Fee
☐ Publication Fee (No small entity discount permitted)
☐ Advance Order - # of Copies _____

4b. Payment of Fee(s): **(Please first reapply any previously paid issue fee shown above)**
☐ A check is enclosed.
☐ Payment by credit card. Form PTO-2038 is attached.
☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. **Change in Entity Status** (from status indicated above)
☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date _____

Typed or printed name _____ Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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.
10/945,822	09/20/2004	Carl J. Conforti	05 -02CC	6325

7590 12/28/2006

CARL J CONFORTI
30 RIVER VIEW ST
FALL RIVER, MA 02724

EXAMINER
VERBITSKY, GAIL KAPLAN

ART UNIT	PAPER NUMBER
2859	

DATE MAILED: 12/28/2006

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)
(application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 0 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 0 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (http://pair.uspto.gov).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

PTOL-85 (Rev. 07/06) Approved for use through 04/30/2007.

UNITED STATES PATENT AND TRADEMARK OFFICE

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CARL J CONFORTI
30 RIVER VIEW ST
FALL RIVER MA 02724

MAILED

APR 12 2010

OFFICE OF PETITIONS

In re Application of :
Conforti :
Application No. 10/945,822 :
Filed: September 20, 2004 :
Attorney Docket No. 05 -02CC :

ON PETITION

This decision is in response to the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181 filed July 30, 2009.

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).

The application became abandoned March 29, 2007 for failure to timely submit the issue fee in response to the Notice of Allowance and Issue Fee Due mailed December 28, 2006. The Notice set a three shortened statutory period to reply. Notice of Abandonment was mailed April 30, 2007. A petition was filed May 4, 2007 and dismissed June 21, 2007. A renewed petition under 37 CFR 1.181 was filed June 28, 2007 and dismissed June 15, 2009.

Petitioner requests that the Office withdraw the holding of abandonment due to non-receipt of the Notice. Petitioner has provided a summary of the file history and provided a copy of USPTO file wrapper summary.

A review of the record indicates no irregularity in the mailing of the Notice of Allowance and Issue Fee Due, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record.

Petitioner has failed to provide any documentary evidence to support the contention that the Notice of Allowance and Issue Fee Due was not received. Petitioner has not provided an explanation of the manner in which petitioner receives mail from the USPTO, maintains files for patent matters, and treats mail received for such matter. Petitioner has not established that he has a system for keeping track of patent matters. Petitioner has not explained how he reminds himself of response due dates or shown that the due date for the Notice of Allowance and Issue Fee Due of December 28, 2006 was not entered into that system. Petitioner has not provided any documentary evidence of any mail received, covering a reasonable period after December 28, 2006, to demonstrate non-receipt of the Notice of Allowance and Issue Fee Due. Petitioner has

not included a statement from himself, or any other person at the address who may have handled the Office action, indicating that a search was conducted of the location where the correspondence from the USPTO would have been kept; however, the Notice of Allowance and Issue Fee Due was not found. Petitioner has not indicated whether, in fact, he resided at the correspondence address of record for a reasonable time after December 28, 2006; the period when he would have received the Notice of Allowance and Issue Fee Due.

Accordingly, it cannot be concluded that the Notice of Allowance and Issue Fee Due was not received.

In view thereof, the holding of abandonment cannot be withdrawn.

ALTERNATIVE VENUE

Petitioner may wish 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(b).

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

> (1) The reply required to the outstanding Office action or notice, unless previously filed. In nonprovisional utility application abandoned for failure to respond to a non-final Office action, the required reply may be met by filing either (A) an argument or amendment under 37 CFR 1.111 or (B) a continuing application under 37 CFR 1.53(b).
>
> (2) The petition fee as set forth in 37 CFR 1.17(m), **$810.00 for a small entity**;
>
> (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

A form for filing a petition to revive an unintentionally abandoned application accompanies this decision for petitioner's convenience. If petitioner desires to file a petition under 37 CFR 1.137(b) instead of filing a request for reconsideration, petitioner must complete the enclosed petition form (PTO/SB/64) and pay the $810.00 petition fee.

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) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosures: Form PTO/SB/64

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

AUG 23 2005

Technology Center 2100

Chun-Pok Leung
TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, 8th Floor
San Francisco, California 94111-3834

In re Application of:
Nobuyuki OSAKI et al
Application No. 10/945,824
Filed: September 21, 2004
For: METHOD OF AND SYSTEM FOR TESTING REMOTE STORAGE

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the renewed petition, filed on June 20, 2005 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
>
> (C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
>
> (E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.
>
> In those instances where the request for this special status does not meet all the prerequisites set forth above, applicant will be notified and the defects in the request will be stated. The application will remain in the status of a new application awaiting action in its regular turn. In

> those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

Applicant's submission of June 20, 2005 meets all the criteria set out above. Accordingly, the petition is **GRANTED**. The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

UNITED STATES PATENT AND TRADEMARK OFFICE

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MIKA MAYER
MORRISON AND FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-101

COPY MAILED

DEC 07 2005

OFFICE OF PETITIONS

In re Application of	:	
Stephen Hebert et al	:	
Application No. 10/945,825	:	DECISION ON PETITION
Filed: September 20, 2004	:	TO WITHDRAW
Attorney Docket No. MICRU-71729	:	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 7, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Mika Mayer and the attorneys associated with the Customer Number 25226 has been revoked by the assignee of the patent application November 16, 2005. Accordingly, the request to withdraw under 37 C.F.R. § 1.136(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 inquiries concerning this decision should be directed to Irvin Dingle at 571-272-3210.

This matter is being referred to Technology Center Art Unit 3731

Amelia AU
Petitions Examiner
Office of Petitions

cc: Fulwider Patton
6060 Center Drive, 10th Floor
Los Angeles, CA 90045

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.
10/945,827	09/21/2004	John Michael Snyder	MSFT-3968/177757.02	6311

41505 7590 06/14/2010
WOODCOCK WASHBURN LLP (MICROSOFT CORPORATION)
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

EXAMINER
CASCHERA, ANTONIO A

ART UNIT	PAPER NUMBER
2628	

MAIL DATE	DELIVERY MODE
06/14/2010	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.

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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MAIL

JUN 14 2010

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

WOODCOCK WASHBURN LLP (MICROSOFT CORPORATION)
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

In re Application of :
Snyder, John Michael *et al.* :
Serial No.: 10/945,827 :
Filed: September 21, 2004 :
For: **SYSTEMS AND METHODS FOR PROVIDING IMAGE RENDERING USING VARIABLE SOURCE SAMPLING** :

DECISION ON PETITION
ACCEPTANCE OF COLOR DRAWINGS

This is a decision on the petition under 37 CFR §1.84(a)(2) filed September 21, 2004, requesting the acceptance of color drawings.

The petition requests that the color drawings identified in Figures 1A, 1B, 2A, 2B, 3A, 3B, 4A, 4B, 5, 6, 7, 8A, 8B, 8C, 8D, 8E, 9A, 9B, 9C, 9D, 9E, 10A, 10B, 10C and 10D be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. §1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3 (three) sets of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition did not contain (3) three complete sets of colored drawings, as stated above.

Therefore, the petition is **DISMISSED**.

The petitioner may submit a request for reconsideration within **TWO MONTHS** of the date of this decision. Any request for reconsideration should be complete, i.e., include an amendment to the specification as set forth above.

Kenneth W. White for

Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JOSEPH J. LAKS
THOMSON LICENSING LLC
2 INDEPENDENCE WAY, PATENT OPERATIONS
P.O. BOX 5312
PRINCETON NJ 08543

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FEB 07 2008

OFFICE OF PETITIONS

In re Application of	:	
Marc Louchkoff et al	:	
Application No. 10/945,841	:	DECISION GRANTING PETITION
Filed: September 21, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. PF030148	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 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 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 April 4, 2007, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to the Office of Data Management to be process into a patent.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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LAHIVE & COCKFIELD, LLP /
BIOGEN IDEC
FLOOR 30, SUITE 3000
ONE POST OFFICE SQUARE
BOSTON MA 02109-2127

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AUG 03 2009

OFFICE OF PETITIONS

In re Application of	:	
SANICOLA-NADEL et al.	:	APPLICATION FOR PATENT
Application No. 10/945,853	:	TERM ADJUSTMENT
Filed: September 20, 2004	:	
Docket No. BGG-A117CPPCCNRCE	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION UNDER 37 CFR § 1.705(b)" filed July 6, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is five hundred one (501) days, not two hundred ninety-nine (299) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants seek this correction partly on the basis that the Office will take in excess of three years to issue this patent.

The request for reconsideration of the patent term adjustment is **GRANTED to the extent indicated herein.**

The Office has updated the PALM and PAIR screens to reflect that the correct patent term adjustment determination at the time of the mailing of the notice of allowance is **one hundred sixty-six (166) days**. A copy of the updated PALM screen, showing the correct determination, is enclosed.

Initially, applicants disclose that they should have been assessed a period of delay of 122 days, pursuant to 37 CFR 1.704(b), for the filing of a Response to the Notice to File Missing Parts on July 21, 2005. Additionally, applicants indicate that a period of reduction of 11 days should have been

entered, pursuant to 37 CFR 1.704(c)(8), for the filing of a Supplemental Amendment and Response on March 31, 2009.

A review of the application history confirms that the period of adjustment set forth in § 1.703 should have been reduced by 122 days pursuant to 37 CFR 1.704(b) and 11 days pursuant to 37 CFR 1.704(c)(8).

On December 21, 2004, the Office mailed a Notice to File Missing Parts of Nonprovisional Application. On July 21, 2005, applicants filed a Response to Notice to File Missing Parts. Thus, applicants failed to engage in reasonable efforts to conclude processing or examination of this application. Pursuant to 37 CFR 1.704(b), the period of adjustment should have been reduced by 122 days, the number of days in the period beginning on the day after the date that is three months after the date of mailing of the Notice to File Missing Parts of Nonprovisional Application, March 22, 2005, and ending on the date the reply was filed, July 21, 2005. Accordingly, a period of reduction of 122 days will be entered.

Furthermore, applicants submitted a second Supplemental Amendment and Response on March 31, 2009, after filing a reply on January 30, 2009. The record does not support a conclusion that the examiner expressly requested the filing of the Supplemental Amendment and Response. Thus, pursuant to 37 CFR 1.704(c)(8), the period of adjustment should have been reduced, to the extent the periods do not overlap, by the number of days beginning on the day after the date the initial reply was filed, January 31, 2009, and ending on the date that the Supplemental Amendment and Response was filed, March 31, 2009. However, a period of reduction of 49 days under 37 CFR 1.704(c)(8) had already been entered for the submission of the first Supplemental Amendment and Response on March 20, 2009, after the filing of the reply on January 30, 2009. The two periods of reduction under 37 CFR 1.704(c)(8) overlap from January 31, 2009 to March 20, 2009. Therefore, in consideration of the periods of overlap, the period of adjustment should have been reduced by an additional 11 days pursuant to 37 CFR 1.704(c)(8) (March 21, 2009 to March 31, 2009). See 37 CFR 1.704(c). Accordingly, a period of reduction of 11 days will be entered.

As to applicants' request for reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance,

applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]
In view of the additional periods of reduction pursuant to 37 CFR 1.704(b) and 37 CFR 1.704(c)(8), the patent term adjustment determination at the time of the mailing of the notice of allowance should be 166 days (501 days of Office delay - 335 days of applicant delay).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within two months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of updated PALM screen

---

[1] For example, if applicants dispute both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed, and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicants must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

Day : Thursday
Date: 7/30/2009

PALM INTRANET

Time: 23:54:08

PTA Calculations for Application: 10/945853			
Application Filing Date:	09/20/2004	PTO Delay (PTO):	501
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	202
Post-Issue Petitions:	0	Total PTA (days):	166
PTO Delay Adjustment:	-133		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
85	07/30/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		11	
84	07/30/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		122	
76	04/06/2009	MAIL NOTICE OF ALLOWANCE			
75	04/03/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
74	04/03/2009	CASE DOCKETED TO EXAMINER IN GAU			
73	04/03/2009	ISSUE REVISION COMPLETED			
72	04/03/2009	DOCUMENT VERIFICATION			
71	04/03/2009	NOTICE OF ALLOWABILITY			
68	03/20/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
67	03/23/2009	PARALEGAL TD ACCEPTED			
66	03/20/2009	TERMINAL DISCLAIMER FILED		49	62
65	03/20/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
64	01/30/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
63	03/09/2009	DATE FORWARDED TO EXAMINER			
62	01/30/2009	RESPONSE AFTER NON-FINAL ACTION			
61	01/30/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
60	01/30/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
59	10/30/2008	MAIL NON-FINAL REJECTION			
58	10/23/2008	NON-FINAL REJECTION			
57	08/21/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
56	08/21/2008	REFERENCE CAPTURE ON IDS			

55	08/21/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
54	08/21/2008	MISCELLANEOUS INCOMING LETTER			
53	09/04/2008	DATE FORWARDED TO EXAMINER			
52	08/21/2008	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
51	09/04/2008	DATE FORWARDED TO EXAMINER			
50	08/21/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)		61	44
49	09/04/2008	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
48	08/21/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
47	08/21/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
46	08/21/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
45	01/30/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	40
44	03/21/2008	MAIL FINAL REJECTION (PTOL - 326)			
43	03/17/2008	FINAL REJECTION			
42	01/30/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
41	02/13/2008	DATE FORWARDED TO EXAMINER			
40	01/30/2008	RESPONSE AFTER NON-FINAL ACTION		92	33
39	01/30/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
38	01/30/2008	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
37	01/30/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
36	01/30/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
35	11/13/2007	CORRESPONDENCE ADDRESS CHANGE			
34	09/05/2007	CORRESPONDENCE ADDRESS CHANGE			
33	07/30/2007	MAIL NON-FINAL REJECTION			
32	07/26/2007	NON-FINAL REJECTION			
31	07/27/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
30	06/05/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
29	06/19/2007	DATE FORWARDED TO EXAMINER			

28	06/05/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
27	06/05/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
26	06/05/2007	REFERENCE CAPTURE ON IDS			
25	06/05/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
24	06/05/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
23	04/05/2007	MAIL RESTRICTION REQUIREMENT	501		-1
22	04/02/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
21	07/27/2006	REFERENCE CAPTURE ON IDS			
20.7	07/27/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	07/27/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	08/17/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
18	08/17/2005	CASE DOCKETED TO EXAMINER IN GAU			
17	07/21/2005	PRELIMINARY AMENDMENT			
16	08/09/2005	APPLICATION DISPATCHED FROM OIPE			
15	08/09/2005	APPLICATION IS NOW COMPLETE			
14	07/21/2005	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
11	09/20/2004	CLAIM PRELIMINARY AMENDMENT			
10	07/21/2005	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
9	07/21/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
8	08/04/2005	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
5	11/17/2004	CLEARED BY L&R (LARS)			
4	10/19/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	10/19/2004	CASE CLASSIFIED BY OIPE			
2	10/01/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	09/20/2004	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
www.uspto.gov

LAHIVE & COCKFIELD, LLP / BIOGEN IDEC
FLOOR 30, SUITE 3000
ONE POST OFFICE SQUARE
BOSTON, MA 02109-2127

Mail Date: 04/21/2010

Applicant	: Michele Sanicola-Nadel	: DECISION ON REQUEST FOR
Patent Number	: 7582299	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/945,853	: OF WYETH
Filed	: 09/20/2004	:
		:

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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TROXELL LAW OFFICE PLLC
SUITE 1404
5205 LEESBURG PIKE
FALLS CHURCH, VA 22041

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MAR 1 3 2007

OFFICE OF PETITIONS

In re Application of Chin et al. :
Application No. 10/945,869 : Decision on Petition
Filing Date: September 22, 2004 :
Attorney Docket No. BHT/3137-60 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 30, 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 April 12, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on July 13, 2006. A Notice of Abandonment was mailed on August 22, 2006.

The instant petition requests revival of the application.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

The Office of Publications will be informed of the instant decision and the application will be issued as a patent in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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MAR 23 2007

RABIN & BERDO, P.C.
SUITE 500
1101 14 STREET
WASHINGTON DC 20005

In re Application of	:
Tzong-Yuan Wu et al	:
Serial No.: 10/945,898	: PETITION DECISION
Filed: September 22, 2004	:
Attorney Docket No.: TAIW 253	:

This is a decision on the PETITION FOR ACCEPTANCE OF COLOR DRAWINGS UNDER 37 CFR 1.84(a)(2). The petition was filed September 22, 2004. Entry of color drawings requires: 1) three sets of the color drawings, 2) a proper amendment to the specification indicating color photographs or drawings are present in the file, and 3) the required fee under 37 CFR 1.17(h).

A review of the application record indicates that the petition meets all of the requirements for acceptance of color drawings. This is not to be construed that all of the drawings are accepted, only that the color drawings are acceptable.

The petition is **GRANTED**.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile transmission at 571-273-8300.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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P.O. Box 1450
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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: Michael Long et al.
Appl. No.: 10/945,941
Filing Date: September 21,2004
Title: DELIVERING ORGANIC POWDER TO A VAPORIZATION ZONE
Attorney Docket No.: 88566RLO
Pub. No.: US 2006/0062919 A1
Pub. Date: March 23, 2006

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on April 17, 2006, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains material errors on page 9 of the publication as "Part No. 5" was improperly omitted and on page 10 of the publication as Part No. 170 reads "beating element" instead of "heating element".

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 on page 9 omitting Part No. 5 from the parts list and the typographical error on page 10 at Part No. 170 in the parts list of the publication are Office errors, but are not material Office errors under 37 CFR 1.221. The application is clearly understandable to one of ordinary skill in the art reading the application and claims. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope

[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 the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark O. Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

Mail Date: 04/20/2010

Applicant	: Toshiyuki Tanaka	: DECISION ON REQUEST FOR
Patent Number	: 7623896	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/945,955	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/22/2004	: 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Melanie L. McCollum
Oliff & Berridge, PLC
Alexandria, VA 22314

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OFFICE OF PETITIONS

In re Application of

Maura A. Sweeny et al.
Application No. 10/945,970
Filed: September 22, 2004
Attorney Docket No. 118997

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed July 11, 2006.

The request is **APPROVED**.

A review of the file record indicates that Melanie 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 no outstanding Office action at this time.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

David Bucci
Petitions Examiner
Office of Petitions

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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/945,972	9/22/2004	You-Chan Woun	47359

ROYLANCE, ABRAMS, BERDO & GOODMAN, L.L.P.
1300 19TH STREET, N.W.
SUITE 600
WASHINGTON, DC 20036

DATE MAILED: August 29, 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 August 21, 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.

Kaletus King
Pre-Grant Publication Division

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

VLAD MITLIN
15358 CALLE JUANITO
SAN DIEGO, CA 92129-1013

MAIL

SEP 13 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Vlad Mitlin
Application No.: 10/945,974
Filed: September 22, 2004
For: PHASE SHIFTERS FOR PEAK-TO-AVERAGE POWER RATIO REDUCTION IN MULTI-CARRIER COMMUNICATION SYSTEMS

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed September 22, 2004 under 37 C.F.R. §102(c) and M.P.E.P. § 708.02(III): Health, to make the above-identified application special.

A grantable petition to make special under 37 C.F.R. § 1.102(c), and M.P.E.P. § 708.02, Section III, must be accompanied a showing, as by doctor's certificate, that the state of health of the applicant is such that he/she might not be available to assist in the prosecution of the application if it were to run its normal course. No fee is required for such a petition.

The petition includes a showing of applicant's current state of health as required under M.P.E.P. § 708.02, Section III.

Accordingly, the petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for expedited examination.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

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EXXONMOBIL RESEARCH AND ENGINEERING COMPANY
P.O. BOX 900
1545 ROUTE 22 EAST
ANNANDALE, NJ 08801-0900

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JAN 12 2005

OFFICE OF PETITIONS

In re Application of :
Sabottke, at al. :
Application No. 10/946,020 : ON PETITION
Filing Date: November 18, 2004 :
Atty. Dkt. No.: 752-001A :

This is a decision on the "PETITION PURSUANT TO 37 C.F.R. 1.182 TO ACCEPT OMITTED DRAWING," filed November 18, 2004.

The application was deposited September 21, 2004. The instant petition precedes mailing of the Notice of Omitted(s) in a Nonprovisional Application ("Notice") was mailed November 24, 2004. This petition, however, will be construed as petitioners' response to the Notice which indicates that the application had been accorded a filing date but that Figure 12 as described in the specification appeared to have been omitted from the application.

The Notice permitted applicant to either: (1) promptly establish prior receipt in the PTO of the omitted items at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the items in question were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted items and accept the date of such submission as the application filing date must file any omitted items with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the Notice (37 CFR 1.181(f)).

Petitioners have effectively elected (2) set forth above. Petitioners request that the filing date of the instant application be that of the date of submission of the omitted item. Petitioners have submitted a copy of the omitted figure along with a supplemental declaration.

In view of the above, the petition is hereby **GRANTED**.

This application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of November 18, 2004 and with entry of Fig. 12.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
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MORGAN, LEWIS & BOCKIUS LLP (SF)
2 PALO ALTO SQUARE
3000 EL CAMINO REAL, SUITE 700
PALO ALTO CA 94306

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APR 20 2007
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In re Patent No. 7,011,370	:	
Issue Date: March 14, 2006	:	
Application No. 10/946,023	:	ON PETITION
Filed: September 21, 2004	:	
Attorney Docket No. 061712-5016	:	

This is a decision on the petition, filed April 19, 2006, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition 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 Certificates 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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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HOWARD J. GREENWALD P.C.
349 W. COMMERCIAL STREET
SUITE 2490
EAST ROCHESTER, NY 14445-2408

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JUN 15 2006

OFFICE OF PETITIONS

In re Application of	:	
Patrick Connelly et al	:	
Application No. 10/946,026	:	DECISION ON PETITION
Filed: September 21, 2002	:	TO WITHDRAW
Attorney Docket No. PRC-712	:	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 **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Howard J. Greenwald and all the attorneys/agents of record associated with customer No. 37282 have been revoked by the assignee of the patent application on April 11, 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 applicants.

This application is being referred to Technology Center AU 3762.

Telephone inquires concerning this decision should be directed to Wan Laymon at 571-272-3220.

Amelia Au
Petitions Examiner
Office of Petitions

cc: BASCH & NICKERSON
1777 PENFIELD ROAD
PENFIELD, NY 14526

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/946,026	09/21/2004	Patrick Connelly	P0031324.03 (009.7009X1X1	8167

27581 7590 03/12/2010
MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS, MN 55432-9924

EXAMINER
EVANISKO, GEORGE ROBERT

ART UNIT	PAPER NUMBER
3762	

MAIL DATE	DELIVERY MODE
03/12/2010	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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MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS MN 55432-9924

In re Application of: CONNELLY et al.
Serial No.: 10/946,026
Filed: September 21, 2004

Title: MRI-RESISTANT IMPLANTABLE DEVICE

DECISION ON PETITION

This is a decision on the petition filed on February 22, 2010 by which petitioners request the Director review the examiner's refusal to enter a supplemental amendment filed on April 21, 2009, and to instruct the examiner to enter the supplemental amendment. This petition is considered as pursuant to 37 CFR 1.181 and no fee is required.

The petition is **DISMISSED**.

The record shows the following:

Apr 2, 2009	Applicants file an amendment in response to an action on the merits.
Apr 21, 2009	Applicants file a supplemental amendment adding 89 new claims
Jul 9, 2009	Final rejection mailed in which applicants are notified the supplemental reply of April 21, 2009 has not been entered because it did not comply with 37 CFR § 1.111(a)(2)(ii)
Nov 24, 2009	Applicants file an after-final amendment with arguments under 37 CFR § 1.116. The amendment is accompanied by a request for reconsideration of the decision in the final rejection not to enter the April 21, 2009 supplemental amendment.
Dec 23, 2009	Advisory action mailed notifying applicants the November 24 reply fails to place the application in condition for allowance
Jan 11, 2010	Notice of appeal filed

Jan 22, 2010	Applicants file a non-compliant information disclosure statement after final rejection
Feb 5, 2010	Second advisory action mailed responding to the information disclosure statement
Feb 22, 2010	Petition filed

Discussion and Analysis

In the petition, petitioners state they made a decision to copy claims after the April 2, 2009 amendment had been filed, and that a decision was made to file the copied claims as a supplemental amendment in the current application in order to comply with the requirements under 35 U.S.C. 135 (b)(1).[1] Petitioners state the petition is timely under 37 CFR § 1.181(f) because it is "being filed within two months of the decision on reconsideration issued on December 23, 2009."

Petitioners state they "could have copied claims in a continuation and those claims would have been entered as a matter of right.... Instead, in order to be candid with the Examiner, the copied claims were presented in the same application as pending claims 41 to 50 [sic][2] to enable the Examiner to make his own determination as to which claims should be involved in interference."

Petitioners argue that "37 C.F.R. § 1.111(2)(i) [sic][3] ... makes clear that entry of a supplemental reply is not a matter of right and identifies a number of situations where entry is to be made, that list is not exhaustive and entry is still discretionary with the examiner." Further, because applicants were attempting to comply with the statutory requirement (of 35 U.S.C. 135), the Director is requested to "exercise his supervisory authority and discretion and instruct the Examiner to enter the Supplemental Amendment." That the Director's refusal to do so could subject applicants' continuation application containing these copied claims "to either a rejection under 35 U.S.C. § 135 or a motion for judgment of an interference is declared [sic]."

Petitioners go on to argue the entry of the supplemental amendment "will not entail much more work," that entry "would require much less use of Office resources than the review process entailed in deciding this petition," and that once the amendment is entered, "the Examiner need only review the copied claims against Claims 41 to 50 [sic]."

Petitioners request relief in the form an instruction to the examiner to enter the amendment filed April 21, 2009. Alternatively, the examiner is to be instructed to consider the claims submitted on April 21, 2009 to have been presented within one year of U.S. Pat. 7,363,090 issue date so that no rejection under 35 U.S.C 135 will be made in any continuation or RCE in which those claims "are represented for examination."

---

[1] "The sole purpose of that Supplemental Amendment was to copy claims from the '090 patent by April 22, 2009 as required by 35 U.S.C. § 135(b)(1)..." Petition, p. 2.
[2] A review of the record reveals there is no claim numbered "45." Therefore, the pending claims should be numbered as Claims 41-49.
[3] 37 C.F.R. § 1.111(a)(2)(i)

A review of the April 21, 2009 supplemental amendment reveals that it contained:

1. New amendments to previously entered Claims 46 and 48
2. Eighty-nine (89) new claims filed without the appropriate status identifiers indicated after each claim number [4]
3. No Claim 45
4. A statement on page 1 that the newly added claims were copied "in identical and modified forms" from U.S. Pat 7,363,090
5. A statement on page 22 stating that some of the claims had been copied from application 11/214,621

The prosecution history reveals that applicants filed their written request for reconsideration in an after-final communication dated November 24, 2009;[5] and that applicants filed this petition more than seven (7) months after the date of the final rejection.

Decision

Petition Timeliness

Applicants took more than two months from the date of the final rejection to file their written request for reconsideration.[6]

37 CFR § 1.181(c) states, in part:

> When a petition is taken from an action or requirement of an examiner in the *ex parte* prosecution of an application, or in the *ex parte* or *inter partes* prosecution of a reexamination proceeding, **it may be required that there have been a proper request for reconsideration (§ 1.111) and a repeated action by the examiner.** (Emphasis added)

Next, it took petitioners more than seven months from the date of the final rejection to file this petition requesting relief.

37 CFR § 1.181(f) states, in part:

> Any petition under this part not filed within two months **of the mailing date of the action or notice from which relief is requested** may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable. (Emphasis added)

Petitioners are not correct in stating the action from which relief is requested is the denial of the request for reconsideration made December 23, 2009. Rather the two month period runs from the mailing of the final rejection on July 9, 2009. The final rejection contained the denial of entry of the supplemental amendment.

Therefore, the petition is untimely.

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[4] The claims should have been identified as "(New)" – see 37 CFR § 1.121(c).

[5] This request was more than three (3) months after the final rejection containing the notice of non-entry of the supplemental amendment.

[6] Such a request is not always required, and may depend on the nature of the request.

Entry of supplemental amendment

Even if the petition was timely, the supplemental amendment filed on April 21, 2009 was non-compliant and was not entitled to entry under 37 CFR § 1.111.

The supplemental amendment was defective under 37 CFR § 1.121, because of errors involving claim numbering and omitted claim status identifiers. MPEP 714.03(a) states: "If a supplemental reply is a non-compliant amendment under 37 CFR 1.121 ..., **the supplemental reply will not be entered.**" Further, the supplemental amendment added eighty-nine new claims without identifying which were copied from USP 7,363,090 or from application 11/214,621. The failure to provide even the most basic claim chart would mean the supplemental reply would require the examiner to perform an extensive comparison, not the "cursory review" threshold described in MPEP 714.03(a).

Other relief requested

Regarding petitioners' request for an instruction to the examiner that certain rejections not be made against these claims at a future date, petitioners have failed to state any appropriate grounds for such an instruction for an action not yet taken. In addition, petitioners' request relates to the merits and thus, is an appealable matter, which is not appropriately addressed in a petition.[7]

Interviews

From the petition's summary of events, Mr. Anthony Zupcic appears to have held numerous interviews with the examiner and other Office staff. The record does not show Mr. Zupcic having a power of attorney for this application. So any interviews held with Mr. Zupcic were with a representative who was not of record. Further, the petition summary of these interviews cannot be considered for their accuracy because some statements are attributed to unnamed employees and other statements are attributed to parties not in direct communication with the unauthorized attorney. Because these characterizations do not appear to bear directly on questions of patentability, no attempt will be made to point out inaccuracies.[8]

Petitioners are reminded that "in every instance where reconsideration is requested ... a complete written statement of the reasons presented at the interview ... must be filed by the applicant."[9]

Terminal Disclaimer

Applicants are advised that during this review of the application, it has been determined the terminal disclaimer filed on December 27, 2007 was filed with an improper statement under 37 CFR § 3.73(b).

[7] 37 CFR § 1.181(a)(1) and MPEP 1201
[8] MPEP 713.04
[9] 37 CFR § 1.133(b)

Conclusion

The petition is DISMISSED as untimely.

Many of petitioners' arguments appear to be a request to waive or suspend the rules, petitioners may wish to review 37 CFR § 1.183 prior to filing another petition on this matter.

The time period for response continues to run from the date of the filing of the Notice of Appeal. Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181. No extension of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181".

Any inquiry regarding this decision should be directed to Josie Ballato, Special Programs Examiner, at (571) 272-3567

Donald T. Hajec, Director
Technology Center 3700
Mechanical Engineering, Manufacturing, Products
And Designs

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SPRINKLE IP LAW GROUP
1301 W. 25TH STREET
SUITE 408
AUSTIN, TX 78705

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JUL 31 2007

OFFICE OF PETITIONS

In re Application of
Stuart A. Tison, et al.
Application No. 10/946,031
Filed: September 21, 2004
Attorney Docket No. ENTG1530-1

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 27, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Sprinkle IP Law Group has been revoked by the assignee of the patent application on March 7, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: ROBERT A. SHRIVANEK, JR.
LOWRIE, LANDO & ANASTASI, LLP
RIVERFRONT OFFICE PARK
ONE MAIN STREET
ELEVENTH FLOOR
CAMBRIDGE, MA 02142

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EXXONMOBIL RESEARCH AND ENGINEERING COMPANY
P.O. BOX 900
1545 ROUTE 22 EAST
ANNANDALE NJ 08801-0900

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MAR 2 5 2005

OFFICE OF PETITIONS

In re Application of	:	
Sabottke et al.	:	DECISION ON PETITION
Application No. 10/946,032	:	
Filed: November 18, 2004	:	
Attorney Docket No. GJH-0431	:	
(P2003J092)	:	

This is a decision on the petition under 37 CFR 1.182, filed November 18, 2004, requesting that the above-identified application be accorded the later filing date of November 18, 2004, the date omitted Figures 12a-17 were filed with the United States Patent and Trademark Office.

On September 21, 2004, applicants deposited the above-identified application. However, on November 8, 2004, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s) in a Nonprovisional Application," stating that the application had been accorded a filing date of September 21, 2004, and advising applicants that Figures 12a-17 appeared to have been omitted from the application.

In response, on November 18, 2004, applicants filed the present petition, an authorization to charge the petition fee, a supplemental declaration and 19 sheets of drawings, including Figures 12a-17 described in the specification. Applicants requested that the above-identified application be accorded the later filing date of November 18, 2004, the date omitted Figures 12a-17 were filed with the Office.

The petition is **granted**.

The Office of Initial Patent Examination is directed **to correct the filing date to November 18, 2004,** using the 19 sheets of drawings submitted on November 18, 2004. The Office is also directed to mail a corrected filing receipt.

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-3873

MAILED

JUL 0 5 2005

Technology Center 2100

In re Application of: S. Suzuki et al.
Application No. 10/946,034
Filed: September 22, 2004
For: STORAGE SYSTEM

DECISION ON PETITION
FOR ACCELERATED
EXAMINATION UNDER
M.P.E.P.§708.02(VIII)

This is a response to the petition filed May 17, 2005 under 37 C.F.R. 102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Petition to Make Special **GRANTED** since all of the requirements for special status under MPEP § 708.02(VIII) have been met.

The application file is being forwarded to the Examiner for accelerated examination in accordance with the procedures set forth in M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

AWK

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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

ON PETITION

In re Application of	:
Susumu Suzuki et al	:
Application No. 10/946,034	:
Filed: September 22, 2004	:
Attorney Docket No. 843.44293X00	:

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 February 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) 272-3208.

The examiner of Technology Center AU 2163 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

[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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VAN OPHEM & VANOPHEM, PC
REMY J VANOPHEM, PC
51543 VAN DYKE
SHELBY TOWNSHIP, MI 48316-4447

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JUL 21 2008

In re Application of	:	
Angelo J. D'Ambrosio	:	
Application No. 10/946,041	:	DECISION ON PETITION
Filed: September 21, 2004	:	TO WITHDRAW
Attorney Docket No. DAJ100A US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 11, 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 Remy J Van Ophem on behalf of all attorneys of record who are associated with customer No. 21133.

All attorneys/agents associated with the Customer Number 21133 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.

The application became abandoned for failure to timely reply to the Office action mailed September 11, 2007.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: ANGELO D'AMBROSIO
185 FLICKER STREET
ROCHESTER HILLS, MI 48309

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/946,041	09/21/2004	Angelo J. D'Ambrosio	DAJ100A US

CONFIRMATION NO. 1537

POWER OF ATTORNEY NOTICE

OC000000031012277

21133
VAN OPHEM & VANOPHEM, PC
REMY J VANOPHEM, PC
51543 VAN DYKE
SHELBY TOWNSHIP, MI 48316-4447

Date Mailed: 07/16/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/11/2008.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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Vista IP Law Group LLP
2040 MAIN STREET, Suite 710
IRVINE, CA 92614

Mail Date: 04/21/2010

Applicant	: Gail Lebovic	: DECISION ON REQUEST FOR
Patent Number	: 7616732	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/946,044	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/21/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **458** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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DLA PIPER RUDNICK GRAY CARY US LLP
153 TOWNSEND STREET
SUITE 800
SAN FRANCISCO, CA 94107-1907

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OFFICE OF PETITIONS

In re Application of	:	
IANNELLI	:	
Application No. 10/946,056	:	DECISION ON PETITION
Filed: September 21, 2004	:	TO WITHDRAW
Attorney Docket No. 4315	:	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 02, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to DLA PIPER RUDNICK GRAY CARY US LLP has been revoked by the assignee of the patent application on October 27, 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 address indicated below until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 6825.

Patricia Volpe
Petitions Examiner
Office of Petitions

cc: **EMCORE CORPORATION**
1600 EUBANK BLVD, S.E.
ALBUQUERQUE, NM 87123

cc: **EMCORE CORPORATION**
10420 RESEARCH ROAD SE
ALBUQUERQUE, NM 87123

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/946,056	09/21/2004	John Michael Iannelli	2504576-991200 (4315)

CONFIRMATION NO. 1538

OC000000021569126

29585
DLA PIPER RUDNICK GRAY CARY US LLP
153 TOWNSEND STREET
SUITE 800
SAN FRANCISCO, CA 94107-1907

Date Mailed: 12/12/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/27/2006.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

PVolpe

PATRICIA A VOLPE
OP (571) 272-6825

FORMER ATTORNEY/AGENT COPY

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Melanie L. McCollum
Oliff & Berridge, PLC
Alexandria, VA 22314

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In re Application of	:	
Masao Seto et al.	:	
Application No. 10/946,068	:	DECISION ON PETITION
Filed: September 22, 2004	:	TO WITHDRAW
Attorney Docket No. 117245	:	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 no outstanding Office action at this time.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

David Bucci
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 30, 2007

TO SPE OF : ART UNIT 3729

SUBJECT : Request for Certificate of Correction for Appl. No. 10/946124 patent No.: 7,148,728

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: _____

PETER VO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

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

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

MAILED

JUN 15 2009

OFFICE OF PETITIONS

In re Application of Peterson :
Application No. 10/946,127 :
Filing Date: September 20, 2004 :
Attorney Docket No. 15895US12 :

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed March 23, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon.

Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

This application is being forwarded to Technology Center Art Unit 2432 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.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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
10/946,127	09/20/2004	2432	855	15895US12	65	2

CONFIRMATION NO. 8302

CORRECTED FILING RECEIPT

23446
MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

OC000000036460444

Date Mailed: 06/12/2009

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)

James C. Peterson, Menomonee Falls, WI;

Assignment For Published Patent Application

PKWare, Inc.

Power of Attorney: The patent practitioners associated with Customer Number 23446

Domestic Priority data as claimed by applicant

This application is a CON of 10/620,960 07/16/2003 ABN
and is a CIP of 09/803,355 03/09/2001 PAT 6,879,988

Foreign Applications

If Required, Foreign Filing License Granted: 11/13/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/946,127**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Method and system for decryption of file characteristics of .ZIP files

Preliminary Class

380

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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LAURA C. HARGITT
GENERAL MOTORS CORPORATION
LEGAL STAFF, MAIL CODE 482-C23-B21
P.O. BOX 300
DETROIT, MI 48265-3000

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FEB 27 2008

OFFICE OF PETITIONS

In re Application of	:	
Eberlein, Wolfgang	:	
Application No. 10/946,138	:	DECISION ON PETITION
Filed: September 21, 2004	:	
Attorney Docket No. GP-305140	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 22, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), an Amendment and a Terminal Disclaimer, (2) the petition fee, and (3) a proper statement of unintentional delay.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center 3726 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: CARY BROOKS
REISING, ETHINGTON, BARNES, KISSELLE, P.C.
P.O. BOX 4390
TROY, MI 48099

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Paul K. Legaard
ISIS PHARMACEUTICALS, INC
1896 Rutherford Road
Carlbad, CA 92008

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OFFICE OF PETITIONS

In re Application of	:	
BHAT, et al.	:	
Application No. 10/946,147	:	DECISION ON PETITION
Filed: September 20, 2004	:	TO WITHDRAW
Attorney Docket No. CHEM0011US	:	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 05, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to COZEN O'CONNOR, P.C. has been revoked by the assignee of the patent application on June 29, 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 Patricia Volpe at 571-272-6825.

David Bucci
Petitions Examiner
Office of Petitions

cc: KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 Main Street
Fourteenth Floor
Irvine, CA 92614

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OCT 11 2005

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

In re application of	:	**DECISION ON PETITION**
Scott R. Mallett, et al.	:	**TO MAKE SPECIAL**
Application No. 10/946,161	:	**(ENVIRONMENTAL QUALITY)**
Filed: September 21, 2004	:	
For: DISPOSABLE CONTAINER FOR USE IN	:	
A WASTE SORTING SYSTEM	:	

This is a decision on the petition submitted on September 21, 2004, under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section V: Environmental Quality, particularly water and soil.

A grantable petition to make an application special under 37 C. F. R. 1.102(c), MPEP 708.02, Section V for an invention which materially enhances the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life-sustaining elements-air, water and soil, must be accompanied by affidavits or declaration under 37 CFR 1.102 by applicants or their attorney explaining how the invention contributes to the maintenance or restoration of one of these life sustaining elements.

The petition includes a statement by applicants' attorney, John R. King. Mr. King states, "Using embodiments of Applicant's invention, hospitals will have access to novel devices and methods for quickly, accurately, and inexpensively sorting and/or disposing hazardous waste material. Because medical waste will be properly sorted by embodiments of Applicant's invention, the waste can be properly treated. Accordingly, contamination of the groundwater and soil will be minimized."

These statements are insufficient to grant a petition under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section V: Environmental Quality. In this regard, Mr. King's statements are lacking in that they fail to explain, and establish for the record, how applicants' invention contributes to the maintenance or restoration of the basic life-sustaining elements-air, water and soil. While it may be that medical waste can be quickly, accurately and inexpensively sorted as a result of applicants' invention, it is not clear from Mr. King's statement how this is accomplished or how, in fact, this leads to the "restoration" or "maintenance" of one or more of the basic life-sustaining elements-air, water and soil.

For the reasons stated above, the petition to make special based on Environmental Quality is **DISMISSED.**

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Should petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving the information as outlined above. Applicants should promptly submit a renewed petition to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Randolph A. Reese

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(571) 272-6619

RAR/rjc: 09/11/05

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 145
Alexandria, VA 22313-1450
www.uspto.gov

OCT 11 2005

KNOBBE MARTENS OLSON & BEAR LLP
2040 Main Street
Fourteenth Floor
Irvine, CA 92614

In re application of	:	**DECISION ON PETITION**
Scott R. Mallett et al	:	**TO MAKE SPECIAL**
Application No. 10/946,164	:	**(ENVIRONMENTAL QUALITY)**
Filed: September 21, 2004	:	
For: SYSTEM FOR SORTING WASTE		

This is a decision on the petition submitted on September 21, 2004, under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section V: Environmental Quality.

A grantable petition to make an application special under 37 C. F. R. 1.102(c), MPEP 708.02, Section V for an invention which materially enhances the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life-sustaining elements-air, water and soil, must be accompanied by affidavits or declaration under 37 CFR 1.102 by applicants or their attorney explaining how the invention contributes to the maintenance or restoration of one of these life sustaining elements.

Applicants' invention relates to a process and apparatus for the quick, accurate and inexpensive sorting of hazardous waste material. The petition states, "Because medical waste will be properly sorted by embodiments of Applicant's invention the waste can be properly treated. Accordingly, contamination of the ground water and soil will be minimized."

This statement is insufficient to grant a petition under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section V: Environmental Quality. In this regard, without some details setting forth how and in what manner applicants' invention functions to reduce contamination of ground water and soil, the above statements are nothing more than conclusions and, as such, are inadequate to establish for the record that the invention contributes to the maintenance or restoration of the basic life-sustaining elements-air, water and soil.

The petition to make special based on Environmental Quality is **DISMISSED.**

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Should petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving the information as outlined above. Applicants should promptly submit a renewed petition to the

Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(571) 272-6619

RAR/jwk: 9/3/05

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

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OFFICE OF PETITIONS

In re Application of

Morishita, et al.

Application No. 10/946,165

Filed: September 21, 2004

Attorney Docket No. K0448.70014US01

: DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed on July 23, 2007.

The petition is **granted**.

This application was held abandoned on February 26, 2006, after no response was received to the final Office action mailed November 25, 2005. The final Office action allowed a period for reply of three months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A Notice of Abandonment was mailed on August 14, 2006, indicating that a reply to the final Office action was not received. It is noted that both the final Office action and the Notice of Abandonment were returned to the USPTO as undeliverable.

Section 711.03(c)(II) of the *Manual of Patent Examining Procedure* ("MPEP") provides that in order to establish non-receipt of an Office action so as prove that the imposition of a holding of abandonment is improper, petitioner must: 1) provide a statement to the Office indicating that the Office action was not received by petitioner; 2) include in the statement an attestation to the fact that a review of the file jacket and docket records maintained by petitioner indicates that the Office action was not received; and 3) provide a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is, therefore, withdrawn.

The application file is being forwarded to Technology Center 1700, GAU 1713 for further processing including remailing of the final Office action and resetting of the period for reply.

Questions concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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JAMES C. WRAY
SUITE 300
1493 CHAIN BRIDGE ROAD
MCLEAN VA 22101

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FEB 21 2006

OFFICE OF PETITIONS

In re Application of :
Peter J. Cahill :
Application No. 10/946,169 : ON PETITION
Filed: September 22, 2004 :
Attorney Docket No. BRTRC :

This is a decision on the petition filed December 16, 2005, to withdraw the holding of abandonment for the above-identified application, which is treated under 37 CFR 1.181.

The petition to withdraw the holding of abandonment is **GRANTED**.

The application was held abandoned on August 4, 2005 for failure to file a timely response to the non-Final Office Action mailed May 3, 2005, which set a three (3) month shortened period for reply. No extensions of time in accordance with 37 CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed December 9, 2005.

Petitioner asserts that a proper response, was filed via facsimile transmission on August 3, 2003. In support, petitioner submits a copy of the reply said to have been filed, which includes a certificate of facsimile transmission pursuant to 37 CFR 1.8 and was acknowledged by the U.S. Patent and Trademark Office in an Auto-Reply Facsimile Transmission.

The evidence submitted corroborates a timely response to the non-Final Office Action. Accordingly, the holding of abandonment is withdrawn and the Notice of Abandonment is vacated. No petition fee Is due and none has been charged.

This matter is being referred to Technology Center 3641 for appropriate action on the amendment filed August 3, 2005, a copy of which was submitted December 16, 2005 with the instant petition.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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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MICHAEL, BEST & FRIEDRICH LLP
100 EAST WISCONSIN AVENUE
SUITE 3300
MILWAUKEE, WI 53202

Mail Date: 04/21/2010

Applicant	: Mark E. Reindle	: DECISION ON REQUEST FOR
Patent Number	: 7603744	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/946,219	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/21/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1274** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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KNOBBE MARTENS OLSEN BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA. 92614

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OFFICE OF PETITIONS

In re Application of	:	
Scott C. Mallett et al	:	
Application No. 10/946,252	:	DECISION ON PETITION
Filed: September 21, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. VESMED.001C1	:	37 CFR 1.102(c)(2)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(2)(i), filed September 21, 2004, to make the above-identified application special based on the invention materially enhancing the quality of the environment as set forth in M.P.E.P. § 708.02, Section V.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(2)(i) and MPEP § 708.02, Section V: Environmental Quality, must state that special status is sought because the invention materially enhances the quality of the environment by contributing to the restoration or maintenance of basic life-sustaining natural elements. If the disclosure is not clear on its face that the claimed invention materially enhances the quality of the environment by contributing to the restoration or maintenance of one of the basic life-sustaining natural elements, the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. No fee is required.

Petitioner states that the invention is drawn to a device and method for quickly, accurately and inexpensively sorting and or disposing of hazardous waste. Petitioner urges that the invention materially enhances the quality of the environment by efficiently sorting medical waste for proper disposal.

The instant petition fails to state how the invention is directed specifically and furthermore contributes to the restoration or maintenance of the basic life-sustaining natural elements, i.e., air, water, or soil. The invention is to general in application, specifically, a review of the claims indicates a method of sorting medical waste into containers and the subsequently closing of said container. Here, the claimed invention may be just beneficial to the environment, and therefore

not rise to the level of providing a restoration or maintenance of basic life sustaining elements. The claimed invention provides no disposal of pharmaceutical waste, merely the closing of the lid to the container when a preset fill level has been reached.

This lack of meeting the materiality standard of 37 CFR 1.102(c)(2)(i) does not permit the application to enjoy the benefits of advanced prosecution.

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 Thurman K. Page at 571-272-0602.

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 3629 for action in its regular turn.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

MAILED
APR 21 2010
OFFICE OF PETITIONS

In re Application of	:	
Ronald E. Betts, et al.	:	
Application No. 10/946,275	:	DECISION ON PETITION
Filed: September 20, 2004	:	
Attorney Docket No. 028174-0	:	

This is a decision on the petition under 37 CFR 1.182, filed January 15, 2010, to change the order of the names of the inventors.

The petition is **GRANTED**.

Office records have been corrected to reflect the change in the order of the named inventors. A corrected Filing Receipt, which sets forth the desired order of the named inventors, accompanies this decision on petition.

As authorized, the $400 fee for the petition under 37 CFR 1.182 has been assessed to petitioner's deposit account.

This application is being referred to Technology Center AU 3774 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-2991.

Terri Johnson

Terri Johnson
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
10/946,275	09/20/2004	3774	685	028174-0	17	2

CONFIRMATION NO. 7748

CORRECTED FILING RECEIPT

20350
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

OC000000041185572

Date Mailed: 04/19/2010

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Ronald E. Betts, La Jolla, CA;
Douglas R. Savage, Del Mar, CA;

Assignment For Published Patent Application

Sun Biomedical Ltd.

Power of Attorney: The patent practitioners associated with Customer Number 20350

Domestic Priority data as claimed by applicant

This application is a CON of 10/133,814 04/24/2002 PAT 6,939,376

Foreign Applications

If Required, Foreign Filing License Granted: 11/05/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/946,275**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

DRUG-DELIVERY ENDOVASCULAR STENT AND METHOD OF FORMING THE SAME

Preliminary Class

623

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign 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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THORPE NORTH & WESTERN, LLP.
P.O. BOX 1219
SANDY UT 84091-1219

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MAY 13 2009

OFFICE OF PETITIONS

In re Application of	:	
Dittmar, Edbert E. L.	:	
Application No. 10/946,279	:	ON PETITION
Filed: September 21, 2004	:	
Attorney Docket No. 3046-001.NP	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 26, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

As the Power of Attorney was only recently given to the petitioner, it is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center AU 3683 for further processing of the RCE under 37 CFR 1.114 filed concurrently with the instant petition.

Liana Walsh
Petitions Examiner
Office of Petitions

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MAYER & WILLIAMS PC
251 NORTH AVENUE WEST
2ND FLOOR
WESTFIELD, NJ 07090

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OFFICE OF PETITIONS

In re Application of	:	
Mark K. Young, et al.	:	
Application No. 10/946,351	:	DECISION ON PETITION
Filed: September 21, 2004	:	TO WITHDRAW
Attorney Docket No. 9005/61	:	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 18, 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 Stuart H. Mayer on behalf of all attorneys of record who are associated with customer No. 27774.

All attorneys/agents associated with the Customer Number 27774 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed August 15, 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: RED SKY SYTEMS, INC.
115 CORPORATE BOULEVARD
SOUTH PLAINFIELD, NJ 07080

cc: CHOATE, HALL & STEWART, LLP
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

OIPE
OCT 13 2005
PATENT & TRADEMARK OFFICE

Fw

Practitioner's Docket No. U 015323-5 PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Ronald R. SAVIN
Serial No.: 10/946,356 Group No.: 1714
Filed: September 20, 2004 Examiner.:
For: PROCESS FOR MANUFACTURING A LATEX COMPOSITION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

ATTENTION: Group Director, Group 1714 (MPEP section 1002.02(c))

PETITION TO MAKE SPECIAL BECAUSE OF APPLICANT'S AGE
(37 CFR SECTION 1.102(c) AND MPEP SECTION 708.02 IV)

Note: See MPEP section 708.02, 7th ed.

Applicant hereby petitions to make this application special because applicant is over 65 years of age.

As a showing of this fact, accompanying this petition is:

(check one of the following)

[ ] applicant's birth certificate.

[√] a declaration by the applicant that he/she is over 65 years of age.

No fee is required with this petition, in accordance with 37 CFR section 1.102(c).

CERTIFICATE OF MAILING/TRANSMISSION (37 CFR 1.8a)

I hereby certify that this correspondence is, on the date shown below, being:

MAILING

☒ deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

FACSIMILE

☐ transmitted by facsimile to the Patent and Trademark Office to (571) 273-8300

Signature

Date: October 7, 2005

CLIFFORD J. M

(type or print name of perso

PETITION GRANTED

William Krynski
Special Program Examiner
TC1700

NOV 16 2005

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Commissioner for Patents
United States Patent and Trademark Office
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MAR 15 2005

SWANSON & BRATSCHUN L.L.C.
1745 SHEA CENTER DRIVE
SUITE 330
HIGHLANDS RANCH CO 80129

In re Application of	:
Aaron B. Kanotor	:
Serial No.: 10/946,359	: STATUS LETTER
Filed: September 20, 2004	:
Attorney Docket No.: SURR.129	:

This is in response to the request, filed February 25, 2005, to withdraw from representation in the above identified application.

The request is incomplete as it gives no reason for, see 37 CFR 10.40. Therefor no withdrawal can be effected.

The request to withdraw is **DISMISSED**.

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 at Office facsimile number.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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PANITCH SCHWARZE BELISARIO & NADEL LLP
ONE COMMERCE SQUARE
2005 MARKET STREET, SUITE 2200
PHILADELPHIA, PA 19103

Mail Date: 04/20/2010

Applicant	: Kazushi Higashi	: DECISION ON REQUEST FOR
Patent Number	: 7646095	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/946,372	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/21/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **376** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re Application of	:	
Takeshi Watanabe et al	:	
Application No. 10/946,377	:	ON PETITION
Filed: September 22, 2004	:	
Attorney Docket No. 065905-0337	:	

This is a decision on the petition, filed March 2, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 4, 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 2852 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).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No.

DARBY & DARBY P.C.
P. O. BOX 5257
NEW YORK, NY 10150-5257

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DEC 27 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Kunisada et al. :
Application No. 10/946,388 :
Filed: November 24, 2004 :
Attorney Docket No.: :
20231/0201634-US0 :

This is a decision on the Petition Under 37 CFR 1.182 Submission of Omitted Page, filed November 24, 2004, requesting the above-identified application be accorded as the filing date, the date that Table 1, filed with the instant petition, is filed.

Application papers in the above-identified application were filed on September 21, 2004.

Applicant files the instant Petition and Table 1 via Express Mail, and requests the above-identified application be accorded as the filing date, the date that Table 1, filed with the instant petition, is filed.

Accordingly, the petition is **granted**.

The application is being forwarded to the Office of Initial Patent Examination for correction of the filing date to November 24, 2004, including Table 1 filed on November 24, 2004, and for the mailing of a corrected filing receipt and Notice of Omitted Item(s) in a Nonprovisional Application requiring a newly executed oath or declaration referring to able 1.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/946,418	09/21/2004	James Sheppeck	PH 7504 NP	8206

23914 7590 11/18/2005

STEPHEN B. DAVIS
BRISTOL-MYERS SQUIBB COMPANY
PATENT DEPARTMENT
P O BOX 4000
PRINCETON, NJ 08543-4000

EXAMINER
STOCKTON, LAURA

ART UNIT	PAPER NUMBER
1626	

DATE MAILED: 11/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES
PATENT AND
TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
Alexandria, VA. 22313-1450
WWW.USPTO.GOV

STEPHEN B. DAVIS
BRISTOL-MYERS SQUIBB COMPANY
PATENT DEPARTMENT
P.O. BOX 4000
PRINCETON, NEW JERSEY 08543-4000

Date: November 9, 2005
Application No. 10/946,418
Filed: September 21, 2004
Subject: **Substituted 1,3-dihydro-imidazol-2-one and 1,3-dihydro-imidazol-2-thione derivatives as inhibitors of matrix metalloproteinases and/or TNF-alpha converting enzyme (TACE)**

ON PETITION
37 CFR 1.48(a)

Receipt is acknowledged of the petition filed February 25, 2005 under 37 CFR 1.48(a) for correction of inventorship. The petition has been **GRANTED**.

In view of the papers filed on February 25, 2005, it has been found that Xiao-Tao Chen and Xiaohua He are also inventors of the present patent application and were not named as inventors when the application was originally filed. Accordingly, the inventorship in this application has been changed by the **addition of XIAO-TAO CHEN and XIAOHUA HE.** The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of the file jacket and PTO PALM data to reflect the inventorship as corrected.

Joseph K. McKane

JOSEPH K. MCKANE
United States Patent and Trademark Office
Technology Center 1600
SPE, ART UNIT 1626
Remsen 5A05
571-272-0699

UNITED STATES PATENT AND TRADEMARK OFFICE

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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: Jin-Shan Wang, et al.
Appl. No.: 10/946,425
Filing Date: September 21, 2004
Title: DESICCANT HAVING A REACTIVE SALT
Attorney Docket No.: 88188RLO
Pub. No.: US 2006/0060086 A1
Pub. Date: March 23, 2006

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), received on April 17, 2006, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error on page 10 of the publication as dependent claim 23 improperly includes the line number "15" as part of the claim.

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 typographical error in dependent claim 23 wherein the line number "15" was improperly included in the phrase "or both, are 15 part of an oligomeric or polymeric system" is an Office error, but it is not a material Office error under 37 CFR 1.221. The error is not a material Office error because the typographical error does not affect the understanding of the publication. The application is clearly understandable to one of ordinary skill in the art reading the application and claims. The mistake does not affect the public's ability to appreciate the technical disclosure of

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice).

Mark O. Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

Pet. Dec.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FEB 9 2005

In re Application of SELVAMANICKAM. Serial Number: 10/946,443 Filed: September 21, 2004 For: CHEMICAL VAPOR DEPOSITION (CVD) APPARATUS USABLE IN THE MANUFACTURE OF SUPERCONDUCTING CONDUCTORS	:	PETITION UNDER M.P.E.P.708.02 IX

This is in response to the petition filed September 21, 2004, requesting that the above-identified application be granted Special Status under Sections 708.02 IX of the MPEP and 37 CFR 1.102 (**no fee required**).

The request for Special Status considered under Section 708.02 IX is granted because criteria under 37 CFR 1.102 has been met.

The petition is **GRANTED.**

Richard Crispino, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

Smith Moore LLP
P.O. Box 21927
Greensboro, NC 27420

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/13/2008

TO SPE OF : ART UNIT **1600 (1624)**

SUBJECT : Request for Certificate of Correction on Patent No.: **7,247,625**

Attn: Kahsay Habte

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and forward within **7** days to: **Scanning customer Support**

Send copy also via PTO mail to:
Certificates of Correction Branch – 2900 South Tower 9A39A
Palm location **7580** - Tel. No. 308-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Ok to enter claims 14-15 as req. in C of C?

Ernest C. White, LIE - 308-9390x122
Certificates of Correction Branch

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

X Approved	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments:

_____

_____

_____

_____

_____

Det. Dec

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Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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FEB 17 2005

In re Application of WITZ et al. Serial Number: 10/946,495 Filed: September 21, 2004 For: MAGNETIC FUEL TREATMENT APPARATUS FOR ATTACHMENT TO A FUEL LINE	: : : : : : :	PETITION UNDER M.P.E.P.708.02 IV

This is in response to the petition filed September 21, 2004, requesting that the above-identified application be granted Special Status under Sections 708.02 IV of the MPEP and 37 CFR 1.102(c) (**no fee required**).

The request for Special Status considered under Section 708.02 IV is granted because criteria under 37 CFR 1.102(c) has been met.

The petition is **GRANTED.**

R Crispino

Richard Crispino, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

Meroni + Meroni
P.O. Box 309
Barrington, IL 60011

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Cozen O'Connor, P.C.
1900 Market Street
Philadelphia, PA 19103-3508

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OFFICE OF PETITIONS

In re Application of	:	
Andrew M. Siwkowski et al.	:	
Application No. 10/946,498	:	DECISION ON PETITION
Filed: September 21, 2004	:	TO WITHDRAW
Attorney Docket No. ISIS0217-100 (CORE003US)	:	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, 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 Paul K. Legaard and all attorneys/agents of record has been revoked by the assignee of the patent application on June 29, 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: McDermott Will & Emery
11682 El Camino Real
Suite 400
San Diego, CA 92130-2047

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United States Patent and Trademark Office
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KENYON & KENYON LLP
RIVERPARK TOWERS, SUITE 600
333 W. SAN CARLOS ST.
SAN JOSE, CA 95110

Mail Date: 04/21/2010

Applicant	: Peter Meuer	: DECISION ON REQUEST FOR
Patent Number	: 7657541	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/946,525	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/20/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1227** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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DAVIS & BUJOLD, P.L.L.C.
112 PLEASANT STREET
CONCORD, NH 03301

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OFFICE OF PETITIONS

In re Application of
Sandra Schmid, et al.
Application No. 10/946,542
Filed: September 21, 2004
Attorney Docket No. ZAHFRI P662US

ON PETITION

This is a decision on the petition, filed October 6, 2009, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

This application became abandoned for failure to submit corrected formal drawings on or before September 1, 2009 as required by the Notice of Allowability mailed June 1, 2009. A Notice of Abandonment was mailed on September 24, 2009. In response, on October 6, 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 corrected formal drawings, (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Publications to oversee the review of the drawing filed October 6, 2009 and for processing into a patent.

Telephone inquires related to this decision may be directed to the undersigned at (571) 272-3204. Status inquires related to processing at Publishing Division should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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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: Jin-Shan Wang, et al.
Appl. No.: 10/946,543
Filing Date: September 21, 2004
Title: LEWIS ACID ORGANOMETALLIC DESICCANT
Attorney Docket No.: 88158RLO
Pub. No.: US 2006/0059705 A1
Pub. Date: March 23, 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 granted-in-part.

Applicant requests that the application be republished because the patent application publication contains material errors on page 2 of the publication as "R^1" is misprinted as "R^2" in paragraph [0029] and one of the structures in paragraph [0031] 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 with respect to "R^2" in paragraph [0029] will be corrected.

With respect to the statement that there is an error in one of the structures in paragraph [0031], Application has not identified a specific error I paragraph [0031].

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice).

Mark O. Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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MEREK BLACKMON & VOORHEES, LLC
673 S. WASHINGTON ST.
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Application of	:	
Gary A. Greenwell	:	
Application No. 10/946,549	:	ON PETITION
Filed: September 22, 2004	:	
Attorney Docket No. D2GRE001.B14	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 3, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Incomplete Nonprovisional Application (Notice) mailed November 29, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 30, 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

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

MEREK, BLACKMON & VOORHEES, LLC
673 S. WASHINGTON ST.
ALEXANDRIA VA 22314

In re Application of	:	
Greenwell	:	
Application No. 10/946,549	:	ON PETITION
Filed: November 2, 2005	:	
Attorney Docket No. D2GRE001.B14	:	

This is a decision on the petition , filed October 3, 2005, requesting that the above-identified application be accorded a September 22, 2004 filing date. The petition will be treated under 37 CFR 1.53(e). In addition, this petition will revisit the October 3, 2005 petition to revive under 37 CFR 1.137(b), the November 2, 2005 decision on petition, granting the October 3, 2005 petition to revive, and the May 4, 2006 Withdrawal of Previously Sent Notice.

The petition under 37 CFR 1.53(e) is **granted**.

The decision on petition dated November 2, 2005, granting the October 3, 2005 petition to revive under 37 CFR 1.137(b) is **vacated**. The petition to revive under 37 CFR 1.137(b) will now be treated as a petition under 37 CFR 1.183 to waive 37 CFR 1.53(e), which required applicant to respond to the November 29, 2004 Notice of Incomplete Nonprovisional Application within two months of its mail date.

The May 4, 2006 Withdrawal of Previously Sent Notice is **vacated**.

The application was deposited on September 22, 2004. On November 29, 2004, the Office of Initial Patent Examination mailed a Notice informing petitioner that no filing date had been accorded to the application papers deposited on September 22, 2004 because no drawings were present, as is required by 35 U.S.C. 113.

In response to the Notice, petitioners filed the present petition and a petition to revive under 37 CFR 1.137(b) on October 3, 2005. Petitioner delayed filing the instant petition from January 29, 2005, until October 3, 2005. Since the filing date petition was not timely filed, proceedings on the application were terminated, as was explained by the Notice of Termination of Proceedings under 37 CFR 1.53(e), mailed August 17, 2005. Presumably, petitioner filed the petition under

37 CFR 1.137(b) in response to the Notice of Termination of Proceedings under 37 CFR 1.53(e). However, it is not possible to revive an application that was never accorded a filing date. Accordingly, this application is not abandoned, the provisions of 37 CFR 1.137 do not apply in this instance, and the decision on petition, mailed November 2, 2005, is **vacated**. In addition, the May 4, 2006 Withdrawal of Previously Sent Notice is **vacated**.

Nonetheless, it is appropriate to apply the principles of Rule 137(b) to the situation at issue. Since 37 CFR 1.183 is based on equity, the Office may determine various requirements for relief and forms of relief. The record indicates the entire delay in the submission of the filing date petition was unintentional. In addition to the $400 petition fee paid for the filing date petition, petitioner has paid the fee for a revival petition based on unintentional delay - $750.00. Considering all the facts and circumstances, 37 CFR 1.153(e) will be waived and the filing date petition, filed on October 3, 2005, will be deemed to be timely filed.

Petitioner requests in his filing date petition that the above-identified application be accorded a filing date of September 22, 2004 on the basis that 8 sheets of drawing figures were received in the Patent and Trademark Office (PTO) on September 22, 2004. In support, the petition is accompanied by a copy of applicant's itemized postcard receipt showing an Office of Initial Patent Examination date stamp citing September 22, 2004 as the date of receipt. The postcard lists, *inter alia*, that the filing includes 8 sheets of formal drawings.

The return postcard constitutes *prima facie* evidence that 8 sheets of drawings were filed on September 22, 2004. MPEP 503. Accordingly, the request is granted. The $400.00 filing date petition fee will be applied towards the constructive Rule 183 petition.

Deposit account no. 50-0562 will be charged $255.00 because the Office refunded $255.00 of the $385.00 basic filing fee on August 18, 2005. The $130.00 retained for the processing fee will be once again applied to the $385.00 basic filing fee.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **September 22, 2004**, using the copy of the 8 sheets of drawings submitted with the instant petition. Office records will be corrected to show that 8 sheets of drawings were present on filing.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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DUCKOR SPRADLING METZGER & WYNNE
A LAW CORPORATION
3043 4TH AVE.
SAN DIEGO, CA 92103

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OFFICE OF PETITIONS

In re Application of :
John V. Smith et al :
Application No. 10/946,555 : ON PETITION
Filed: September 20, 2004 :
Attorney Docket No. 7719-118 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 5, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of August 10, 2005. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is November 11, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405 and the submission required by 37 CFR 1.114; (2) the petition fee of $770; and (3) a proper statement of unintentional delay.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210. This application is being referred to Technology Center AU 2835 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Irvin Dingle
Petition Examiner
Office of Petitions

cc: Gary L. Eastman
707 Broadway Street, Suite 1800
San Diego, CA 92101

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BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

Mail Date: 04/20/2010

Applicant	: Durai Chinnaiah	: DECISION ON REQUEST FOR
Patent Number	: 7570662	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/946,559	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/21/2004	: 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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Date :February 20, 2009

Patent No. :7247358
Inventor(s) :Hiroyuki Hashimoto et al
Issued :July 24, 2007
Title :LAMINATE CONTROLLING CURL OF HARDCOAT LAYER

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) 308-9380 ext. 123.

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 or (703) 308- 9390 ext. 123

Michael E. Hilton
Harness, Dickey & Pierce, P.L.C.
5445 Corporate Drive
Troy, MI 48098

/arg

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

In re Patent of Hashimoto et al.	:	
Patent No. 7,247,358	:	
Issue Date: July 24, 2007	:	Letter
Application No. 10/946,358	:	
Filing Date: September 21, 2004	:	
Attorney Docket No. 1300-000034/US	:	

This is a letter in response to the paper filed March 12, 2009, which is being treated as a request under 37 CFR 3.81 to accept the correction of the assignee data on the front page of the patent.

The request under 37 CFR 3.81 is **GRANTED**.

37 CFR 3.81(b) reads:

> 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.

In other words, the request under 37 CFR 3.81(b) will be granted when:

(1) a request under 37 CFR 3.81 and the fee set forth in 37 CFR 1.17(i) are filed,
(2) the assignment was submitted for recordation prior to issuance of the patent, and
(3) a request for a certificate of correction and the fee set forth in 37 CFR 1.20(a) are submitted.

Patentees have met the requirements set forth above. Therefore, the request is granted.

The Certificates of Correction Branch will issue the requested certificate of correction 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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Paper No.

Ryan, Mason & Lewis, LLP
Suite 205
1300 Post Road
Fairfield CT 06824

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OFFICE OF PETITIONS

In re Application of	:	
Ingo Ewes et al.	:	
Application No. 10/946,571	:	DECISION ON PETITION
Filed: September 21, 2004	:	PURSUANT TO
Attorney Docket No.: Ewes 6-5-1-11	:	37 C.F.R. § 1.59(b)
Title: HEAT-TRANSFER DEVICES	:	

This is a decision on the petition filed June 5, 2008, pursuant to 37 C.F.R. § 1.59(b), requesting the expungement of a statement that is contained in a response to a restriction requirement.

The petition is **DISMISSED**. The statement contained in Petitioner's response to a restriction requirement, received on April 5, 2006, will not be expunged from the record.

The application was filed on September 21, 2004. On March 2, 2006, the Office mailed a restriction requirement, which set a shortened statutory period to reply for one month and indicted that Petitioner would be required to either elect a single disclosed species (the Office action indicated that 11 independent species were present in the application) or traverse on the grounds that the species are not patentably distinct.

On April 5, 2006,[1] a response to this restriction requirement was received, where Petitioner indicated "the species are not patentably distinct." Consequently, the Examiner mailed a non-

1 It is noted that this response contains a certificate of mailing dated March 31, 2006.

final Office action on April 25, 2006, where the election of species requirement was withdrawn in reliance on this admission.

With this petition, Petitioner has submitted the petition fee, and seeks to withdraw this statement and have it expunged from the record, so that this statement cannot be used to form the basis of a rejection under 35 U.S.C. § 103(a).[2] Petitioner has asserted that this admission was "unintentionally submitted and the failure to withdraw this alleged admission would cause irreparable harm to Applicants."[3]

Petitioner has further alleged:

> In the Response to Restriction Requirement, submitted March 31, 2006, Applicants elected Group I, Fig 3, for prosecution on the merits and withdrew any claims corresponding to Groups II - XI, from prosecution.
>
> Petition, page 3.

37 C.F.R. §1.59 sets forth, *in toto*:

> (a)
> (1) Information in an application will not be expunged, except as provided in paragraph (b) of this section or § 41.7(a) of this title.
> (2) Information forming part of the original disclosure (i.e., written specification including the claims, drawings, and any preliminary amendment specifically incorporated into an executed oath or declaration under §§ 1.63 and 1.175) will not be expunged from the application file.
> (b) An applicant may request that the Office expunge information, other than what is excluded by paragraph (a)(2) of this section, by filing a petition under this paragraph. Any petition to expunge information from an application must include the fee set forth in § 1.17(g) and establish to the satisfaction of the Director that the expungement of the information is appropriate in which case a notice granting the petition for expungement will be provided.
> (c) Upon request by an applicant and payment of the fee specified in § 1.19(b), the Office will furnish copies of an application, unless the application has been disposed of (see §§ 1.53(e), (f) and (g)). The Office cannot provide or certify copies of an application that has been disposed of.
>
> [48 FR 2710, Jan. 20, 1983, effective Feb. 27, 1983; 49 FR 554, Jan. 4, 1984, effective Apr. 1, 1984; 49 FR 48416, Dec. 12, 1984, effective Feb. 11, 1985; 50 FR 23123, May 31, 1985, effective Feb. 11, 1985; revised, 60 FR 20195, Apr. 25, 1995, effective June 8,

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2 See page 4 of the final Office action of October 18, 2006, page 2 of the non-final Office action of May 21, 2007, pages 2-4 of the non-final Office action of October 31, 2007, and page 1 of this petition.
3 Petition, page 2.

> 1995; revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (b) revised, 65 FR 54604, Sept. 8, 2000, effective Nov. 7, 2000; para. (b) revised, 68 FR 14332, Mar. 25, 2003, effective May 1, 2003; revised, 68 FR 38611, June 30, 2003, effective July 30, 2003; para. (a)(1) revised, 69 FR 49959, Aug. 12, 2004, effective Sept. 13, 2004; para. (b) revised, 69 FR 56481, Sept. 21, 2004, effective Nov. 22, 2004]

It is noted that the matter Petitioner wishes to have expunged does not form part of the original disclosure, and as such, Rule 1.59(a) is not applicable.

It is further noted that on the third page of the restriction requirement, the Examiner set forth:

> Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

The response to the restriction requirement, received on April 5, 2006, has been reviewed, and it is noted that Petitioner executed the same. In this document, Petitioner indicated on three occasions "the species are not patentably distinct." Moreover, on page 9 of the response Petitioner filed on July 24, 2006, Petitioner argued that the rejection of claims 12-21 and 23 under 35 U.S.C. § 103(a) was improper due to his assertion that "the previously restricted inventions are patentable over the prior art." As such, with this argument, Petitioner supported his previous admission that the claims are not patentably distinct.

It is clear that the admission contained within the response of April 5, 2006 and the later support of this admission contained within the response dated July 24, 2006 were intentional actions. It is equally clear that Petitioner intended to traverse the restriction requirement by asserting that the species were not patentably distinct. Petitioner cannot explicitly set forth that "the species are not patentably distinct" so as to secure their concurrent examination by successfully traversing a restriction requirement, receive three subsequent Office actions where each of these eleven species was examined,[4] argue that if one group of claims is "patentable over the prior art" then the non-patentably

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4 A non-final Office action was mailed on April 25, 2006, a final Office action was mailed on October 18, 2006, a Request for Continued Examination (RCE) was filed on February 20, 2007, and a non-final Office action was mailed on May 21, 2007 (containing the rejection under 35 U.S.C. 103(a) at issue).

distinct restricted groups of claims are also patentable over the prior art, and subsequently obtain the expungement of this admission so as to prevent the Office from issuing the **exact type of rejection that was described in the portion of the restriction requirement reproduced above**.

Furthermore, it is noted that the non-final Office action of April 25, 2006 relied on this admission on pages 2-3, and the response of July 24, 2006 **confirms this admission** on page 9 and relies on the same. The final Office action of October 18, 2006 relies on this admission on page 4, and the after-final response of January 18, 2007 **confirms this admission** on page 8 and relies on the same. An advisory action was mailed on February 15, 2007, and it was not until the Request for Continued Examination (RCE) of February 20, 2007 that Petitioner first traversed this admission on page 7 of the same. As such, after making the admission and both confirming and relying on the same on two separate occasions, Petitioner then traversed the same.

Moreover, the procedures set forth in MPEP § 724 are designed to enable the Office to ensure as complete a patent file wrapper as possible. Rule 1.59(b) provides that information in an application will not be expunged, except as provided on petition. The well-established Office policy is to maintain a complete record of the prosecution history. Once the response to the restriction requirement was filed, it became a part of the prosecution history. The expungement of this admission would require removing the response to the restriction requirement, along with each subsequent Office action (and each response to these Office actions) from the official record, and would obscure the prosecution history. Petitioner has not submitted any argument that an exception to this policy is warranted in this instance. **Any issues arising from the filing of this admission need to be otherwise addressed on the record.**

Expungement of this admission is not appropriate.

It is noted in passing that Petitioner's assertion that in the response to the Restriction Requirement he "elected Group I, Fig 3, for prosecution on the merits and withdrew any claims corresponding to Groups II - XI, from prosecution" does not appear to be accurate. The response has been reviewed, and it is clear that Petitioner traversed the restriction requirement on the grounds that the claims are not patentably distinct, argued that all species be examined, and did not withdraw any claims corresponding to any species. It was *in the alternative* that Petitioner elected the claims corresponding to Group I, and as

such, the election of this species was predicated on a refusal by the office to accept Petitioner's primary assertion that "the restriction requirement is improper and should be withdrawn."[5]

It is further noted that non-elected claims are withdrawn from consideration by operation of law once an election is made, pursuant to 37 C.F.R. § 1.142.

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 concurrently submitted RCE can be processed.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[6] All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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5 Response to Restriction Requirement, page 1.
6 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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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
10/946,583	09/20/2004	2812	0.00	BOW5075.10A2	1	24	8

CONFIRMATION NO. 6341

CORRECTED FILING RECEIPT

OC000000014709964

8156
JOHN P. O'BANION
O'BANION & RITCHEY LLP
400 CAPITOL MALL SUITE 1550
SACRAMENTO, CA 95814

Date Mailed: 12/09/2004

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)

Robert W. Bower, Anacortes, WA;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CIP of 10/051,623 01/17/2002 PAT 6,812,547
which is a CON of 09/476,456 12/30/1999 PAT 6,346,458
which claims benefit of 60/114,494 12/31/1998

Foreign Applications

If Required, Foreign Filing License Granted: 11/12/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/946,583

Projected Publication Date: To Be Determined - pending completion of Missing Parts

Non-Publication Request: No

Early Publication Request: No

** SMALL ENTITY **

Title

Transposed split of ion cut materials

Preliminary Class

438

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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Ester Lee Daniel Jr.
Bank Street
P.O. Box 630
Clinton, LA 70722

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APR 29 2005

OFFICE OF PETITIONS

In re Application of :
Ester Lee Daniel Jr. :
Application No. 10/946,586 :
Deposited: September 18, 2004 : DECISION ON PETITION
Title of Invention: :
EASY SPRAYER ASSEMBLY :

This is a decision on the Petition and associated correspondence filed January 13, 2005, in response to a Notice of Incomplete Nonprovisional Application. The correspondence is properly treated as a Petition Under 37 CFR 1.53.

Background

The application was Deposited on September 18, 2004. On November 12, 2004, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application (hereinafter "Notice"), informing Applicant that the application had NOT been accorded a filing date because the specification did not include at least one claim, and the application had been deposited without drawings. The Notice further required an oath or declaration and an abstract. Finally, the Notice informed Applicant that pages 3-38 appeared to have been omitted from the application.

Applicant responds with the petition and amendment. It is noted that the application incorporates by reference prior application 10/282,961. Applicant represents in the petition that the prior application contained included a claim, drawings and an abstract. Based upon applicants' representation that the prior application includes a claim, drawings and an abstract, and the entire disclosure of application No. 10/282,961 was specifically incorporated by reference in the present application on September 18, 2004, it appears that at least one claim and drawing were present in the Office on September 18, 2004, albeit in the file of another application, i.e., application No.

10/282,961. Therefore, on petition, the application may be accorded the requested filing date.

The petition is granted. The petition fee will not be refunded as the petition was not necessitated by Office error.

It is also noted that Applicant has filed the declaration from prior application 10/282,961, and a Supplemental Declaration for the above-identified application. A newly executed oath or declaration is not required under 37 CFR 1.51(b)(2) and 1.53(f) in a continuation or divisional application, provided that the specification and drawings filed in the continuation or divisional application contain no matter that would have been new matter in the prior application. See 37 CFR 1.63(d)(1).

The application is being returned to the Office of Initial Patent Examination for further processing with a **filing date of September 18, 2004**, and an indication that the application included at least one claim and drawing, a declaration, and an abstract on filing.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Petitions Attorney
Office of Petitions

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MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

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NOV 0 3 2006

OFFICE OF PETITIONS

In re Application of
NEGLEY, et al.
Application No. 10/946,587
Filed: September 21, 2004
Attorney Docket No. 5308-445

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 27, 2006.

The request is **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.

A Review of the file discloses that a non-final Office action was mailed on June 30, 2006, which set forth a three month shortened statutory period for reply. Extensions of time under 37 CFR 1.136(a) are available. To date, there is no indication that a reply to the Office action of June 30, 2006 has been received.

Telephone inquiries concerning this decision should be directed to Patricia Volpe at 571-272-6825.

Patricia Volpe
Petitions Examiner
Office of Petitions

cc: Koppel, Patrick & Heybl
555 St. Charles Drive
Suite 107
Thousand Oaks, CA 91360

UNITED STATES PATENT AND TRADEMARK OFFICE

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Dale E. Sua-an
28 Greensward
Cherry Hill NJ 08002-4703

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OFFICE OF PETITIONS

In re Application of	:	
Dale E. Sua-an	:	
Application No. 10/946589	:	
Filing or 371(c) Date: 09/22/2004	:	DECISION ON
Title of Invention: D.E.S. SNOW SHIELD DEVICE	:	PETITION

This is a decision in response to the correspondence filed August 21, 2006, requesting revocation of the holding of abandonment. The correspondence is properly treated as a petition under 37 CFR 1.181. 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.

Background

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed October 31, 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 February 1, 2006. A Notice of Abandonment was mailed July 6, 2006.

Applicant files the present petition and asserts that a timely reply to the Office action was filed and received in this Office as is evidenced by the signed return address card, a photocopy of which is included with the petition.

A review of the return address card reveals that it is a copy of a certified mail receipt stamped by the USPS on January 31, 2006, and a copy of a Domestic return Receipt, stamped by this Office as received on February 3, 2006.

Applicable Law, Rules and MPEP

37 CFR 1.6, Receipt of correspondence, states that

> (a) Date of receipt and Express Mail date of deposit . Correspondence received in the Patent and Trademark Office is stamped with the date of receipt except as follows:
> (1) The Patent and Trademark Office is not open for the filing of correspondence on any day that is a Saturday, Sunday, or Federal holiday within the District of Columbia. Except for correspondence transmitted by facsimile under paragraph (a)(3) of this section, or filed electronically under paragraph (a)(4) of this section, no correspondence is received in the Office on Saturdays, Sundays, or Federal holidays within the District of Columbia.
> (2) Correspondence filed in accordance with § 1.10 will be stamped with the date of deposit as "Express Mail" with the United States Postal Service.
> (3) Correspondence transmitted by facsimile to the Patent and Trademark Office will be stamped with the date on which the complete transmission is received in the Patent and Trademark Office unless that date is a Saturday, Sunday, or Federal holiday within the District of Columbia, in which case the date stamped will be the next succeeding day which is not a Saturday, Sunday, or Federal holiday within the District of Columbia.

The section explains that correspondence filed with this office is accorded the date of receipt as the filing date, unless the correspondence is filed under 37 CFR §§ 1.8 or 1.10.

37 CFR 1.8, Certificate of mailing or transmission, states

> (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.

This section explains that correspondence mailed or sent via facsimile to this office may be accorded as a filing date the date the correspondence is deposited in the mail or transmitted via

facsimile if the correspondence includes a proper certificate of mailing or transmission under this section. ((Note, this method may not be used for the filing of new applications).

37 CFR 1.10, Filing of correspondence by "Express Mail, states that

> (1) 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.
> (2) The date of deposit with USPS is shown by the "date in" on the "Express Mail" label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the USPTO receipt date as the filing date. See § 1.6(a).

This section explains that correspondence may be accorded the date the correspondence is shown to have been deposited using the "Express Mail Post Office to Addressee" service of the USPS. (This method may be used for the filing of papers for the purpose of obtaining a filing date).

Analysis

Applicant has not demonstrated compliance with any of the above provisions. As such, the date the correspondence is received is the filing date accorded the application. In this instance, the correspondence was received in this Office on February 3, 2006, 2 days after the application became abandoned. Moreover, no request for an extension of time, and the appropriate fee, were filed. Accordingly, the application became abandoned February 1, 2006.

The petition is dismissed.

Alternative venue

Applicant is strongly urged to file a petition stating that the delay was either unavoidable or unintentional. An "unavoidable" or "unintentional" petition under 37 CFR 1.137(a), or 37 CFR 1.137(b) must be accompanied by the required fee, currently $250.00 (unavoidable), or $750.00 (unintentional).

The filing of a petition under 37 CFR 1.137(a) or (b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unavoidable or unintentional delay can not make a statement that the delay was unavoidable or 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 unavoidable or unintentional. A statement that the delay was unavoidable or unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revive under 37 CFR 1.137(a) or (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 decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Dale E. Sua-an
28 Greensward
Cherry Hill NJ 08002-4703

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OFFICE OF PETITIONS

In re Application of	:	
Dale E. Sua-an	:	
Application No. 10/946589	:	
Filing or 371(c) Date: 09/22/2004	:	DECISION ON
Title of Invention: D.E.S. SNOW SHIELD DEVICE	:	PETITION

This is a decision in response to the correspondence filed January 22, 2007, requesting revocation of the holding of abandonment. The correspondence is properly treated as a petition under 37 CFR 1.181. 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.

Background

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed October 31, 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 February 1, 2006. A Notice of Abandonment was mailed July 6, 2006.

Applicant files the present petition and asserts that a timely reply to the Office action was filed and received in this Office as is evidenced by the signed return address card, a photocopy of which is included with the petition.

A review of the return address card reveals that it is a copy of a certified mail receipt stamped by the USPS on January 31, 2006, and a copy of a Domestic return Receipt, stamped by this Office as received on February 3, 2006.

Decision dismissing the August 21, 2006 petition

A Decision dismissing the August 21, 2006 was mailed December 5, 2006. The Decision informed Applicant that 37 CFR 1.6 states clearly that, unless correspondence is filed using "Express Mail" under 37 CFR 1.10, or the Certificate of Mailing or Transmission procedures of 37 CFR 1.8, then all correspondence is stamped with the date of receipt.

The Decision explained that 37 CFR 1.8 governed correspondence mailed or transmitted via facsimile to this Office may be accorded as a filing date the date that the correspondence was deposited in the mail or transmitted via facsimile if the correspondence included a proper certificate of mailing or transmission under 37 CFR 1.8. The Decision also explained that correspondence may be accorded the filing date that the correspondence was shown to have been deposited Express Mail with the United States Postal Service ("USPS").

Applicant was advised that, since he had failed to demonstrate compliance with either 37 CFR 1.8 or 1.10, the date that the correspondence was received, February 3, 2006, was the filing date of the correspondence, which was also two (2) days after the application became abandoned.

The present renewed petition

Applicant files the present renewed petition and asserts that there is a discrepancy in that the Examiner informed Applicant that the Office did not receive a reply to the Office action, whereas the Decision mailed December 5, 2006, informed Applicant that the reply was received, albeit after the deadline for filing the reply had passed. Applicant states that this Office seemed to have looked for justification to dismiss his petition. Applicant also asserts that he had demonstrated the time element of his response and that he followed the USPTO Law as far as the timing of his response was concerned.

Applicable Law, Rules and MPEP

As stated in the Decision dismissing the August 21, 2006 petition, 37 CFR 1.6 states that correspondence is stamped with the date of receipt, unless it is filed under the provisions of 37 CFR 1.10 or 37 CFR 1.8. The MPEP further iterates that there are but three forms of acceptable evidence that will support a grantable petition to withdraw the holding of abandonment based upon evidence that a reply was timely mailed or filed: Express Mail under 37 CFR 1.10; Certificate of Mailing or Transmission under 37 CFR 1.8, or a return-receipt postcard as provided in the MPEP 503.

Analysis

Initially Applicant is advised that a reply to the Office action was received in this Office on February 3, 2006. The reply was due on January 31, 2006. The reply was not timely and therefore that application is properly held abandoned. The applicable rule, 37 CFR 1.135 mandates

> 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. (Emphasis supplied).

Here, Applicant has failed to comply with any of the methods outlined above. Applicant filed his correspondence using the Certified Mail procedure of the USPS. Applicant is advised that certified mail is NOT the same as using a "Certificate of Mailing" under 37 CFR 1.8, nor is certified mail the same as using "Express Mail" under 37 CFR 1.10. Because Applicant failed to use the procedures for Express Mail under 37 CFR 1.10; Certificate of Mailing or Transmission under 37 CFR 1.8, and does not have a return-receipt postcard as provided in the MPEP 503, a petition to withdraw the holding of abandonment based upon evidence that a reply was timely mailed or filed is not grantable.

Conclusion

The petition is dismissed.

After a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director. 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.

Alternate venue

Applicant is again urged to file a petition under 37 CFR 1.137(a) or (b) stating that the delay was either unavoidable or unintentional. Petitions under 37 CFR 1.137(b) are less burdensome (statement(s) rather than a showing accompanied by documentary evidence) to file and are evaluated under the less stringent "unintentional delay" standard. Applicants determining whether to file a petition to revive an application under 37 CFR 1.137(b) or 1.137(a) should take the following into account:

While the Office reserves the authority to require further information concerning the cause of abandonment and delay in filing a petition to revive, the Office relies upon the applicant's duty of candor and good faith and accepts 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" without requiring further information in the vast majority of petitions under 37 CFR 1.137(b). This is because the applicant is obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when a practitioner provides this statement to the Office. In addition, providing an inappropriate statement in a petition under 37 CFR 1.137(b) to revive an abandoned application may have an adverse effect when attempting to enforce any patent resulting from the application. See 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).
Even if the Office requires further information in a petition under 37 CFR 1.137(b), such petition is still significantly less burdensome to prepare and prosecute than a petition under 37 CFR 1.137(a). The Office is almost always satisfied as to whether "the entire delay...was unintentional" on the basis of statement(s) by the applicant or representative explaining the cause of the delay (accompanied at most by copies of correspondence

relevant to the period of delay). A showing of unavoidable delay will require: (1) evidence concerning the procedures in place that should have avoided the error resulting in the delay; (2) evidence concerning the training and experience of the persons responsible for the error; and (3) copies of any applicable docketing records to show that the error was in fact the cause of the delay. See MPEP § 711.03(c), subsection II.C.2. In addition, a petition under 37 CFR 1.137(a) must establish that the delay was unavoidable, and not just that it was unintentional[1]. Thus, many petitions originally filed under 37 CFR 1.137(a) end up being granted under 37 CFR 1.137(b) when the applicant realizes that sufficient evidence concerning the delay is too difficult to obtain or the cause of delay simply does not amount to "unavoidable delay" within the meaning of 37 CFR 1.137(a).

Since the requirements of 37 CFR 1.137(a) are more exacting than the corresponding requirements of 37 CFR 1.137(b), a petition under 37 CFR 1.137(a) is significantly less likely to be grantable as filed than is a petition under 37 CFR 1.137(b). The Office usually must render a number of interlocutory decisions dismissing a petition under 37 CFR 1.137(a) and requesting additional evidence until either the applicant provides a satisfactory showing of unavoidable delay (in which case the petition can be granted) or the Office concludes that the applicant cannot provide a satisfactory showing of unavoidable delay (in which case the petition must be denied). Thus, the period between when an applicant first files a petition to revive and the Office renders a decision granting (or denying) that petition will, more often than not, be much longer if the petition is under 37 CFR 1.137(a) than it would have been if the petition were under 37 CFR 1.137(b). 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.

---

[1] As discussed above, "unavoidable" delay is the epitome of "unintentional" delay. Thus, an intentional delay precludes revival under 37 CFR 1.137(a) ("unavoidable" delay) or 37 CFR 1.137(b) ("unintentional" delay). See Maldague, 10 USPQ2d at 1478. Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

In re Mattullath , 38 App. D.C. 497, 514-15 (1912)(quoting Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 667-68 (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 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Dale E. Sua-an
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MARLTON, NJ 08053-4148

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JAN 11 2008
OFFICE OF PETITIONS

In re Application of	:	
Dale E. Sua-an	:	
Application No. 10/946589	:	
Filing or 371(c) Date: 09/22/2004	:	DECISION ON
Title of Invention: D.E.S. SNOW SHIELD DEVICE	:	PETITION

This is a decision in response to the correspondence filed September 14, 2007, and re-filed September 17, 2007, requesting revocation of the holding of abandonment. The correspondence is properly treated as a renewed petition under 37 CFR 1.181.

This Petition is hereby **DENIED**. This decision is a final agency action within the meaning of 5 U.S.C. § 704 for purposes of seeking judicial review. See MPEP 1002.02.

Background

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed October 31, 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 timely received, the application became abandoned by operation of law on February 1, 2006. A Notice of Abandonment was mailed July 6, 2006.

The August 21, 2006 petition

Applicant filed a petition on August 21, 2006, to withdraw the holding of abandonment wherein Applicant asserted that a timely reply to the Office action was filed and received in this Office as is evidenced by the signed return address card, a photocopy of which was included with the petition.

A review of the return address card revealed that it was a copy of a Certified Mail Receipt stamped by the USPS on January 31, 2006, and a copy of a Domestic Return Receipt, stamped by this Office as received on February 3, 2006. No return receipt postcard was filed.

Decision dismissing the August 21, 2006 petition

A Decision dismissing the August 21, 2006 was mailed December 5, 2006. The Decision informed Applicant that 37 CFR 1.6 states clearly that, unless correspondence is filed using

"Express Mail" under 37 CFR 1.10, then all correspondence is stamped with the date of receipt.

The Decision also explained that correspondence may be accorded the filing date that the correspondence was shown to have been deposited Express Mail with the United States Postal Service ("USPS").

Applicant was advised that, since he had failed to demonstrate compliance with either 37 CFR 1.8 or 1.10, the date that the correspondence was received, February 3, 2006, was the filing date of the correspondence, which was also two (2) days after the application became abandoned.

The January 22, 2007 renewed petition

Applicant filed a renewed petition and asserted that there is a discrepancy in that the Examiner informed Applicant that the Office did not receive a reply to the Office action, whereas the Decision mailed December 5, 2006, informed Applicant that the reply was received, albeit after the deadline for filing the reply had passed. Applicant stated that this Office seemed to have looked for justification to dismiss his petition. Applicant also asserted that he had demonstrated the time element of his response and that he followed the USPTO Law as far as the timing of his response was concerned.

The May 1, 2007 Decision dismissing the petition

In a Decision dismissing the renewed petition,mailed May 1, 2007, this Office re-iterated the Decision dismissing the August 21, 2006 petition, wherein Applicant was informed that 37 CFR 1.6 states that correspondence is stamped with the date of receipt, unless it is filed under the provisions of 37 CFR 1.10. Applicant was also again informed that the MPEP further iterates three forms of acceptable evidence that will support a grantable petition to withdraw the holding of abandonment based upon evidence that a reply was timely mailed or filed: Express Mail under 37 CFR 1.10; Certificate of Mailing or Transmission under 37 CFR 1.8, or a return-receipt postcard as provided in the MPEP 503.

Applicant was advised that a reply to the Office action was received in this Office on February 3, 2006. The reply was due on January 31, 2006. The reply was not timely and therefore the application is properly held abandoned. Applicant was informed of the applicable rule, 37 CFR 1.135, which mandates

> 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. (Emphasis supplied).

Here, Applicant had failed to comply with any of the methods outlined above. Applicant filed his correspondence using the Certified Mail procedure of the USPS. Applicant was advised that certified mail is NOT the same as using a "Certificate of Mailing" under 37 CFR 1.8, nor is certified mail the same as using "Express Mail" under 37 CFR 1.10. Because Applicant failed to use the procedures for Express Mail under 37 CFR 1.10; Certificate of Mailing or Transmission under 37 CFR 1.8, and does not have a return-receipt postcard as provided in the MPEP 503, a

petition to withdraw the holding of abandonment based upon evidence that a reply was timely mailed or filed was not grantable.

The Decision informed Applicant that after a decision on the petition for reconsideration, no further reconsideration or review of the matter would be undertaken by the Director. Therefore, it was extremely important that petitioner supply **any** and **all** relevant information and documentation with his request for reconsideration. The Director's decision would be based solely on the administrative record in existence.

Applicant was also advised that an alternate venue existed to revive the application under 37 CFR §§ 1.137(a) or (b).

The June 27, 2007 correspondence

Applicant filed correspondence on June 27, 2007, wherein Applicant asserted that the abandonment of the application is based upon wrong information because there is a discrepancy regarding whether any reply was received, or whether a reply was received but untimely. Applicant asserted that the petition decision stated that the reply was not timely filed, however, according to the Examiner, no reply was received. Applicant stated that "the real issue... is whether there was a reply sent or not. Not whether the reply arrive on time or not."

The August 9, 2007 Letter

In a letter mailed to Applicant in response to the June 27, 2007 correspondence, Applicant was advised that the relevant issue is whether the application is abandoned. Here, the application is abandoned because Applicant failed to file a timely reply. The petition decisions had stated the background and basic facts, before any analysis of the facts were undertaken. As such, the background information stated that no reply was received, and the application became abandoned. Thereafter, an analysis of the facts was presented wherein it was stated in the Decision that a reply was received, albeit untimely.

Applicant was advised that the real issue is whether the application is abandoned. Applicant was informed that the application is in fact abandoned. The facts of the Decision admitted that a reply was received, but the application is nevertheless abandoned. Applicant was again informed that the application became abandoned because there was no timely reply to the Office action filed. The letter informed Applicant that, even if a reply was received, (and here it was), if the reply was untimely, (and here it was), then the application nevertheless became abandoned. The application would be abandoned whether no reply was received, or whether an untimely reply was received.

The present renewed petition

Applicant files the present renewed petition and again argues that the holding of abandonment was based upon the wrong information. Applicant argues that this office failed to forward his reply to the Examiner, and instead forwarded the reply "to another," which led to the abandonment of the application. Applicant asserts that the fact that a reply was sent has not

properly been addressed, and that if addressed, the holding of abandonment would be withdrawn. Applicant argues that this office should give a separate response to the issue of whether a response was received.

Applicable Law, Rules and MPEP

37 CFR § 1.135, Abandonment for failure to reply within time period, 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.

Opinion

Applicant's arguments have been considered, however, Applicant is again informed that a reply to the Office action was received in this Office on February 3, 2006. The reply to the Office action was due January 31, 2006. Because the reply was not received prior to the due date for the reply, the application became abandoned on February 1, 2006.

Decision

The renewed petition to revoke the holding of abandonment under 37 CFR 1.181 is **DENIED**. No further consideration of the matter by the Director shall be undertaken. Any delay in filing a petition under 37 CFR 1.137 may be viewed as intentional delay, which will preclude revival of this application.

Telephone inquiries concerning this matter should be directed to Attorney Derek L. Woods at (571) 272-3232.

Charles Pearson
Director
Office of Petitions

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SUITE 2800
DALLAS TX.75201-2784

MAILED

FEB 23 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
David H. Tannenbaum :
Application No. 10/946,597 :
Filed: September 21, 2004 :
For: **SYSTEM AND METHOD FOR INTEGRATED PRINTING AND ASSEMBLY OF ELECTRONIC DOCUMENTS** :

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition to make special pursuant to 37 C.F.R. §1.102 and MPEP §708.02 (IV) (applicant's age) filed February 1, 2005.

A petition to make special under MPEP §708.02, IV, must show that petitioner is 65 years of age, or more. Acceptable evidence includes a birth certificate, copy of a driver's license, or simply a statement by the applicant. No fee is required.

The petition includes a statement signed by the inventor, stating that they are 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.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4778

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SUITE 2800
DALLAS, TX 75201-2784

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OFFICE OF PETITIONS

In re Application of	:	
TANNENBAUM	:	
Application No. 10/946,597	:	DECISION ON PETITION
Filed: September 21, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 005708/P011US/08008819	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 18, 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 evidence submitted with the instant petition is a copy of Mr. Tannenbaum's Drivers License indicating that he is at least 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Patricia Volpe at 571-272-6825.

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 3626 for action on the merits commensurate with this decision.

Patricia Volpe
Petitions Examiner
Office of Petitions

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ALAMEDA, CA 94501

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MAR 17 2008

In re Application of	:	
RON, Dorit	:	
Application No. 10/946,625	:	DECISION ON PETITION
Filed: September 20, 2004	:	TO WITHDRAW
Attorney Docket No. **316T-002620US**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 19, 2007.

The request is not approved because it is moot.

A review of the file record indicates that the power of attorney to Quine Intellectual Property Law Group, P.C. 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 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **JONES DAY**
222 EAST 41ST STREET
NEW YORK, NY 10017

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NEW YORK, NY 10005

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In re Application of	:	
Feltman, Joseph	:	
Application No. 10/946,635	:	ON PETITION
Filed: September 21, 2004	:	
Title: Pod Apparatus	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 29, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of requisite fees as listed in the Notice to File Missing Parts mailed January 24, 2005; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

Mail Date: 05/13/2010

Applicant	: Hans Naegerl	: DECISION ON REQUEST FOR
Patent Number	: 7615082	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/946,643	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/22/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1227** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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WASHINGTON DC 20007

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OFFICE OF PETITIONS

In re Application of	:	
Forster et al.	:	DECISION ON APPLICATION
Application No. 10/946,650	:	FOR
Filed: September 22, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. 044463-0348	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. §154(b)," filed January 31, 2008. Applicants request that the initial determination of patent term adjustment be corrected from zero (0) days to thirty-two (32) days.

The application for patent term adjustment is **DISMISSED**.

On November 1, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 0 days. The instant application for patent term adjustment was timely filed[1]. Applicants maintain that the period of reduction in association with the filing of a response on January 17, 2006 is 86 days, not 294 days.

Applicants are incorrect. The total period of reduction for applicant delay in taking action in response to the Notice to File Missing Parts of Application mailed December 29, 2004 and the Notice to Comply With Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures mailed November 17, 2005 is 294 days. Applicants did not file a response to the December 29, 2004 Notice until June 23, 2005, three months and 86 days later. Thus, pursuant to 1.704(b), applicants failed to engage in reasonable efforts

[1] PALM records indicate that the Issue Fee was received on January 31, 2008.

to conclude prosecution or examination and a period of reduction of 86 days was warranted. Further, the response had an omission, which led to the mailing of the Notice to Comply on November 17, 2005. Thus, this additional period of reduction is properly calculated pursuant to 37 C.F.R. 1.704(c)(7), not 1.704(b). 37 C.F.R. §1.704(c)(7) provides that:

> Submission of a reply having an omission (§1.135(c)), in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed.

Accordingly, pursuant to 37 C.F.R. § 1.704(c)(7), a period of reduction of 208 days was warranted for the period beginning on June 24, 2005 and ending on January 17, 2006, the date of filing of the response correcting the omission. Accordingly, the total period of reduction of 294 days (208 + 86 days) with respect to applicant delay in responding to these Notices is correct.

The initial determination of patent term adjustment at the time of the mailing of the notice of allowance of zero (0) days 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 Patent Publication has been advised of this decision. The application is thereby forwarded to the Office of Patent Publication 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 if applicable, 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

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OFFICE OF PETITIONS

In re Patent No. 7,402,428	:	DECISION ON REQUEST FOR
Issue Date: July 22, 2008	:	RECONSIDERATION OF
Forster et al.	:	DECISION ON APPLICATION
Application No. 10/946,650	:	FOR
Filed: September 22, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. 044463-0348	:	and
	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is in response to the REQUEST FOR RECONSIDERATION ON DECISION ON APPLICATION PATENT TERM ADJUSTMENT (DISMISSED) UNDER 35 U.S.C. §154(b) filed July 9, 2008.

The application for patent term adjustment is **GRANTED**.

On July 10, 2008, in furtherance of this decision, the Office 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 thirty-two **(32)** days. However, on July 22, 2008, the patent issued with a revised patent term adjustment of 0 days. For the reasons stated herein, the patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of one hundred thirty-two **(132)** days.

By decision mailed June 24, 2008, the initial "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. §154(b)," filed January 31, 2008 was dismissed. Applicants requested that the initial determination of patent term adjustment be corrected from zero (0) days to thirty-two (32)

days. Applicants maintained that the period of reduction in association with the filing of a response to the Notice to File Missing Parts of Application on January 17, 2006 is 86 days, not 294 days.

On instant request for reconsideration, applicants submit further argument in support of their contention. In particular, applicants point out the response filed January 17, 2006, was a resubmission of the response filed June 23, 2005.

Applicants' contention is well taken. The patent term adjustment of 0 days was previously affirmed on the basis that a reduction of 294 days, instead of 86 days, was warranted for an omission in the papers filed June 23, 2005, which was not corrected until the filing of papers on January 17, 2006[1]. However, a reconsideration of the evidence now makes clear that there was no omission. A review of the application history confirms that the responses filed June 23, 2005 and January 17, 2006 are the same. The January 17, 2006 response was submitted in response to a Notice to Comply With Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures mailed November 17, 2005. This response was submitted with an itemized and date-stamped return postcard to show the Office that the papers had been previously filed on June 23, 2005 in response to the Notice to File Missing Parts of Nonprovisional Application Papers mailed December 29, 2004 (This Notice also set forth the Sequence Requirements). Furthermore, in response to this resubmission of the June 23, 2005 papers, no omission was noted by the Office and processing of the application continued. Thus, it is concluded that applicants did not fail to engage in reasonable efforts to conclude processing or examination by submitting a response to a Sequence Requirement which contained an omission. The additional period of reduction for applicant delay of 208 days (294 - 86) pursuant to 37 CFR 1.704(c)(7) is being removed.

In view thereof, the initial determination of patent term adjustment at the time of the mailing of the notice of allowance has been corrected to thirty-two (32) days.

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[1] 37 C.F.R. §1.704(c)(7), provides that: Submission of a reply having an omission (§1.135(c)), in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed.

Subsequent to the mailing of the notice of allowance, periods of adjustment of 48 and 52 days were properly entered for Office delay.

Given these additional entries, the patent should have issued with a revised patent term adjustment of one hundred thirty-two (132) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) on initial application for patent term adjustment under 37 CFR 1.705(b) filed January 31, 2008. No additional fee is required on request for reconsideration of the decision on application for patent term adjustment.

This renewed petition was considered on July 10, 2008, and the correction to patent term adjustment was made at that time. However, it was unclear to the undersigned whether the correction would be effective to correct the revised patent term adjustment on the patent scheduled to issue July 22, 2008. It has become apparent that it was not.

Accordingly, the application 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 one hundred thirty-two **(132)** days.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,402,428 B2

DATED : **Jul. 22, 2008** **DRAFT**

INVENTOR(S) : Forster 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 0 days

Delete the phrase "by 0 days" and insert – by 132 days--

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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ROBERT DEBERARDINE
ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK, IL 60064-6008

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FEB 2 2 2007

OFFICE OF PETITIONS

In re Application of Schrimpf et al. :
Application No. 10/946,669 :
Filing Date: September 22, 2004 :
Attorney Docket No. 6494USD1 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(b), filed October 19, 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 9, 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 December 10, 2005. A Notice of Abandonment was mailed on May 17, 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 1624 will be informed of the instant decision and the application will be further examined in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

Wilson Daniel Swayze, Jr
3804 Clearwater Ct.
Plano, TX 75025

In re Application of Miner :
Application No. 10/946,683 : Decision on Petition
Filing Date: September 22, 2004 :
Attorney Docket No. WDS-130 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 19, 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 July 15, 2005, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on October 16, 2005. A Notice of Abandonment was mailed on February 15, 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 3617 will be informed of the instant decision and the application, including the amendment filed May 19, 2006, will be further examined in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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Schwegman, Lundberg & Woessner/EBAY
P.O. Box 2938
Minneapolis, MN 55402

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FROM DIRECTORS OFFICE
MAY 09 2008
TECHNOLOGY CENTER 3600

In re Application of
Jeff Clementz et al.
Application No. 10/946,710
Filed: September 21, 2004
For: **METHOD AND APPARATUS FOR MAINTAINING ACCOUNTS**

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicant's Petition to the Commissioner to withdraw the holding of abandonment according to 37 CFR 1.181 which was filed March 20, 2008.

The petition is **GRANTED**.

A review of the record shows that the application was held abandoned for failure to file a response subsequent to the filing of a Notice of Appeal dated July 24, 2007, within the Shortened Statutory Period of two months set therein. Applicant concurrently filed with the Notice of Appeal, a Request for Pre-Appeal Conference. A Pre-Appeal Conference Decision dated September 18, 2007 was sent by the Office setting a period of reply within a Shortened Statutory Period of one month set therein. A Notice of Abandonment was mailed on March 11, 2008. The maximum period of reply extendible under 37 C.F.R. 1.136 is five months extension of time. The deadline for filing of an Appeal Brief is a maximum of six months from the filing of the Pre-Appeal Conference Decision to a final deadline of March 21, 2008. The Notice of Abandonment was mailed prior to the deadline date of March 21, 2008.

Since a timely response to the Pre-Appeal Conference Decision was filed, the holding of abandonment is withdrawn and the application will be restored to pending status. The application is being forwarded to the Primary Examiner for prompt action on the merits of the claims.

Telephone inquiries relative to this decision should be directed to Supervisory Patent Examiner Alexander Kalinowski at (571) 272 -6771.

Katherine Malecki

for Wynn Coggins, Director
Patent Technology Center 3600
(571) 272-5350

WG/ak: 3/27/08
72

UNITED STATES PATENT AND TRADEMARK OFFICE

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BROOKS KUSHMAN PC/LEAR CORPORATION
1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD, MI 48075

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MAR 22 2006

OFFICE OF PETITIONS

In re Application of :
John M. Tiesler et al :
Application No. 10/946,712 : DECISION GRANTING PETITION
Filed: September 22, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. LEAR 05185 PUS :

This is a decision on the petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 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) 272-3218.

This matter is being referred to Technology Center AU 3612 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement filed March 17, 2006.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Mar9\946712.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), which includes the following language thereon: "The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee in the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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OFFICE OF PETITIONS

KILYK & BOWERSOX, P.L.L.C.
3603 CHAIN BRIDGE ROAD
SUITE E
FAIRFAX, VA 22030

In re Application of : DECISION ON PETITION
Vann :
Application No. 10/946,718 :
Filed: September 22, 2004 :
Docket No.: 5010-161 :

This decision is in response to the "PETITION UNDER 37 CFR § 1.53(e)" filed August 1, 2005 requesting that page 32 of the specification be admitted into the application and that the application maintain a filing date of September, 22, 2004.

The application was filed September 22, 2004. Petitioner herein advises that review of the application papers via PAIR revealed that the page 32 of the specification that contained claims 58-64 was missing of the application. Petitioner to date has not received a Notice of Omitted Items from OIPE. Petitioner has included a stamped postcard acknowledging receipt of an application 33 pages long.

The official application file contained an application as filed that was 32 pages long, including 22 pages of specification, nine pages of claims, and a one page abstract. However, the evidence submitted herewith establishes that the Office actually received 33 pages of specification. The original page 32 of the specification submitted with the application papers has not been located. However, in view of the evidence presented, the petition to accept page 32 as part of application as originally filed and to accord the application a filing date of September 22, 2004 is GRANTED.

Since the original page 32 of the specification cannot be located in the Office, the copy supplied with the instant petition will be used for examination purposes.

No petition fee is due in connection with this matter. A refund of the previously submitted $400.00 petition fee has been requested from the Finance Office on petitioners' behalf.

This application will be returned to the Office of Initial Patent Examination for further processing with a filing date of September 22, 2004.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAY 13 2005

LEYDIG VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO IL 60601-6780

In re Application of	:	
Joseph F. Norfray	:	
Serial No.: 10/946,741	:	DECISION ON PETITION
Filed: September 22, 2004	:	
For: Method for Monitoring Early Treatment:		
Response	:	

This is in response to applicants' Petition filed September 22, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(d), based on prospective manufacture.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, II. Therefore the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact 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

Richard A. Bertsch, Director
Technology Center 3700

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ISIS PHARMACEUTICALS, INC.
1896 RUTHERFORD ROAD
CARLBAD CA 92008

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OFFICE OF PETITIONS

In re Application of :
Punit P. SETH, et al :
Application No. 10/946,757 : ON PETITION
Filed: September 22, 2004 :
Attorney Docket No. ISIC0055-102/IBIS-0033US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 19, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 2, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). *See* MPEP 711.03(c)(III)(A)(2). Since the amendment submitted does not *prima facie* place the application in condition for allowance (see attached Advisory Action), the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b).

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1050 extension of time fee submitted with the petition on September 19, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's Deposit Account No. 50-0252.

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

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

Thurman Page
Petitions Examiner
Office of Petitions

Attachment: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/946,757	Applicant(s) SETH ET AL.	
	Examiner Brenda L. Coleman	Art Unit 1624	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 19 September 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: *The amendment filed September 19, 2008 does not place the case in condition for allowance because it raises new issue*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: *194*.
   Claim(s) rejected: *1-5,7,8,94-102,104-115,195-197,199,200,202,203,205,207,209 and 210*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Brenda L. Coleman/
Primary Examiner, Art Unit 1624

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CARLBAD, CA 92008

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OFFICE OF PETITIONS

In re Application of :
Punit P. SETH, et al :
Application No. 10/946,757 : ON PETITION
Filed: September 22, 2004 :
Attorney Docket No. ISIC0055-102/IBIS0033US :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed December 4, 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 2, 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 pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is February 3, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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) the required statement of unintentional delay have been received.

The petition fee of $1620 submitted with the petition dated December 4, 2008, will be credited /to Deposit Account No. 50-0252, since no fee is due at this time.

A three (3) month extension of time filed with the petition dated December 4, 2008, is acknowledged, however, a refund of $980 will be credited to Deposit Account No. 50-0252, since only a one (1) month extension of time is needed in response to the two (2) month period

for reply set by the decision dated November 10, 2008. The current fee for a one (1) month extension of time is $130.

A total of $2730 will be credited to Deposit Account No. 50-0252.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 1624 for processing of the RCE and for appropriate action by the Examiner in the normal course of business.

Thurman K. Page

Thurman Page
Petitions Examiner
Office of Petitions

OIPE IAP41
DEC 18 2006
PATENT & TRADEMARK OFFICE

Patent 7,126,205 **PATENT**

IN UNITED STATES PATENT AND TRADEMARK OFFICE

Patent No.:	7,126,205	Docket No:	303.455US4
Issue Date:	October 24, 2006	Patentee:	Karl M. Robinson
Customer No.:	21186	Confirmation No.:	9299

Title DEVICES HAVING IMPROVED CAPACITANCE AND METHODS OF THEIR FABRICATION

REQUEST FOR CERTIFICATE OF CORRECTION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
ATTN: CERTIFICATE OF CORRECTION BRANCH

denied in part 6/21/07

It is requested that a Certificate of Correction be issued correcting printing errors appearing in the above-identified United States patent. Two copies of the text of the Certificate in the suggested form are enclosed.

Pursuant to 1.20(a), enclosed please find a check in the amount of $100.00.

Issuance of the Certificate of Correction would neither expand nor contract the scope of the claims as properly allowed, and re-examination is not required.

The Examiner is authorized to charge any additional fees or credit overpayment to Deposit Account No.19-0743.

Respectfully Submitted

KARL M. ROBINSON

By his Representatives,

12/13/2006 BABRAHA1 00000034 7126205
01 FC:1011 100.00 OP

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A
P.O. Box 2938
Minneapolis, MN 55402
(612) 373-6900

Date: 12-12-06

By: _____
Viet V. Tong
Reg. No: 45,416
VVT/cmb

CERTIFICATE UNDER 37 CFR § 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313-1450, on this 13 day of December 2006

CHRISTOPHER BATEY
Name

Signature

DEC 22 2006

PTO/SB/44 (02-01)
PTO/SB/44 (02-01)
Approved for use through 01/31/2004. 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 : 7,126,205 Page (1) of 1

DATED : October 24, 2006

INVENTOR(S) : Robinson

It is certified that errors appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

denied G

On the face page, in field (62), under "Related U.S. Application Data" in column 1, line 2, after "6,838,353" delete "." and insert - - which is a Divisional of U.S. Application No. 08/676,708, filed July 8, 1996, now U.S. Patent No. 6,660,610. - -, therefor.

approved G

On the face page, in field (56), under "Other Publications", in column 2, line 1, delete ""TiO2" and insert - - "TiO_2 - -, therefor.

G 2/7/07

denied G

In columns 2 and 3, lines 55–67 and 1–6, below "layer 15." delete "In FIG. 2 the silicon dioxide 5 is anisotropically dry etched to expose the substrate 4 in the unmasked regions. Following the etch a substantially conformal first conductive layer 25, preferably a polysilicon layer having a thickness of 200-400 angstroms, is deposited to overly the exposed substrate 4 and the silicon dioxide 5. Following the formation of the conductive layer 25 upper portions of the silicon dioxide layer S are exposed by removing portions of the conductive layer 25 using a spacer etch or using CMP (chemical mechanical planarization) following a resist deposit. The removal of portions of the conductive layer 25 creates electrically isolated portions of the conductive layer 25. The isolated portions of conductive layer 25 are first capacitor plates of the capacitor of the invention. Conventional methods for depositing the conductive layer 25 include CVD (chemical vapor deposition), PVD (pressure vapor deposition) and electroless deposition. In an alternate embodiment a metal layer is deposited by a conventional method and functions as the first conductive layer 25.".

denied G

In column 3, in column 28, below "layer 25." insert - - Following the deposition and isolation of portions of the first conductive layer 25 a conformal metal layer 30 is deposited by chemical vapor deposition to overly the first conductive layer 25 and exposed portions of silicon dioxide layer 5, see FIG. 3. In a preferred embodiment the conformal metal layer 30 is titanium having a thickness of approximately 16-100 angstrom. Although in this embodiment titanium is preferred other metals may be used such as copper, gold, tungsten, and nickel. In a case where metal is used as the first conductive layer 25 it may be necessary to form diffusion barrier layer or an oxidation resistant layer or both interposed between the first conductive layer 25 and the metal layers 30. Thus, it should be noted that the first conductive layer 25 may actually be comprised of more than one material. For example in a ministack application a conductive plug and further conductive layers overlying the conductive plug may form the first conductive layer. - -.

approved G

In column 3, line 34, delete "$HCLO_4$." and insert - - $HClO_4$. - -, therefor.

MAILING ADDRESS OF SENDER:

PATENT NO. 7,126,205

SCHWEGMAN, LUNDBERG, WOESSNER, & KLUTH, P.A.
P.O. BOX 2938
Minneapolis, MN 55402

No. of additional copies

Atty Docket No: 303.455US4

SEP 22 2006

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2200 Geng Road
Palo Alto, CA 94303

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OFFICE OF PETITIONS

In re Application of	:	
Daryl Robert Gazzard	:	
Application No. 10/946,776	:	DECISION ON PETITION
Filed: September 21, 2004	:	TO WITHDRAW
Attorney Docket No. PA2733US	:	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, 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 Colleen M. Raphael and all attorneys/agents of record has been revoked by the assignee of the patent application on April 21, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: AT&T Legal Department – PK
Attn: Patent Docketing
One AT&T Way
Room 2A-207
Bedminster, NJ 07921

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ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK IL 60064-6008

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APR 01 2008
OFFICE OF PETITIONS

In re Application of
Davidson
Application No. 10/946,789
Filed: September 22, 2004
Attorney Docket No. 6867.US.P1

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 18, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned June 30, 2006 for failure to timely submit a proper reply to the non-final Office action mailed March 29, 2006. The non-final Office action set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed November 22, 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 required petition fee, and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that practitioner herein has been empowered to represent the instant application. Moreover, the correspondence address indicated in the instant petition differs from that currently of record. If practitioner desire to receive future correspondence regarding this application, the appropriate documentation must be submitted to the Office. **Please be advised that all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary**.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

This application is being referred to Technology Center AU 1644 for appropriate action by the Examiner in the normal course of business on the reply received

Alesia M. Brown
Petitions Attorney
Office of Petitions

CC: Gregory M. Zinkl
Dykema Gossett PLLC
10 S. Wacker Dr., Suite 2300
Chicaqo, IL 60606

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LAW OFFICES OF MARK L. BERRIER
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SUITE 204
AUSTIN, TX 78746

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APR 30 2009

OFFICE OF PETITIONS

In re Application of	:	
Yoshiyuki Hamaoka, et al.	:	
Application No. 10/946,790	:	DECISION ON PETITION
Filed: September 22, 2004	:	
Attorney Docket No. SUZU00600	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 26, 2009, to revive the above-identified application.

This application became abandoned for failure to timely submit corrected formal drawings on or before February 25, 2009, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed November 25, 2008. Accordingly, the date of abandonment of this application is February 26, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the corrected formal drawings , (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

The drawings have been approved by the USPTO draftsperson.

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 Office of Data Management for processing into a patent.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

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ALEX L. YIP
KAYE SCHOLER LLP
425 PARK AVENUE
NEW YORK NY 10022

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OFFICE OF PETITIONS

In re Application of	:	
Elsey et al.	:	DECISION ON PETITION
Application Number: 10/946796	:	TO WITHDRAW HOLDING OF
Filing Date: 09/22/2004	:	ABANDONMENT
Attorney Docket Number: 41698-1134	:	

This is a decision on the petition, filed on 11 September, 2007, which is treated as a petition to withdraw the holding of abandonment in the above-identified application.

The application was held abandoned for failure to timely reply to the final Office action mailed on 3 January, 2007, which set a three (3) month shortened statutory period for reply. On 15 August, 2007, Notice of Abandonment was mailed.

Petitioners assert that a proper response was in fact timely filed in the form of an amendment and a petition for a three (3) month extension of time. In support of the petition, petitioners submitted a copy of a date-stamped post card receipt acknowledging receipt of, inter alia, a petition for a three (3) month extension of time and an amendment. The postcard shows an "Office date" stamp of 3 July, 2007, and identifies the application by application number, filing date, first named inventor, and invention title.

Petitioners' response to the non-final Office action is not of record in the file and cannot be located. However, M.P.E.P. § 503 states, "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the reply to the non-final Office action was received in the Office but was not matched with the application file.

Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is **GRANTED**.

A review of Office financial records reveals that the three (3) month extension of time fee was received on 3 July, 2007.

The application file will be referred to the Technology Center's technical support staff for entry of the response. Thereafter, the application file will be referred to the examiner for action in due course.

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

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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
10/946,808	09/21/2004	2837	900	892A.0001.U1(US)	3	11	2

CONFIRMATION NO. 1302

29683
HARRINGTON & SMITH, LLP
4 RESEARCH DRIVE
SHELTON, CT 06484-6212

UPDATED FILING RECEIPT

OC000000014969504

Date Mailed: 01/18/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Hao Wang, Beijing, CHINA;

Assignment For Published Patent Application

Nokia Corporation

Power of Attorney: The patent practitioners associated with Customer Number **29683**.

Domestic Priority data as claimed by applicant

Foreign Applications

CHINA 03126460.3 09/28/2003

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 US10/946,808

Projected Publication Date: 04/28/2005

Non-Publication Request: No

Early Publication Request: No

Title

Electronic device having music database and method of forming music database

Preliminary Class

084

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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111 HUNTINGTON AVENUE
BOSTON, MA 02199-7613

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OFFICE OF PETITIONS

In re Application of	:	
Wang et al.	:	
Application No. 10/946,833	:	ON PETITION
Filed: September 22, 2004	:	
Attorney Docket No. 8654/2252	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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PALO ALTO CA 94304

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OFFICE OF PETITIONS

In re Patent No. 7,462,642	:	
Liang-Chuan Steve Wang et al.	:	DECISION ON
Issue Date: December 9, 2008	:	REQUEST FOR
Application No. 10/946,833	:	RECONSIDERATION OF
Filed: September 22, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 093397-0461	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705," filed February 9, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from three hundred fifty-eight (358) days to six hundred forty-one (641) days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On December 9, 2008, the above-identified application matured into US Patent No. 7,462,642 with a patent term adjustment of 358 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 CFR 1.18(e). No additional fees are required.

Patentees request recalculation of the patent term adjustment to include a 283-day period of adjustment pursuant to 37 C.F.R. §1.703(b). Patentees maintain entitlement to a period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), of 283 days and the period of adjustment due to other examination delay, pursuant to 37 CFR § 1.702(a), of 468 days.

The 283-day period is calculated based on the application having been filed under 35 U.S.C. § 111(a) on September 22, 2004, and a request for continued examination (RCE) having been filed in this application on July 1, 2008, three years and 283 days later. Patentees assert that in addition to this 283 day period, they are entitled to a period of adjustment due to examination delay, pursuant to 37 CFR § 1.702(a), of 468 days for the failure by the Office to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a), pursuant to § 1.702(a)(1). A first Office action (a restriction) was mailed on March 5, 2007, 14 months and 468 days after the application was filed on September 22, 2004.

Under 37 CFR § 1.703(f), Patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR § 1.702 reduced by the period of time equal to the period of time during which Patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR § 1.704. In other words, the period of Office delay reduced by the period of applicant delay. The period of reduction of 110 days for applicant delay is not in dispute.

Patentees do not dispute that the total period of Office delay is the sum of the period of Three Years Delay (283 days) and the period of Examination Delay (468 days) to the extent that these periods of delay are not overlapping. However, in effect, Patentees contend that no portion of the Three Year Delay period overlaps with the period of 14-month examination delay. Accordingly, Patentees submit that the total period of adjustment for Office delay is 641 days, which is the sum of the period of Three Year Delay (283 days) and the period of Examination Delay (468 days), reduced by the period of overlap (0 days).

As such, Patentees assert entitlement to a patent term adjustment of 641 days (283 + 468 reduced by 0 overlap - 118 (applicant delay)).

The Office agrees that as of the filing of the RCE on July 1, 2008, the application was pending 3 years and 283 days after its filing date. The Office agrees that the action detailed above was not taken within the specified time frame, and thus, the entry of a period of adjustment of 468 days is correct. At

issue is whether Patentees should accrue 283 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 468 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 283 days overlap. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap

with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of Patentees. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3 year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by

section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[1]

As such, the period for over 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 other words, consideration of the overlap does not begin three years after the filing date of the application. Treating the relevant period as starting on September 22, 2007, the date that is 3 years after the actual filing date of the application is incorrect.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, November 22, 2004, as terminated by the filing of the RCE on July 1, 2008. 468 days of patent term adjustment were accorded prior to the issuance of the patent for the Office failing to respond within a specified time frame during the pendency of the application. <u>All of the 283 days for Office delay in issuing the patent overlap with the 468 days of Office delay</u>. During that time, the issuance of the patent was delayed by 468 days, not 468 + 283 days. The Office took 14 months and 468 days to issue a first Office action. Otherwise, the Office took all actions set forth in 37 C.F.R. § 1.702(a) within the prescribed timeframes.

---

[1] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

Nonetheless, given the initial 468 days of Office delay and the 110 days of applicant delay and the time allowed within the time frames for processing and examination, as of the filing date of the RCE, the application was pending three years and 283 days. The Office did not delay 468 days and then an additional 283 days. Accordingly, 468 days of patent term adjustment (not 468 and 283 days) was properly entered since the period of delay of 283 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 468 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted. 468 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 283 days over three years to the filing of the RCE.

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.

In view thereof, no adjustment to the patent term will be made.

Patentees remain under a duty to disclose to the Office entry of additional patent term adjustment that is not warranted.

Telephone inquiries specific to this matter should be directed to Paul Shanoski, Senior Attorney, at (571) 272-3225.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

STATUTE AND REGULATION

35 U.S.C. § 154(b) as amended by § 4402 of the American Inventors Protection Act of 1999[2] (AIPA) provides that:

> ADJUSTMENT OF PATENT TERM. –
>
> (1) PATENT TERM GUARANTEES. –
>
> (A) GUARANTEE OF PROMPT PATENT AND TRADEMARK OFFICE RESPONSES. – Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the Patent and Trademark Office to –
>
> (i) provide at least one of the notifications under section 132 of this title or a notice of allowance under section 151 of this title not later than 14 months after –
>
> (I) the date on which an application was filed under section 111(a) of this title; or
>
> (II) the date on which an international application fulfilled the requirements of section 371 of this title;
>
> (ii) respond to a reply under section 132, or to an appeal taken under section 134, within 4 months after the date on which the reply was filed or the appeal was taken;
>
> (iii) act on an application within 4 months after the date of a decision by the Board of Patent Appeals and Interferences under section 134 or 135 or a decision by a Federal court under section 141, 145, or 146 in a case in which allowable claims remain in the application; or
>
> (iv) issue a patent within 4 months after the date on which the issue fee was paid under section 151 and all outstanding requirements were satisfied, the term of the patent shall be extended 1 day for each day after the end of the period specified in clause (i), (ii), (iii), or (iv), as the case may be, until the action described in such clause is taken.
>
> (B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY. – Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including –

[2] Public Law 106-113, 113 Stat. 1501, 1501A-557 through 1501A-560 (1999).

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

(ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or

(iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

(C) GUARANTEE OR ADJUSTMENTS FOR DELAYS DUE TO INTERFERENCES, SECRECY ORDERS, AND APPEALS. — Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to —

(i) a proceeding under section 135(a);

(ii) the imposition of an order under section 181; or

(iii) appellate review by the Board of Patent Appeals and Interferences or by a Federal court in a case in which the patent was issued under a decision in the review reversing an adverse determination of patentability, the term of the patent shall be extended 1 day for each day of the pendency of the proceeding, order, or review, as the case may be.

(2) LIMITATIONS. —

(A) IN GENERAL. — To the extent that periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

The implementing regulation, 37 CFR § 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

(a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be

adjusted if the issuance of the patent was delayed due to the failure of the Office to:

(1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application;

(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;

(b) Failure to issue a patent within three years of the actual filing date of the application. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including[3]:

In pertinent part, 37 CFR § 1.703 provides for calculation of the periods, as follows:

Period of adjustment of patent term due to examination delay.

(a) The period of adjustment under § 1.702(a) is the sum of the following periods:

(1) The number of days, if any, in the period beginning on the day after the date that is fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first;

(b) The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day

[3] (1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);

(2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);

(3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;

(4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or

(5) Any delay in the processing of the application by the Office that was requested by the applicant.

> after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of the following periods[4]:

37 CFR 1.703(f) provides that:

> The adjustment will run from the expiration date of the patent as set forth in 35 U.S.C. 154(a)(2). To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed. The term of a patent entitled to adjustment under § 1.702 and this section shall be adjusted for the sum of the periods calculated under paragraphs (a) through (e) of this section, to the extent that such periods are not overlapping, less the sum of the periods calculated under § 1.704. The date indicated on any certificate of mailing or transmission under § 1.8 shall not be taken into account in this calculation.

---

[4] (1) The number of days, if any, in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued;

(2)(i) The number of days, if any, in the period beginning on the date an interference was declared or redeclared to involve the application in the interference and ending on the date that the interference was terminated with respect to the application; and (ii) The number of days, if any, in the period beginning on the date prosecution in the application was suspended by the Office due to interference proceedings under 35 U.S.C. 135(a) not involving the application and ending on the date of the termination of the suspension;

(3)(i) The number of days, if any, the application was maintained in a sealed condition under 35 U.S.C. 181; (ii) The number of days, if any, in the period beginning on the date of mailing of an examiner's answer under § 41.39 of this title in the application under secrecy order and ending on the date the secrecy order was removed; (iii) The number of days, if any, in the period beginning on the date applicant was notified that an interference would be declared but for the secrecy order and ending on the date the secrecy order was removed; and (iv) The number of days, if any, in the period beginning on the date of notification under § 5.3(c) of this chapter and ending on the date of mailing of the notice of allowance under 35 U.S.C. 151; and,

(4) The number of days, if any, in the period beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and § 41.31 of this title and ending on the date of the last decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145, or on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first, if the appeal did not result in a decision by the Board of Patent Appeals and Interferences.

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OFFICE OF PETITIONS

LAHIVE & COCKFIELD, LLP
FLOOR 30, SUITE 3000
ONE POST OFFICE SQUARE
BOSTON MA 02109

In re Patent No. 7,462,642	:	DECISION ON REQUEST
Wang et al.	:	FOR
Issue Date: December 9, 2008	:	RECONSIDERATION OF
Application No. 10/946,833	:	PATENT TERM ADJUSTMENT
Filed: September 22, 2004	:	and
Atty Docket No. NVT-085US	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on May 26, 2009, which is being treated as a timely filed renewed 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 six hundred and forty-one (641) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by five hundred and seventy-nine (579) 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 23, 2007 and ends on June 30, 2008, the day before the first RCE was filed, which amounts to 282 (not 283) days. See U.S.C. 154(b)(1)(B)(i).

Moreover, as the time taken up by the notice of appeal is excluded from the period of B-delay, the period of time beginning on the day the Notice of Appeal was filed (May 1, 2008) and ending on the day before the day the RCE was filed (June 30, 2008) is excluded. As discussed above, the day of

filing of the RCE is already excluded. Thus, 61 days are excluded.

As such, the patent term adjustment is increased by 221 (282 - 61) days to 579, not 641 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **five hundred and seventy-nine (579) days.**

Telephone inquiries specific to this matter should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,462,642 B2

DATED : **December 9, 2008** **DRAFT**

INVENTOR(S) : Wang 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 358 days

Delete the phrase "by 358 days" and insert – by 579 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ____

DATE 3/4/09

TO SPE OF : ART UNIT 2434

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/946851 Patent No.: 7349544B2

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

Virginia Tolbert
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [X] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: Approved All

/KAMBIZ ZAND/
SPE

2434
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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HALLIBURTON ENERGY SERVICES
P. O. BOX 819052
DALLAS, TX 75381-9052

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MAY 02 2007

OFFICE OF PETITIONS

In re Application of	:
William Launey Vidrine et al	:
Application No. 10/946,852	: DECISION GRANTING PETITION
Filed: September 22, 2004	: UNDER 37 CFR 1.313(c)(2)
Atty Docket No. 2003-IP-011682U1 USA	:

This is a decision on the petition, filed April 17, 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 28, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 3672 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\May10\946852.wpd

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment.*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : September 13, 2007

TO SPE OF : ART UNIT 2854 Judy Nguyen

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/946,888 Patent No.: 7219603 B2

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**.

Antonio Johnson
Certificates of Correction Branch

703-308-9390 ext. 111

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☐ **Approved** — All changes apply.
- ☒ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: The changes to the claims do not apply. These changes appear to be unnecessary. It is noted that the claims were renumbered by the Examiner upon allowance and the changes to the claims now presented appear to be changing the claims back to their original order number, which is unnecessary and the renumbered claim order designated by the Examiner is proper + less confusing.

Judy Nguyen — SPE

2854 — Art Unit

PTO/SB/44 (04-05)
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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.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,219,603

APPLICATION NO : 10/946,888

ISSUE DATE : May 22, 2007

INVENTOR(S) : Teiichirou Ishikawa

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

ok to enter
dg

In the Specification:

Column 3, line 31, delete "cab" and substitute therefor - - can - - .

Column 4, line 19, before "features" insert therefor - - the - - .

Column 5, line 27, delete "On the other words" and substitute therefor - - In other words - - .

do not enter - dg
these changes are unnecessary - claims were renumbered when allowed + these changes appear to change claim

In the Claims:

Column 6, lines 43-44, Claim 3, delete "according to claim 2" and substitute therefor - - according to claim 1 - - .

Column 6, line 49, Claim 4, after "ink supply unit" insert therefor - - and said ink chamber is detachably mounted on said pivot frame - - .

Column 6, lines 52-53, Claim 5, delete "and said ink chamber is detachably mounted on said pivot frame".

Column 6, lines 54-55, Claim 6, delete "according to claim 1" and substitute therefor - - according to claim 2 - - .

do NOT enter

MAILING ADDRESS OF SENDER (Please do not use customer number below):

DeLio & Peterson, LLC
121 Whitney Avenue
New Haven, CT 06510

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

AUG 13 2007

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OFFICE OF PETITIONS

HOLLINGSWORTH & FUNK
8500 NORMANDALE LAKE BLVD., SUITE 320
MINNEAPOLIS, MN 55437

In re Application of	:	
Franklin A. Davis	:	
Application No. 10/946,906	:	DECISION ON PETITION
Filed: September 22, 2004	:	
Attorney Docket No. NOKM.071PA	:	

This is a decision on the petition filed August 10, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the final Office action mailed December 30, 2008, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on July 22, 2009.

Petitioner asserts that the Office action dated December 30, 2008 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The 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 Irvin Dingle at 571-272-3210.

This application is being referred to the Technology Center technical support staff of Art Unit 2179 for re-mailing the Office action of December 30, 2008. The period for reply will run from the mailing date of the Office action.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Hollingsworth & Funk, LLC
8009 34th Avenue South, Suite 125
Minneapolis, MN 55424

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OFFICE OF PETITIONS

CARLSON, GASKEY & OLDS, P.C.
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM, MI 48009

In re Application of Zywiak et al. :
Application No. 10/946,908 : Decision on Petition
Filing Date: September 22, 2004 :
Attorney Docket No. 67010-111 :

This is a decision on the petition under 37 CFR 1.181 filed August 11, 2008, requesting the Office withdraw the holding of abandonment.

The petition is **granted.**

The Board of Patent Appeals and Interferences decision mailed June 19, 2008, included the following statements.

[1] The Appellants appeal ... from a Final Rejection of claims 1-6, 9, 11-13, 20, and 30. [footnote omitted].

[2] Claims 7, 8, 10, 14-16, 22-26, and 31-33 have been indicated to be allowable if rewritten in independent form.

[3] Claims 17-19, 21, and 27-29 have been previously cancelled.

The Board Decision affirmed the rejection of claims 1-5, 11-13, 20, and 30. The Board Decision reversed the rejection of Claims 6 and 9. Claim 6 was dependent on Claim 5. Claim 9 was dependent on Claim 1.

The Board Decision did not place petitioner under any time deadline to take any form of action in order to avoid abandonment of the application. Instead, the examiner was responsible for taking one of two actions as discussed in MPEP 1214.06(I) which states,

> The following examples illustrate the appropriate approach to be taken by the examiner in various situations: ...
>
> (B) If the Board or court affirms a rejection against an independent claim and reverses all rejections against a claim dependent thereon, after expiration of the period for further appeal, the examiner should proceed in one of two ways:
>
> (1) Convert the dependent claim into independent form by examiner's amendment, cancel all claims in which the rejection was affirmed, and issue the application; or

(2) Set a 1-month time limit in which appellant may rewrite the dependent claim(s) in independent form. Extensions of time under 37 CFR 1.136(a) will not be permitted. If no timely reply is received, the examiner will cancel all rejected and objected to claims and issue the application with the allowed claims only.

The examiner did not take either action discussed in the quotation above. Instead, the Office mailed a Notice of Abandonment on July 3, 2008, stating the application was abandoned because the time period for seeking court review of the Board Decision had expired and none of the claims had been allowed.

Petitioner asserts the Notice of Abandonment was mailed in error and requests withdrawal of the holding of abandonment.

A review of the record indicates the application is not abandoned. Therefore, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Technology Center Art Unit 3744 will be informed of the instant decision and the application will be further examined in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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OFFICE OF PETITIONS

In re Application of Jay E. Greene III et al. Application No. 10/946,910 Filing Date: September 21, 2004 Attorney Docket No.: 020375-057000US Title: SHEET PROCESSING SYSTEMS AND METHODS	:	DECISION ON PETITION UNDER 37 C.F.R. §1.78(A)(3)

This is a decision on the petition pursuant to 37 C.F.R. §1.78(a)(3), filed November 8, 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 Supplemental Application Data Sheet (ADS) filed with the petition.

The Office regrets the delay in issuing this decision.

The petition is **DISMISSED**

A petition for acceptance of a claim for late priority under 37 C.F.R. §1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 C.F.R. 1.78(a)(2)(ii). In addition, the petition under 37 C.F.R. 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 C.F.R. §1.78(a)(2)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in §1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 C.F.R. 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not satisfy item (1) above.

Pursuant to Rule § 1.78(a)(2)(iii), the required reference must be included in an application data sheet, or the specification must contain or be amended to contain such reference in the first sentence(s) following the title. Consequently, Petitioner has submitted a supplemental ADS with the present petition, so as to present the required reference.

However, Petitioner will note that an ADS filed with the application is not required to be signed unless the ADS includes a nonpublication request. 37 C.F.R. §1.33(b) requires that amendments and other papers, except for written assertions pursuant to 37 C.F.R. §1.27(c)(2)(ii), filed in the application must be signed by an appropriate party. Therefore, <u>an ADS or a supplemental ADS filed after the filing of an application must be signed</u> in accordance with 37 C.F.R. § 1.33(b).

The supplemental ADS that was submitted with the present petition has been reviewed, and it <u>does not appear that this paper has been signed</u>. Consequently, this submission cannot be accepted, pursuant to Rule § 1.33(b).

Any reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. §1.78(a)(3)." This is not a final agency action within the meaning of 5 U.S.C § 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[1], hand-delivery[2], or facsimile[3]. Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web[4].

If responding by mail, Petitioner is advised <u>not</u> to place the undersigned's name on the envelope. Only the information that

---

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 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

A Notice of Allowance has been mailed in this application. The application file is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries regarding *this decision* should be directed to Senior Attorney Paul Shanoski at (571) 272-3225[5]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

5 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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OFFICE OF PETITIONS

In re Application of Jay E. Greene III et al. Application No. 10/946,910 Filing Date: September 21, 2004 Attorney Docket No.: 020375-057000US Title: SHEET PROCESSING SYSTEMS AND METHODS	: : : : : : : :	DECISION ON RENEWED PETITION UNDER 37 C.F.R. § 1.78(A)(3) AND PETITION UNDER 37 C.F.R. § 1.182.

This is a decision on the renewed petition pursuant to 37 C.F.R. § 1.78(a)(3), filed August 30, 2007 to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the Supplemental Application Data Sheet (ADS) filed with the petition.

This is also a decision on the concurrently filed petition pursuant to 37 C.F.R. § 1.182, requesting expedited handling of the above-referenced renewed petition pursuant to 37 C.F.R. § 1.78(a)(3).

The petition pursuant to 37 C.F.R. § 1.182 is **GRANTED**. The renewed petition pursuant to 37 C.F.R. § 1.78(a)(3) will receive expedited handling.

The renewed petition pursuant to 37 C.F.R. § 1.78(a)(3) is **GRANTED**.

An original petition pursuant to 37 C.F.R. § 1.78(a)(3) was filed on November 8, 2006, and was dismissed via the mailing of a decision on August 7, 2007.

A petition for acceptance of a claim for late priority under 37 C.F.R. §1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 C.F.R. 1.78(a)(2)(ii). In addition, the petition under 37 C.F.R. 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 C.F.R. §1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in §1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 C.F.R. 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Pursuant to Rule § 1.78(a)(2)(iii), the required reference must be included in an application data sheet, or the specification must contain or be amended to contain such reference in the first sentence(s) following the title. Consequently, Petitioner submitted a supplemental ADS with the original petition pursuant to 37 C.F.R. § 1.78(a)(3), so as to present the required reference. However, the ADS was not executed, and as such, it could not be accepted. As such, the original petition pursuant to 37 C.F.R. § 1.78(a)(3) was dismissed.

With this renewed petition pursuant to 37 C.F.R. § 1.78(a)(3), Petitioner has submitted a "second supplemental application data sheet" which contains the reference to the prior-filed application. It is noted that this ADS has been executed.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 C.F.R. § 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 C.F.R. §§ 1.78(a)(1) and (a)(2) must be met. Similarly,

the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

The Office of Patent Publication will be notified of this decision so that the present application can be processed into a patent. Telephone inquiries regarding *this decision* should be directed to Senior Attorney Paul Shanoski 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.

Nancy Johnson
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

Attachment: Corrected Filing Receipt

---

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.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/946,910	09/21/2004	3651	1220	020375-057000US	25	3

CONFIRMATION NO. 8382

CORRECTED FILING RECEIPT

OC000000025655652

20350
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Date Mailed: 09/04/2007

Receipt is acknowledged of this nonprovisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Jay E. Greene III, Omaha, NE;
Jeff G. Nowlin, Council Bluffs, IA;
Fred C. Casto, Omaha, NE;
Scott J. Smith, Omaha, NE;
Timothy J. Walpus, Omaha, NE;
Mark J. Wilson, Bellevue, NE;

Assignment For Published Patent Application

First Data Corporation, Englewood, CO

Power of Attorney: The patent practitioners associated with Customer Number **20350**.

Domestic Priority data as claimed by applicant

This application is a CIP of 10/731,189 12/08/2003 PAT 6,974,034
which is a CON of 10/036,653 11/08/2001 PAT 6,670,569

Foreign Applications

If Required, Foreign Filing License Granted: 11/05/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/946,910

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

SHEET PROCESSING SYSTEMS AND METHODS

Preliminary Class

270

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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Cozen O'Connor, P.C.
1900 Market Street
Philadelphia, PA 19103-3508

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OFFICE OF PETITIONS

In re Application of	:	
William Gaarde et al.	:	
Application No. 10/946,914	:	DECISION ON PETITION
Filed: September 21, 2004	:	TO WITHDRAW
Attorney Docket No. ISIS0273-101 (RTS-0274US.P1)	:	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, 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 Paul K. Legaard and all attorneys/agents of record has been revoked by the assignee of the patent application on June 29, 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: Cooper & Dunham, LLP
30 Rockefeller Plaza
20th Floor
New York, NY 10112

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NOV 18 2004

Paper No.
11/16/04

GLENN E. YINGLING
28 LAWRENCE AVE.
NEWARK VALLEY NY 13811-0062

In re Application of:	:	
GLENN E. YINGLING	:	DECISION ON PETITION
Serial No.: 10/946933	:	TO MAKE SPECIAL
Filed: September 22, 2004	:	
Attorney Docket No.: **YINGLING**	:	

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed September 22, 2004, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.) § 708.02, Section IV: Applicant's Age.

A grantable petition to make special under 37 C.F.R. § 1.102, and in accordance with M.P.E.P. § 708.02, Section IV, must include evidence showing that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a declaration from one of the co-inventors, Bruce Bent, 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 Lissi Marquis at (571) 272-1596.

Lissi Marquis, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

In the United States Patent and Trademark Office

Serial Number: 10946933
Appn. Filed: 9/22/04
Applicant(s): GLENN E. YINGLING
Appn. Title: BOOKMARK WITH NOVEL LINE AND TEXT LOCATORS
Examiner/GAU: 2859

Mailed: 2004
At: NEWARK VALLEY, NY

Petition to Make Special

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant hereby respectfully petitions that the above application be made special under MPEP Sec. 708.02 for the following reason; attached is a declaration in support thereof:

- I. ☐ Manufacturer Available;*
- II. ☐ Infringement Exists;*
- III. ☐ Applicant's Health Is Poor;
- IV. ☒ Applicant's Age Is 65 or Greater;
- V. ☐ Environmental Quality Will Be Enhanced;
- VI. ☐ Energy Savings Will Result;
- VII. ☐ Recombinant DNA Is Involved;*
- VIII. ☐ Special Procedure: Search Was Made;*
- IX. ☐ Superconductivity Is Advanced;
- X. ☐ Relates to HIV/AIDS or Cancer;*
- XI. ☐ Counters Terrorism.*

* ☐ Also attached, since reason I, II, VII, VIII, X or XI has been checked, is the $_____ Petition Fee pursuant to Rules 102 and 17(i).

Very respectfully,
Applicant(s): Glenn E. Yingling

Attachment(s): Fee if indicated and supporting Declaration

Applicant(s):

c/o: GLENN E. YINGLING
28 LAWRENCE AVE.
NEWARK VALLEY, NY 13811
Telephone: (607) 642-8225

Certificate of Mailing

EXPRESS MAIL
2004 Sept 22

I certify that this correspondence will be deposited with the United States Postal Service as first class mail with proper postage affixed in an envelope addressed to: "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" on the date below.

Date: 2004 SEPT. 22 Glenn E Yingling, Applicant

In the United States Patent and trademark Office

Appn. Number:

Filing Date:

Applicant(s): GLENN E. YINGLING

Examiner:

Mailed: 2004 Sept. 22

At: NEWARK VALLEY, NY 13811

Declaration in support of Accompanying Petition to Make Special

Reason IV–Applicant's Age is 65 or Greater

In support of the accompanying Petition to Make Special, applications declares as follows:

1. I am the above-identified patent applicant.

2. My birthplace was Clarion County, Pa.. U.S.A.

3. My birth date was June 14, 1927.

Very respectfully,

Glenn E. Yingling

Glenn E. Yingling

28 Lawrence Ave.

Newark Valley, N.Y. 13811

607- 642-8225

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NOV 29 2004
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United States Patent and Trademark Office
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Alexandria, VA 22313-1450

11/22/04

Attention Lissi Marquis, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

In re Application of:
GLENN E. YINGLING
Serial No.: 10/946933
Filed : September 22, 2004
Attorney Docket No.: **YINGLING**

Reference your Paper No. 11/16/04

In examining the referenced paper that GRANTED my petition to make special, I noticed that a co-inventor was referenced. This reference is incorrect since I am the sole inventor and there are no co-inventors.

Please send me a new Paper that grants my petition to make special by removing any reference to any co-inventors

Thank you;

Glenn E. Yingling

GLENN E. YINGLING
28 LAWRENCE AVE.
NEWARK VALLEY NY 18811-0062.

ATTACHMENT

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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NOV 2 8 2004
PATENT & TRADEMARK OFFICE

NOV 18 2004

Paper No.
11/16/04

GLENN E. YINGLING
28 LAWRENCE AVE.
NEWARK VALLEY NY 13811-0062

In re Application of:
GLENN E. YINGLING
Serial No.: 10/946933
Filed: September 22, 2004
Attorney Docket No.: **YINGLING**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed September 22, 2004, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.) § 708.02, Section IV: Applicant's Age.

A grantable petition to make special under 37 C.F.R. § 1.102, and in accordance with M.P.E.P. § 708.02, Section IV, must include evidence showing that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a declaration from ~~one of the co-inventors, Bruce Bent~~ THE INVENTOR, GLENN E. YINGLING, 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 Lissi Marquis at (571) 272-1596.

Lissi Marquis, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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Commissioner for Patents
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JAN 5 2005

Paper No.
11/16/04

GLENN E. YINGLING
28 LAWRENCE AVE.
NEWARK VALLEY NY 13811-0062

In re Application of:	:	
GLENN E. YINGLING	:	DECISION ON PETITION
Serial No.: 10/946933	:	TO MAKE SPECIAL
Filed: September 22, 2004	:	
Attorney Docket No.: **YINGLING**	:	

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed September 22, 2004, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.) § 708.02, Section IV: Applicant's Age.

A grantable petition to make special under 37 C.F.R. § 1.102, and in accordance with M.P.E.P. § 708.02, Section IV, must include evidence showing that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a declaration from one of the co-inventors, Glenn E. Yingling, 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 Lissi Marquis at (571) 272-1596.

Lissi Marquis, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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JJGJR.: 09-07

Paper No: __

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SEP 1 0 2007

OFFICE OF PETITIONS

OSTROLENK FABER
GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8403

In re Application of	:	
Bocchiola	:	DECISION
Application No.: 10/946,945	:	
Filing Date: 22 September, 2004	:	
Attorney Docket No. IR-2591 (2-4235)	:	

This is a decision on the petition filed on 5 February, 2007, to withdraw the holding of abandonment and considered under 37 C.F.R. §1.181, alternatively to revive the application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.[1]

The petition as considered under 37 C.F.R. §1.181 is **GRANTED**; and the petition under 37 C.F.R. §1.137(b) is **DISMISSED**.

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[1] **NOTE: Monitoring of the status of applications on PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected. Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181.**

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 22 June, 2006, with reply due absent an extension of time on or before 22 September, 2006;
- the application went abandoned by operation of law after midnight on 22 September, 2006;
- the Office mailed the Notice of Abandonment on 12 January, 2007;
- on 5 February, 2007, Petitioner filed the instant petition instant petition with, *inter alia*, an averment that he did not receive the non-final Office action in question, and made the statements and showings required (see the Manual of Patent Examining Procedure provisions discussed below) with documentation in support thereof included.

Notably, 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 immediate and on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)); and those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

---

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

---

practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;

(2) Returning papers;

(3) Precluding a party from filing a paper, or presenting or contesting an issue;

(4) Imposing a monetary sanction;

(5) Requiring a terminal disclaimer for the period of the delay; or

(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).

[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[3] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[4] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

Delays in responding properly raise the question whether delays are unavoidable.[5] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[6]

And the Petitioner must be diligent in attending to the matter.[7] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[8]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[9]

The commentary at MPEP §711.03(c) provides:

* * *

A. Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application

---

[5] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[6] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[7] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[8] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[9] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

> is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133). To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.
>
> * **
>
> The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).
>
> Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988). (Emphasis supplied.)
>
> * * *

Moreover, the regulation places upon Petitioner a diligence requirement to seek relief within two (2) months of the act complained of.

It appears that Petitioner has satisfied the showing as discussed above.

As to the Allegations
of Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee if the application was filed before 8 June, 1995.

It appears that the matter is moot.

CONCLUSION

The petition as considered under 37 C.F.R. §1.181 is **granted**, and the 12 January, 2007, Notice of Abandonment is **vacated**; the petition under 37 C.F.R. §1.137(b) is **dismissed as moot** and the petition fee was not charged.

The instant application is released to Technology Center 3700 for further processing in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[10]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

---

[10] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

SPE : S. Cronin

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/7/07

TO SPE OF : ART UNIT 3747

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/946,953 Patent No.: 7188610

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [x] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: OK TO ENTER.

Thomas N. Moulis
Primary Examiner

SPE

3747
Art Unit

PAGE 1/1 * RCVD AT 6/4/2007 1:08:01 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-1/8 * DNIS:2734536 * CSID: * DURATION (mm-ss):00-46

UNITED STATES PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 23313-1450
WWW.USPTO.GOV

Mailed: 11/9/05

Paper No.

In re Application of Purmer.
Serial No.: 10946985
Filed: 9/24/2004

DECISION ON PETITION UNDER *37 CFR 1.48(a)*

Title:

This is a decision on the PETITION TO CORRECT INVENTORSHIP IN A NON-PROVISIONAL PATENT APPLICATION filed February 9, 2005 to correct inventorship under 37 CFR 1.48(a) by adding the names of Raymond F. Watts and Roger K. Nibert to the list of inventors of the instant application.

It is noted that the applicant has met the requirements of 37 C.F.R. § 1.48(a) by (1) submitting a request to correct the inventorship that sets forth the desired inventorship change; (2) providing a statement from each person being added as an inventor that the error in inventorship occurred without deceptive intention on his or her part; (3) providing a declaration of the actual inventors as required by 37 C.F.R. § 1.63; (4) providing the processing fee set forth in 1.17(i); and, (5) providing the written consent of the assignee.

The request is **GRANTED**.

The application file is being forwarded to the appropriate section of the Patent and Trademark Office for correction of the record.

Glenn A. Caldarola
Supervisory Patent Examiner
Art Unit 1764
Technology Center 1700

Infineum USA L.P.
Law Department
P.O Box 710
Linden, New Jersey 07036

UNITED STATES PATENT and TRADEMARK OFFICE

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Mailed: 11/9/05

Paper No.

In re Application of Purmer.
Serial No.: 10946985
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The request is **GRANTED**.

The application file is being forwarded to the appropriate section of the Patent and Trademark Office for correction of the record.

Glenn A. Caldarola
Supervisory Patent Examiner
Art Unit 1764
Technology Center 1700

Infineum USA L.P.
Law Department
P.O Box 710
Linden, New Jersey 07036

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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www.uspto.gov

Heller Ehrman, LLP
4350 La Jolla Village Drive #700
7th Floor
San Diego, CA 92122

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MAY 20 2009

OFFICE OF PETITIONS

In re Application of	:	
Johnny J.T. Chiu	:	
Application No. 10/946,996	:	DECISION ON PETITION
Filed: September 22, 2004	:	TO WITHDRAW
Attorney Docket No. 40070-363	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 10, 2006.

The request is **moot because a revocation of power of attorney has been filed**.

A review of the file record indicates that the power of attorney to Alan C. Gordon and all attorneys/agents of record has been revoked by the assignee of the patent application on May 10, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Townsend and Townsend and Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

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JUN 21 2006
OFFICE OF PETITIONS

STEPHEN PATTON
P O Box 381454
Germantown, TN 38183

In re Application of
LUMPKINS et al.
Application No. 10/947,002
Filed: September 21, 2004
Attorney Docket No. 17286

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 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. The reasons set forth in the request, "I no longer legally represent the assignee," do not meet any the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 4787.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: CNH AMERICA LLC
INTELLECTUAL PROPERTY LAW DEPARTMENT
PO BOX 1895, MS 641
NEW HOLLAND PA 17557

UNITED STATES PATENT AND TRADEMARK OFFICE

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DR OMRI M. BEHR
325 PIERSON AVE
EDISON, NJ 08837-3123

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DEC 0 5 2005

OFFICE OF PETITIONS

In re Application of	:	
Leonard Mackles	:	DECISION ON PETITION
Application No. 10/947,003	:	TO MAKE SPECIAL UNDER
Filed: September 22, 2004	:	37 CFR 1.102(c)(1)
Attorney Docket No. CHAV3.0-035	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed September 22, 2004, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a copy of a birth certificate. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Wan Laymon at 571-272-3220.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center AU 1615 for action on the merits commensurate with this decision.

Denise Pothier
Petitions Examiner
Office of Petitions

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PORTLAND OR 97282-0788

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DEC 08 2008

OFFICE OF PETITIONS

In re Application of
Glover
Application No. 10/947,006
Filed: September 21, 2004
Attorney Docket No. 129534-1000

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 15, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before April 25, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed January 25, 2008 . Accordingly, the date of abandonment of this application is April 26, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee and the publication fee, (2) the required petition fee; and (3) a proper statement of unintentional delay.

The requested power of attorney has been entered into the record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

This application is being referred to the Office of Data Management for processing into a patent.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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KRATON POLYMERS U.S. LLC
WESTHOLLOW TECHNOLOGY CENTER
3333 HIGHWAY 6 SOUTH
HOUSTON, TX 77082

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OFFICE OF PETITIONS

In re Application of Willis et al. :
Application No.10/947,011 :
Filing Date: September 22, 2004 :
Attorney Docket No. TH0339/US :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(a), filed February 21, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

The Office mailed a Notice of Allowance on September 8, 2006. The Notice required submission of $1400 for the issue fee and $300 for the publication fee. The Notice set a statutory period for reply of three (3) months.

An issue fee transmittal form and authorization to charge the required fees to Deposit Account 50-1951 were filed October 16, 2006.

Deposit Account No. 50-1951 had a balance lower than $1,700 for the time period from September 25, 2006, to October 20, 2006. Therefore, when the Office attempted to charge the fees on October 17, 2006, the account contained insufficient funds.

The Office did not notify petitioner of the problem.

The application became abandoned as of midnight on December 8, 2006.

A Notice of Abandonment was mailed January 8, 2007.

A grantable petition under 37 CFR 1.137(a) must be accompanied by:

(1) the reply required to the outstanding Office action or notice, unless previously filed,
(2) the petition fee,
(3) a showing <u>to the satisfaction of the Director</u> that the <u>entire</u> 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 <u>unavoidable</u>, 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). Specifically, the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable within the meaning of 37 CFR 1.137(a).

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[1] The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[2] A lack of knowledge of, or failure to understand, a PTO rule, the content of the MPEP, or an Official Gazette notice will not constitute unavoidable delay.[3]

In this case, petitioner asserts the non-timely payment of the issue fee was unavoidable due to the non-receipt of the Notice of Fee Due." The Office notes the "Notice of Fee Due" in the file was an internal notice and a copy was never mailed to petitioner.

A delay is not rendered "unavoidable" due to the Office's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action.[4] The Office is not required to send any notice to applicant when a deposit account contains insufficient funds and reliance on such notice will not constitute unavoidable delay.

A reasonable and prudent person would insure that sufficient funds were held in an account to cover all outstanding amounts owed by the account. Petitioner did not maintain the balance necessary to allow the issue fee to be charged to the deposit account.

If petitioner cannot provide the evidence necessary to establish unavoidable delay, or simply does not wish to, petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply (the issue fee and publication fee), the required petition fee ($1,500 for a large entity), and a statement that the **entire** delay in filing the

---

[1] Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

[2] See In re Mattullath, 38 App. D.C. 497 (D.C. Cir. 1912).

[3] See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D. D.C. 1978) for the proposition that counsel's nonawareness of PTO rules does not constitute "unavoidable" delay); Vincent v. Mossinghoff, 1985 U.S. Dist. LEXIS 23119, 13, 230 U.S.P.Q. (BNA) 621 (D. D.C. 1985) (Plaintiffs, through their counsel's actions, **or their own**, must be held responsible for having noted the MPEP section and Official Gazette notices expressly stating that the certified mailing procedures outlined in 37 CFR 1.8(a) do not apply to continuation applications.) (Emphasis added).

[4] 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).

required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. A copy of a blank petition form is enclosed for petitioner's convenience. A PDF "fillable" version of the form can be located at the following web address: http://www.uspto.gov/web/forms/sb0064_fill.pdf.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

PTO/SB/64 (04-07)
Approved for use through 09/30/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature	Date
Typed or printed name	Registration Number, if applicable
Address	Telephone Number
Address	

Enclosures:
- ☐ Fee Payment
- ☐ Reply
- ☐ Terminal Disclaimer Form
- ☐ Additional sheets containing statements establishing unintentional delay
- ☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date	Signature
	Typed or printed name of person signing certificate

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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WESTHOLLOW TECHNOLOGY CENTER
3333 HIGHWAY 6 SOUTH
HOUSTON TX 77082

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OFFICE OF PETITIONS

In re Application of	:	
Willis et al.	:	
Application Number: 10/947011	:	DECISION ON PETITION
Filing Date: 09/22/2004	:	
Attorney Docket Number:	:	
TH0339/US	:	

This is a decision on the petition filed on 31 July, 2007, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 9 December, 2006, for failure to timely submit the issue and publication fees in response to the Notice of Allowance and Fee(s) Due mailed on 8 September,

---

[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)).

2006. On 16 October, 2006, applicant filed an issue fee transmittal form and authorization to charge the required fees to counsel's deposit account. The deposit account contained insufficient funds, however, and the Office was unable to charge the fees. As such, the application became abandoned. Notice of Abandonment was mailed on 8 January, 2007. A petition under 37 CFR 1.137(a) was filed on 21 February, 2007. The petition was dismissed on 26 June, 2007.

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.

Receipt of the issue and publication fees is acknowledged.

The application is being referred to the Office of Patent Publications for processing into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

KIRTON AND MCCONKIE
60 EAST SOUTH TEMPLE,
SUITE 1800
SALT LAKE, CITY UT 84111

COPY MAILED

OCT 16 2006

OFFICE OF PETITIONS

In re Application of	:	
Max D. Behunin	:	
Application No. 10/947,014	:	ON PETITION
Filing Date: 09/22/2002	:	
Attorney Docket Number:	:	
12068.3	:	

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed July 17, 2006.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due, mailed March 22, 2006. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned on June 23, 2006. A Notice of Abandonment was mailed July 27, 2006.

Applicant has submitted the issue and publication fees with the instant petition. Accordingly, the petition is granted.

This application is being referred to Publishing Division for processing into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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R. MICHAEL ANANIAN
DORSEY & WHITNEY
SUITE 3400
4 EMBARCADERO CENTER
SAN FRANCISCO CA 94111

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SEP 0 6 2005

OFFICE OF PETITIONS

In re Application of	:	
Anthony Russo	:	
Application No. 10/947,040	:	DECISION GRANTING PETITION
Filed: September 21, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 34426/US/2/RMA	:	
(469157-00	:	

This is a decision on the petition, filed July 25, 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 May 2, 2005. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of November 24, 2005, was mailed on July 15, 2005.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3208.

This application is being forwarded to Technology Center Art Unit 2621 for examination in due course.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

HAMILTON & TERRILE, LLP
P.O. BOX 203518
AUSTIN, TX 78720

Mail Date: 04/20/2010

Applicant	: Weimin Pan	: DECISION ON REQUEST FOR
Patent Number	: 7614058	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/947,043	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/21/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1443** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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PARSONS BEHLE & LATIMER
201 SOUTH MAIN STREET, SUITE 1800
P.O. BOX 45898
SALT LAKE CITY, UT 84111

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MAY 10 2007

OFFICE OF PETITIONS

In re Application of	:	
CAO, Densen	:	
Application No. 10/947,055	:	DECISION ON PETITION
Filed: September 22, 2004	:	TO WITHDRAW
Attorney Docket No. **5065.2 P**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 17, 2007 and February 08, 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 Michelle R. Eason at 571-272- 4231.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **CAO GROUP, INC.**
4358 SOUTH SKYHAWK DRIVE
WEST JORDAN, UT 84084

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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GEOFFREY E. DOBBIN, PATENT ATTORNEY
4278 SOUTH 6220 WEST
WEST VALLEY CITY UT 84128-6501

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DEC 2 2 2008

OFFICE OF PETITIONS

In re Application of	:	
Densen CAO	:	
Application No. 10/947,055	:	DECISION ON PETITION
Filed: September 22, 2004	:	
Attorney Docket No. GDCAO01HH	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 30, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before March 10, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed December 10, 2007, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on March 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 payment of the issue fee of $720.00 and publication fee of $300.00; (2) the petition fee of $770.00; and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fee payments are accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

This application is being referred to Office of Data Management.

Michelle R. Eason

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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MENDELSOHN, DRUCKER, & ASSOCIATES, P.C.
1500 JOHN F. KENNEDY BLVD., SUITE 405
PHILADELPHIA, PA 19102

Mail Date: 07/29/2010

Applicant	: Muralidharan S. Kodialam	: DECISION ON REQUEST FOR
Patent Number	: 7653007	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/947,070	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/22/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **928** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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TOWNSEND AND TOWNSEND AND CREW, LLP/PIXAR
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 04/21/2010

Applicant	: Stephan Vladimir Bugaj	: DECISION ON REQUEST FOR
Patent Number	: 7580986	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/947,074	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/21/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1373** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/947,075	09/21/2004	Ronald K. Eyre	70239-00045	8227

58688 7590 01/26/2009
CONNOLLY BOVE LODGE & HUTZ LLP
P.O. BOX 2207
WILMINGTON, DE 19899

EXAMINER
TURNER, ARCHENE A

ART UNIT	PAPER NUMBER
1794	

MAIL DATE	DELIVERY MODE
01/26/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WK

Mailed: 1/26/09

In re application of	:	
Eyre et al.	:	DECISION ON
Serial No. 10/947,075	:	PETITION
Filed: September 21, 2004	:	
For: Thermally Stable Diamond Polycrystalline Diamond Constructions	:	

This is a decision on PETITION TO EXPUNGE UNDER 37 C.F.R. 1.59(b), filed December 11, 2008, which has been accepted as a timely petition under 1.59(b) and MPEP 724.02 and is before the Group Director of Technology Center for consideration.

DECISION

Petitioner requests that protective order material submitted under MPEP 724.02 be expunged. The decision on the petition is dismissed because prosecution on the merits is not closed. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material," with materiality being defined as any information the examiner considers as being important to a determination of patentability of the claims. During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material".

The petition is **DISMISSED**.

Jacqueline M. Stone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Jeffrey S. Bergman
CONNOLLY BOVE LODGE & HUTZ LLP
P.O. BOX 2207
WILMINGTON DE 19899

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700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH, PA 15219

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MAR 11 2005

OFFICE OF PETITIONS

In re Application of	:
Marek Szymanski and Roland	:
Tiedemann	: DECISION REFUSING STATUS
Application No. 10/947,077	: UNDER 37 CFR 1.47(a)
Filed: September 22, 2004	:
For: MULTIFUNCTION LEVER AND CONTROL UNIT FOR AN INDUSTRIAL TRUCK	

This is in response to the "Petition Under 37 CFR 1.47(a), filed February 9, 2005 (Certificate of Mailing date: February 7, 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 22, 2004 without an executed oath or declaration and naming Marek Szymanski and Roland Tiedemann as joint inventors.

Accordingly, on November 10, 2004, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration, filing fee and a surcharge for their late filing.

In response, on February 9, 2005 (Certificate of Mailing date: February 7, 2005), the instant petition and a one (1) 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.

Applicant has failed to show that the non-signing inventor cannot be found or reached. Applicant has stated that letters were mailed to the non-signing inventor at his last known address, and that the letters was returned because the addressee could not be found at the address given. However, applicant has not submitted a statement of facts that describes any diligent efforts applicant has used to locate the non-signing inventor thereafter.

Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made. The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, telephone directory searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included statement of facts. It is important that the statement contain facts as opposed to conclusions. See MPEP 409.03(d).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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THE WEBB LAW FIRM, P.C.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH, PA 15219

FAX RECEIVED

MAY 26 2005

OFFICE OF PETITIONS

In re Application of	:	
Marek Szymanski and Roland Tiedemann	:	DECISION NOTING JOINDER OF
Application No. 10/947,077	:	INVENTOR AND PETITION
Filed: September 22, 2004	:	UNDER 37 CFR 1.47(a) MOOT
Attorney Docket No. MULTIFUNCTION	:	
LEVER AND CONTROL UNIT FOR AN		
INDUSTRIAL TRUCK		

This is in response to the "Request For Reconsideration of Petition Under 37 CFR 1.47(a)," filed May 9, 2005.

Petitioner has submitted a Declaration executed by the previously non-signing inventor Roland Tiedemann in compliance with 37 CFR 1.63. Therefore, in view of the joinder of the inventors, further consideration under 37 CFR 1.47(a) is not necessary and the petition is considered moot. This application does not require Rule 1.47(a) status, and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

The file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
United States Patent and Trademark Office

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AGILENT TECHNOLOGIES INC.
INTELLECTUAL PROPERTY
ADMINISTRATION, LEGAL DEPT.
MS BLDG. E P.O. BOX 7599
LOVELAND CO 80537

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JAN 23 2007

OFFICE OF PETITIONS

In re Application of :
Chan et al :
Application No. 10/947,088 :
Filed: September 22, 2004 :
Attorney Docket No. 70040976-1 :

ON PETITION

This is a decision on the petition, filed January 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 January 17, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

Telephone inquiries 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 2878 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc:
KLASS, LAW O'MEARA & MALKIN
1999 BROADWAY, SUITE 2225
DENVER, CO 80202

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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CLIFFORD G. FRAYNE
Suite 7A
136 Drum Point Road
Brick NJ 08723

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SEP 30 2008

OFFICE OF PETITIONS

In re Application of	:	
Steven M. Poretskin	:	
Application No. 10/947,094	:	ON PETITION
Filed: September 22, 2004	:	
Attorney Docket No. 787-001	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 16, 2007 and again on September 4, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowability, mailed January 5, 2007, which set a period for reply of three (3) months. Accordingly, this application became abandoned on April 6, 2007. The Notice of Abandonment was mailed April 30, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of corrected formal drawings; (2) the petition fee of $750; and (3) an adequate 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 the Office of Data Management for processing into a patent.

Chris Bottorff
Petitions Examiner
Office of Petitions

OIPE IAP78
MAY 16 2007
PATENT & TRADEMARK OFFICE

DAC-

PTO/SB/64 (04-07)
Approved for use through 09/30/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional): 787-001

First named inventor: STEVEN M. PORETSKIN

Application No.: 10/974,094 Art Unit: 2851

Filed: 09/22/2004 Examiner: MAGDA CRUZ

Title: INFLATABLE PROJECTION/IMAGING SCREEN STRUCTURE

Adjustment date: 09/30/2008 CKHLOK
05/16/2007 TBESHAH1 00000070 10974094
01 FC:2453 750.00 OP
09/30/2008 CKHLOK 00000005 10974094
01 FC:2453 750.00 OP

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

[X] Small entity-fee $ 750.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

[ ] Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of formal drawings (identify type of reply):

[ ] has been filed previously on _____.
[X] is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ 1,000.00.

05/16/2007 TBESHAH1 00000070 10974094
01 FC:2453 750.00 OP

[X] has been paid previously on February 20, 2007
[ ] is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Copied from 10974094 on 02/20/2008

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

[X] Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

[ ] A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature	May 11, 2007 Date
CLIFFORD G. FRAYNE Typed or printed name	27,637 Registration Number, if applicable
136 Drum Point Road, Suite 7A Address	732-262-2075 Telephone Number
Brick, NJ 08723 Address	

Enclosures: [X] Fee Payment

[ ] Reply

[ ] Terminal Disclaimer Form

[ ] Additional sheets containing statements establishing unintentional delay

[X] Other: Formal Drawings

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

[X] Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

[ ] Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

May 11 2007 Date	Signature
	CLIFFORD G. FRAYNE Typed or printed name of person signing certificate

Copied from 10974094 on 02/20/2008

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Mui Lin Cheong
5415 Boggs Road
Zanesville OH 43701

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NOV 0 7 2008

OFFICE OF PETITIONS

In re Application of

Mu Lin Cheong

Application No. 10/947,118

Filed: September 22, 2004

Attorney Docket No. 44177.0100

: DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 30, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition" under 37 CFR 1.137(b)."

The above-cited application became abandoned for failure to reply in a timely manner to the restriction/election requirement mailed January 23, 2008, which set a shortened period for reply of one month from its mailing date. A response was not received within the allowable period. The application became abandoned on February 24, 2008. A Notice of Abandonment was mailed on June 25, 2008.

Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a non-provisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee, or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition does not satisfy the requirements of item (1) above.

The response to the restriction/election requirement filed September 30, 2008, is signed by Joanne Rupprecht who is not a joint inventor on the application and does not appear to be a patent practitioner registered to practice before the United States Patent and Trademark Office. The renewed petition must be accompanied by a response to the restriction/election requirement that is either signed by the sole inventor or executed by a registered patent practitioner.

The request to change correspondence address filed September 30, 2008, is noted and made of record.

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 may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Mui Lin Cheong
5415 Boggs Road
Zanesville OH 43701

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DEC 04 2008

In re Application of

Mu Lin Cheong :

Application No. 10/947,118

: DECISION ON PETITION

Filed: September 22, 2004

:

Attorney Docket No. 44177.0100

This is a decision on the renewed petition under 37 CFR 1.137(b), filed November 12, 2008, and in supplement on November 18, 2008, to revive the above-identified application.

The renewed petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the restriction/election requirement mailed January 23, 2008, which set a shortened period for reply of one month from its mailing date. A response was not received within the allowable period. The application became abandoned on February 24, 2008. A Notice of Abandonment was mailed on June 25, 2008.

The election filed November 18, 2008, is noted.

The application is being forwarded to Technology Center 1700, GAU 1794 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Joseph A. Marasco
UT-Battelle, LLC
P.O. Box 2008
Oak Ridge TN 37831-6258

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JUN 1 7 2008

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Ronald L. **KLUEH et al** :
Application No. 10/947,119 :
Filed: September 22, 2004 :
Attorney Docket No. 1377.0 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed April 11, 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 May 30, 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) was obtained. Accordingly, the above-identified application became abandoned on September 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 an amendment, a Request for Continued Examination, and the $405 filing fee, (2) the petition fee of $770; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office Action of May 30, 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 April 11, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Lori Baker Amerson at (571) 272-6051.

This application is being referred to Technology Center AU 1742 for appropriate action on the concurrently filed Request for Continued Examination.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

JUL 28 2005

In re Application of Calvin C. Lichfield Serial No. 10/947,125 Filed: September 22, 2004 For: OPEN-END SELF-ADJUSTING WRENCH	: : : : : :	DECISION ON PETITION TO MAKE SPECIAL

Applicant's petition, filed April 19, 2005, requests that this application be rendered special for examination in that applicant is over sixty-five (65) years of age.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(IV) of the Manual of Patent Examining Procedure (MPEP).

PETITION GRANTED.

Frederick R. Schmidt, Director
Technology Center 3700

James M. Ritchey
O'Banion and Ritchey
400 Capitol Mall, Suite 1550
Sacramento, CA 95814

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/13/09

TO SPE OF : ART UNIT 1643 Canella Karen

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/947178 Patent No.: 7314915

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Certificates of Correction Branch

703-308-9390 ext. _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- [x] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

LARRY R. HELMS, PH.D.
SUPERVISORY PATENT EXAMINER

SPE

1643
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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LEWIS AND ROCA LLP
1663 Hwy 395, Suite 201
Minden NV 89423

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JUN 12 2008

OFFICE OF PETITIONS

In re Application of	:	
Bernard Chung Bon Ko	:	
Application No.: 10/947188	:	
Filing or 371(c) Date: 09/21/2004	:	
Attorney Docket Number:	:	
GAME-001	:	ON PETITION

This is a decision on the "Petition to Withdraw Holding of Abandonment," filed March 24, 2008. The petition is properly treated under 37CFR 1.181.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed March 12, 2007. The Office action set a three (3) month period for reply. No response having been received, the application became abandoned on June 13, 2007. A Notice of Abandonment was mailed October 15, 2007.

Applicant's Assertion

Applicant files the present petition and asserts that a timely response to the Office action was filed on May 10, 2007. In support of this assertion, applicant asserts only that an Electronic Acknowledgment Receipt was received.

Review of Office records

A review of Office records also reveals that the Office received the reply in the form of an Amendment and Remarks, on May 10, 2007 (within two (2) months of the mailing of the Office action). No reply to the Amendment/Remarks was mailed.

Conclusion

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 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 will be referred to Technology Center Art Unit 3711 for processing of the reply, and for continued examination in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

CC: SIERRA PATENT GROUP, LTD.
1663 HWY 395, STE. 201
MINDEN, NV 89423

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 042205

DICKSTEIN SHAPIRO MORIN &
OSHINSKY LLP
2101 L STREET, NW
WASHINGTON, DC 20037

MAY 16 2005

In re Application of:	:	
MARTIN L. GREEN et al.	:	
Serial No.: 10/947,218	:	DECISION ON REQUEST TO WITHDRAW
Filed: September 23, 2004	:	FROM RECORD
Attorney Docket No.: **GREEN 34-13**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed April 15, 2005.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period, which can be extended under 37 C.F.R. § 1.136(a).

The request meets all the above stated requirements. The request was signed by Thomas J. D'Amico, on behalf of himself and all the attorneys/agents listed in the attachment to the petition.

The request is **APPROVED**.

There are no attorneys/agents of record at this time.

All future communications from the Office will be directed to the assignee, Kyshon Rivers, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Jose G. Dees at (571) 272-1569.

Jose G. Dees, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: KYSHON RIVERS
4 CONNELL DRIVE
BERKELEY HEIGHTS NJ 07922

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

Westerman, Hattori, Daniels & Adrian LLP
1250 Connecticut Avenue, NW
Suite 700
Washington, DC 20036

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JUN 23 2005

OFFICE OF PETITIONS

In re Application of
Fukuda et al.
Application No. 10/947,234
Filed: September 23, 2004
Attorney Docket No. 030766A

DECISION ON PETITION

This is a decision on the petition filed May 25, 2004, requesting that the above-identified application be accorded a filing date of September 23, 2004, rather than the current filing date of January 31, 2005, with page 51 of the specification as part of the original disclosure.

On September 23, 2004, applicants filed the above-identified application. On December 8, 2004, the Office mailed a "Notice to File Missing Parts of Nonprovisional Application" (Notice), stating that the application was accorded a filing date of September 23, 2004; however, it appeared that page 51 of the specification was omitted.

In response, on January 31, 2005, applicants submitted a "Response to Notice of Omitted Items in a Non-provisional Application under 37 CFR 1.53(b)" and a copy of page 51 of the specification. Thereafter, the Office of Initial Patent Examination accorded the application a filing date of January 31, 2005; the date applicants submitted the missing page of specification.

On May 25, 2005, applicants submitted the present petition, an authorization to charge the $400.00 petition fee, and a copy of the Utility Patent Application Transmittal. Initially, applicants stated that applicants submitted page 51 of the specification with the application papers as evidenced by the transmittal. Furthermore, applicants indicated that the specification in the present divisional application is a duplicate of the parent specification filed on June 27, 2003. Applicants asserted that page 51 was previously submitted with the parent application, No. 10/607,013, filed on June 27, 2003, and was supported by the priority document JP2002-192133, filed on July 1, 2002.

As previously stated, applicants relied on the application transmittal as evidence that they submitted page 51 of the specification with the application papers on September 23, 2004. The Office notes that the listing of papers on an application transmittal is evidence of what applicants <u>intended</u> to submit to

the USPTO and not what was actually submitted. An application transmittal does not serve as prima facie evidence of receipt of page 51 by the USPTO.

An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence. The Office has a well-established and well-publicized practice of providing a receipt for papers filed in the Office to any applicant desiring a receipt. The practice requires that any paper for which a receipt is desired be filed in the Office with a self-addressed postcard identifying the paper. A postcard receipt, which itemizes and properly identifies the papers that are being filed, serves as prima facie evidence of receipt in the Office of all the items listed thereon on the date-stamped by the Office. See MPEP 503.

Applicants did not submit an itemized date-stamped postcard receipt in this case. If applicants have a date-stamped postcard receipt showing that page 51 of the specification was filed on September 23, 2004, the postcard receipt or a copy thereof should be supplied.

Next, applicants asserted that page 51 of the specification was previously submitted with the parent application, No. 10/607,013, filed on June 27, 2003, and was supported by the priority document JP2002-192133, filed on July 1, 2002. Upon a review of the record, page 51 has not been located in the official file. It is noted that the application transmittal indicates that the present patent application is a divisional patent application of Application No. 10/607,013, filed on June 27, 2003, the entire contents of which is incorporated herein by reference.

Section 201.06(c) of the Manual of Patent Examining Procedure states that:

> . . . an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuing application to include any subject matter in such prior application(s), without the need for a petition. (Emphasis supplied).

In view of the incorporation by reference of Application No. 10/607,013, page 51 of the specification is not new matter if it was part of the disclosure of Application No. 10/607,013. Accordingly, the Notice mailed on December 8, 2004, was correct in stating that page 51 of the specification appeared to have been omitted. Therefore, Notice will not be withdrawn.

However, it appears that applicants did not intend to accept the date that omitted page 51 was filed in the USPTO as the filing date of the above-identified application. Therefore, the petition is **granted** to the extent that the application will be accorded the filing date of September 23, 2004, **without** page 51 of the specification as part of the original disclosure.

The petition fee will not be refunded because the petition was not necessitated by any error on the part of the USPTO. To avoid the need to file the present petition, applicants should have filed a preliminary amendment with the examiner, requesting entry of page 51 of the specification. Applicants should submit such preliminary amendment prior to the first action on the merits.

The Office of Initial Patent Examination is directed to accord the application a filing date of September 23, 2004. Page 51 of the specification will not be entered at this time.

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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OFFICE OF PETITIONS

STEVENS DAVIS MILLER & MOSHER, LLP
1615 L STREET, NW
SUITE 850
WASHINGTON DC 20036

In re Application of	:	
Leo Charles Loevner	:	
Application No. 10/947,251	:	DECISION ON PETITION
Filed: September 23, 2004	:	TO WITHDRAW
Attorney Docket No. APV31696	:	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 12, 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).

Anthony P. Venturino signed the request on behalf of all attorneys of record.

Anthony P. Venturino 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 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: Leo Charles Loevner
9204 Wyeth Lane
Burke, VA 22015

cc: T-Med Behavioral, Inc.
Attn: Leo Charles Loevner
5610-A Sandy Lewis Drive
Fairfax, VA 22032

30 JUN 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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MCDERMOTT WILL & EMERY
18191 VON KARMAN AVE., SUITE 400
IRVINE, CA 92612-7107

In re Application of	:	
FUJIKAWA	:	
Application No.: 10/947,263	:	
Filing Date: 23 September 2004	:	DECISION
Attorney's Docket No.: 043877-0139	:	
For: INJECTION DEVICE OF LIGHT METAL	:	
INJECTION MOLDING MACHINE	:	

This decision is issued in response to applicants' "Petition Under 37 CFR 1.182 to Convert an Application Filed under 35 U.S.C. 111(a) to a National Stage Application filed under 35 U.S.C. 371" filed 03 May 2005 which requests that the present application be treated as having been filed under 35 U.S.C. 371 as a U.S. National Phase of PCT/JP03/09263. The required $400 petition fee has been paid.

BACKGROUND

On 23 September 2004, applicants filed the present U.S. application. The application was treated as an application filed under 35 U.S.C. 111(a).

On 03 May 2005, applicants filed the petition considered herein. The petition states that the present application was intended as a national stage filing under 35 U.S.C. 371, and requests that the application be converted to such an application.

DISCUSSION

Any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). See 37 CFR 1.495(g):

> The documents and fees submitted ... must be clearly identified as a submission to enter the national stage under 35 U.S.C. 371, otherwise the submission will be considered as being made under 35 U.S.C. 111.

In addition, section 1893.03(a) of the MPEP states the following:

> If there are any conflicting instructions as to whether the filing is under 35 U.S.C. 111(a) or 35 U.S.C. 371, the application will be accepted as filed under 35 U.S.C. 111(a).

The materials filed by applicants to initiate this application included a "Utility Patent Application under 37 CFR 1.53(b). The use of this transmittal letter is inconsistent with the intent to enter the national stage under 35 U.S.C. 371. Accordingly, the filed application was properly treated as a filing under 35 U.S.C. 111(a).[1]

Because the application was properly treated under 35 U.S.C. 111(a), the petition to convert the application to a national stage under 35 U.S.C. 371 is only grantable if accompanied by a showing of sufficient cause for such a conversion (i.e., the loss of patent rights or lack of other available remedies). Applicant here has not made such a showing. Pursuant to 37 CFR 1.78, the present application can be corrected to claim priority to the international application, if so desired. In the alternative, applicants could file a separate national stage application (accompanied by a petition for revival of the international application) and thereby initiate the desired national stage application. Based on the above, the present record does not support a conversion of the application to a national stage under 35 U.S.C. 371.

CONCLUSION

Applicants' petition to convert the application from an application filed under 35 U.S.C. 111(a) to a national stage application under 35 U.S.C. 371 is **DISMISSED** without prejudice. Processing of this application under 35 U.S.C. 111(a) will continue.

Any request for reconsideration of this decision on the merits must be filed within **TWO (2) MONTHS** of the mail date of the present decision. Any such request should be entitled "Renewed Petition Under 37 CFR 1.182." No additional petition fee is required.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner For Patents, Office of PCT Legal Administration, PO Box 1450, Alexandria, Virginia 22313-1450, with the contents marked to the attention of the Office Of PCT Legal Administration.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
Office Of PCT Legal Administration
Telephone: (571) 272-3286
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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GENERAL ELECTRIC COMPANY
GLOBAL RESEARCH
PATENT DOCKET RM. BLDG. K1-4A59
NISKAYUNA, NY 12309

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APR 19 2006

OFFICE OF PETITIONS

In re Application of
John Robert Campbell et al
Application No. 10/947,265
Filed: September 23, 2004
Attorney Docket No. 132095-3

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed February 27, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed 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 nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, 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 complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional applications has been included in an

amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether 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 nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3218. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 1714 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/947,265	09/23/2004	1714	1342	132095-3		47	4

CONFIRMATION NO. 1430

CORRECTED FILING RECEIPT

OC000000018563162

6147
GENERAL ELECTRIC COMPANY
GLOBAL RESEARCH
PATENT DOCKET RM. BLDG. K1-4A59
NISKAYUNA, NY 12309

Date Mailed: 04/18/2006

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)

John Robert Campbell, Clifton Park, NY;
Bryan Duffey, Ballston Spa, NY;
John Austin Rude, Ballston Lake, NY;
Prameela Susarla, Clifton Park, NY;
Michael Alan Vallance, Loudonville, NY;
Gary Williams Yeager, Rexford, NY;
Kenneth Paul Zarnoch, Scotia, NY;

Assignment For Published Patent Application

General Electric Company

Power of Attorney: The patent practitioners associated with Customer Number **006147**.

Domestic Priority data as claimed by applicant

This application is a CIP of 10/678,471 10/03/2003
and is a CIP of 10/188,181 07/02/2002 PAT 6,812,276
and is a CIP of 09/683,214 12/03/2001 PAT 6,905,637

Foreign Applications

If Required, Foreign Filing License Granted: 11/10/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/947,265

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Flame-retardant thermoset composition, method, and article

Preliminary Class

524

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign 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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SUITE 630
MCLEAN, VA 22102

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MAR 0 9 2005

OFFICE OF PETITIONS

In re Application of :
Du Clos, et al. :
Application No. 10/947,267 : ON PETITION
Filed: September 23, 2004 :
Attorney Docket No. 00023.0002 :

This is a decision on the papers styled, "Petition To Accord A Filing Date," filed December 30, 2004, which have been treated as a Petition under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of September 23, 2004, including Figures 3A-3D, as described in the specification.

The application was filed on September 23, 2004. However, on December 14, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice To File Missing Parts Of Nonprovisional Application" (Notice) that stated the application had been accorded a filing date, but Figures 3A-3D as described in the specification appear to have been omitted.

In response, on December 30, 2004 the instant petition was submitted. Petitioner contends Figure 3A-3D were submitted with the application-as-filed on September 23, 2004.

A review of the drawings submitted on September 23, 2004 indicates that the drawing of Figure 3 contains four boxes with each box separately labeled A, B, C and D. As such, Figures 3A-3D were, in fact, submitted with the application papers on September 23, 2004.

In view of the above, the petition is granted.

The $130.00 petition fee submitted on December 30, 2004 will be refunded to deposit account no. 50-2961.

This application will be returned to OIPE for processing with a filing date of September 23, 2004, including Figure 3A-3D as submitted with the application papers on that date.

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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/947,267	09/23/2004	Terry Du Clos	00023.0002	3003

7590 11/24/2008

HENRY D. COLEMAN
COLEMAN SUDOL SAPONE, P.C.
714 COLORADO AVENUE
BRIDGEPORT, CT 06605-1601

EXAMINER
LUKTON, DAVID

ART UNIT	PAPER NUMBER
1654	

MAIL DATE	DELIVERY MODE
11/24/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20081114

DATE : November 14, 2008

TO SPE OF : ART UNIT 1654

SUBJECT : Request for Certificate of Correction on Patent No.: 7,226,995

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:

/Cecilia Tsang/
Supervisory Patent Examiner, Art Unit 1654

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Mark J. Thronson, Esq.
DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
2101 L Street NW
Washington DC 20037-1526

MAIL

MAY 1 6 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: MOTOHASHI
Application No. 10/947,279
Filed: September 23, 2004
For: INFORMATION RECORDING METHOD, INFORMATION RECORDING APPARATUS, PROGRAM AND COMPUTER READABLE INFORMATION STORAGE MEDIUM

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER MPEP §708.02 (VIII)

This is a response to the petition filed 08 March 2005, under 37 CFR §1.102(d) and MPEP §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

MPEP §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in **37 CFR 1.17(h)**;

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Applicant's submission meets all the criteria set out above. Accordingly, the petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for accelerated examination according to the procedures set forth in MPEP § 708.02, Section VIII.

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

ds

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New York, New York 10112-3801

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OFFICE OF PETITIONS

In re Application of
Ohishi
Application No. 10/947,288
Patent No; 7,088,429
Filed: September 23, 2004
Attorney Docket No. 00862.102658

:DECISION GRANTING APPLICATION
:AND NOTICE OF INTENT TO ISSUE
:CERTIFICATE OF CORRECTION

This decision is in response to Applicants' "APPLICATION FOR PTA UNDER 37 CFR 1.705(d)" filed[1] on October 10, 2006 requesting that the USPTO adjust the PTA determination at the time of the issuance of the patent from a determination of zero (0) days to a determination of forty-nine (49) days.

Applicant's application is **GRANTED.** The Office will *sua sponte* issue a certificate of correction reflecting this decision. The Office will also adjust the PTA calculation to reflect this decision.

Applicant argue the reduction of 111 days because the "miscellaneous incoming letter" was in fact a response by applicant to the notice of allowance where the title was incorrect on the first page of the notice of allowance. Applicant asserts that the title was change in an amendment that was filed on September 13, 2006. In the notice of allowance that was mailed on April 5, 2006, the Office noted that the amendment (change of title) and substitute specification is entered into the file. On April 20, 2006, applicant sent a response that commenting on the notice of allowance not properly titling the invention.

Applicant's arguments are persuasive. The Office weighs heavily that this was applicant's first opportunity to address the failure of the Office to correct the title correction. The Office notes that the submission was filed and the next response by the Office was the notice of allowance. Applicant could not address this issue prior to the mailing of the notice of allowance. Accordingly, the Office does not construe the letter mailed April 20, 2006 as a failure to engage in reasonable efforts to conclude prosecution of the application. Accordingly, the 111-day

[1]The Office notes that the two-month deadline was met due to the holiday being Monday October 9, 2006. The Office notes that they will accept a petition submission on Tuesday following a Monday holiday when Sunday is the two month deadline date.

reduction will be removed. Accordingly, the only event that affects the PTA is the Office delay under 37 CFR 1.702(a)(1) by a period of forty-nine (49) days. The proper amount of PTA at the time of the issuance of the patent is forty-nine (49-0 = 49) days.

After the mailing of this decision, the Office will forward this patented file to the certificate of correction branch for an issuance of a certificate fo correction.

The Office acknowledges receipt of the $200.00 fee. No additional fees are required by applicants.

Any questions concerning this decision should be directed to Kery Fries, Senior Legal Advisor, Office of Patent Legal Administration, Office of Deputy Commissioner for Patent Examination Policy at 571-272-7757.

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

cc: Draft certificate of correction
Adjusted PAIR calculation

Day : Tuesday
Date: 1/23/2007

PALM INTRANET

Time: 11:29:06

PTA Calculations for Application: 10/947288			
Application Filing Date:	09/23/2004	PTO Delay (PTO):	49
Issue Date of Patent:	08/08/2006	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	111
Post-Issue Petitions:	0	Total PTA (days):	49
PTO Delay Adjustment:	111		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
48	01/23/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	111		
44	08/08/2006	PATENT ISSUE DATE USED IN PTA CALCULATION			
43	07/01/2006	FINISHED INITIAL DATA CAPTURE			
42	07/04/2006	EXPORT TO FINAL DATA CAPTURE			
41	07/04/2006	EXPORT TO FINAL DATA CAPTURE			
40	07/04/2006	EXPORT TO FINAL DATA CAPTURE			
39	07/01/2006	DISPATCH TO FDC			
38	04/20/2006	MISCELLANEOUS INCOMING LETTER		111	
37	04/26/2006	APPLICATION IS CONSIDERED READY FOR ISSUE			
36	04/20/2006	ISSUE FEE PAYMENT VERIFIED			
35	04/20/2006	ISSUE FEE PAYMENT RECEIVED			
34	04/10/2006	EXPORT TO INITIAL DATA CAPTURE			
33	04/05/2006	MAIL NOTICE OF ALLOWANCE			
32	04/03/2006	ISSUE REVISION COMPLETED			
31	04/03/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
30	04/03/2006	NOTICE OF ALLOWABILITY			
29	03/13/2006	SUBSTITUTE SPECIFICATION FILED			
28	03/21/2006	DATE FORWARDED TO EXAMINER			
27	03/13/2006	RESPONSE AFTER NON-FINAL ACTION			
26	01/11/2006	MAIL NON-FINAL REJECTION	49		-1
25	01/09/2006	NON-FINAL REJECTION			
24	02/03/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
23	12/22/2005	CASE DOCKETED TO EXAMINER IN GAU			

22	02/03/2005	REFERENCE CAPTURE ON IDS			
21	02/03/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	02/10/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
19	02/10/2005	CASE DOCKETED TO EXAMINER IN GAU			
18	02/08/2005	TRANSFER INQUIRY TO GAU			
17	12/13/2004	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
16	11/18/2004	APPLICATION RETURN FROM OIPE			
15	11/18/2004	APPLICATION IS NOW COMPLETE			
14	11/18/2004	APPLICATION RETURN TO OIPE			
13	11/18/2004	APPLICATION RETURN FROM OIPE			
12	11/18/2004	APPLICATION RETURN TO OIPE			
11	11/18/2004	APPLICATION RETURN FROM OIPE			
10	11/18/2004	APPLICATION IS NOW COMPLETE			
9	11/18/2004	PRE-EXAM OFFICE ACTION WITHDRAWN			
8	11/18/2004	APPLICATION RETURN TO OIPE			
7	11/17/2004	APPLICATION DISPATCHED FROM OIPE			
6	11/17/2004	APPLICATION IS NOW COMPLETE			
5	11/05/2004	CLEARED BY L&R (LARS)			
4	10/26/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	10/26/2004	CASE CLASSIFIED BY L&R			
2	10/10/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	09/23/2004	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,088,429 B2

DATED : Aug. 8, 2006

INVENTOR(S) : Ohishi

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 (0) days

Delete the phrase "by 0 days" and insert – by 49 days--

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DEC 06 2006

TECHNOLOGY CENTER 3600

HAMMER & HANF, PC
3125 SPRINGBANK LANE
SUITE G
CHARLOTTE, NC 28226

In re application of	:	**DECISION ON PETITION**
James Ronald Davis	:	**TO MAKE SPECIAL FOR**
Application No. 10/947,324	:	**NEW APPLICATION**
Filed: September 23, 2004	:	**UNDER 37 CFR 1.102**
For: SNAG-RESISTANT FISHING LURE	:	

This is a decision on the petition filed on November 28, 2006 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DENIED**.

REGULATION AND PRACTICE

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), the following conditions must be satisfied:

1. The application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);
2. The application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours;
3. The application, at the time of filing, must be complete under 37 CFR 1.51 and in condition for examination;
4. The application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

The petition to make special under accelerated examination under 37 C.F.R. § 1.102(d) is not acceptable because it was not filed with the application as required in the above Federal Register Notice of June 26, 2006. It appears that the petition was filed under the guidelines for making an application special that were in effect prior to August 25, 2006. As of August 25, 2006 the new guidelines replaced the old guidelines. Since applicant's petition was received on November 28, 2006 the petition must be considered under the new guidelines and thus is properly **DENIED**.

For the above-stated reasons, the petition is denied. The application will therefore be taken up by the examiner for action in its regular turn.

Any inquiry regarding this decision should be directed to Kenneth J. Dorner, Quality Assurance Specialist, at (571) 272-6587.

Kenneth J. Dorner
Quality Assurance Specialist
Technology Center 3600

KJD/dew: 12/05/06

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OCT 2 1 2009

Charlotte C. Wilson
Turner Padget Graham & Laney, P.A.
P.O. Box 1509
Greenville, SC 29602

In re Application of:	:	
James Ronald Davis	:	Decision on Petition under
Application No. 10/947,324	:	37 CFR 1.181
Filed: September 23, 2004	:	
For: SNAG-RESISTANT FISHING LURE	:	

The petition filed on March 4, 2009 entitled as "Petition for Reassignment of Patent Application to a Different Examiner and Petition for Expungement of Record under MPEP 724.05" and the supplemental petition filed on July 22, 2009 entitled "Supplemental Petition under 37 CFR 1.181 for Reassignment of Patent Application to a Different Examiner and for Expungement of Record under MPEP 724.05" is acknowledged.

The petitions have been **DISMISSED** for the following reason:

In an interview with applicant's representative, Ms. Charlotte Wilson, on September 28, 2009 an agreement was reached between Supervisory Patent Examiner Peter Poon and Ms. Wilson to withdraw the above noted petitions since prosecution on the case was closed due to the Notice of Allowance that was issued by Primary Examiner Darren Ark on September 18, 2009 and ultimately mailed on October 19, 2009.

Any questions or comments with respect to this decision should be directed to Peter M. Poon at (571) 272-6891.

Frederick R. Schmidt, Director
Technology Center 3600
(571) 272-5150

pmp/tl: 9/28/09
72

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KRATZ, QUINTOS & HANSON, LLP
1420 K STREET, N.W.
SUITE 400
WASHINGTON, DC 20005

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OFFICE OF PETITIONS

In re Application of
Atsushi Itoh, et al.
Application No. 10/947,326
Filed: September 23, 2004
Attorney Docket No. 040487

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed August 31, 2007.

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before July 6, 2007. A Notice of Abandonment was mailed on August 3, 2007. On August 31, 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 $1,400 issue fee and the $300 publication fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

The application is being referred to Publishing Division to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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Paper No. None

STEIN, MCEWEN & BUI, LLP
1400 EYE STREET, NW
SUITE 300
WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Application of
Jung-Wan Ko et al.
Application No. 10/947,361
Filed: September 23, 2004
Attorney Docket No. 1293.1137D
Title: PHYSICAL IDENTIFICATION DATA ADDRESSING METHOD USING WOBBLE SIGNAL, WOBBLE ADDRESS ENCODING CIRCUIT, METHOD AND CIRCUIT FOR DETECTING WOBBLE ADDRESS, AND RECORDING MEDIUM THEREFOR

DECISION ON PETITION

This is a decision on the petition filed December 16, 2004, requesting that the above-identified application be accorded a filing date of September 23, 2004, with Figures 10, 11, and 12A – 12M as part of the original disclosure of the application.

The application was deposited on September 23, 2004. However, on November 17, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Omitted Item(s) in a Nonprovisional Application – Filing Date Granted" (notice) stating that the application had been accorded a filing date, and advising applicants that it appeared as though the application was deposited without Figures 10, 11, and 12A - 12M. The notice set a two-month period for response.

On December 16, 2004, the instant petition was filed, along with Figures 10, 11, and 12A - 12M, a copy of the notice, and an amendment requesting the entry of Figures 10, 11, and 12A - 12M. The petition fee has been charged to Petitioner's Deposit Account, as authorized in the petition.

Petitioner contends that these figures were omitted on filing, but were constructively included, through incorporation by reference.

The Office allows an applicant to rely upon an incorporation by reference of a parent application when a portion of the child application has been inadvertently omitted. The specification indicates that the instant application is a divisional of application 09/704,656, 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 **GRANTED-IN-PART**.

The application will receive a filing date of September 23, 2004. However, the figures submitted with the instant petition will not be entered.

Petitioner desires for the missing figure to be included, and has properly submitted these pages via an amendment. This amendment, of course, will not be entered until it has been reviewed by the examiner for new matter[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 $400.00 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 23, 2004, using only the application papers filed on that date.

The Change of Correspondence Address and Power of Attorney has been entered and made of record.

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).

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MICHAEL P. MORRIS
BOEHRINGER INGELHEIM USA CORPORATION
900 RIDGEBURY ROAD
P O BOX 368
RIDGEFIELD CT 06877-0368

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OFFICE OF PETITIONS

In re Application of	:	
Younes Bekkali et al	:	
Application No. 10/947,420	:	ON PETITION
Filed: September 22, 2004	:	
Attorney Docket No. 09-0289	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 1, 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, September 24, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 25, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to David Bucci at (571) 272-7099 or in his absence to Ariana Zimbouski at (571)-272-6739.

This application is being referred to Technology Center AU 1624 for appropriate action on the concurrently filed amendment.

David Bucci
Petitions Examiner
Office of Petitions

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H.C. PARK & ASSOCIATES, PLC
8500 LEESBURG PIKE, SUITE 7500
VIENNA, VA 22182

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OFFICE OF PETITIONS

In re Application of
Mu-Hyun KIM, et *al.*
Application No. 10/947,421
Filed: September 23, 2004
Attorney Docket No. **6161.0268.US**

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 July 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 June 29, 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) 272-7253.

This application is being referred to Technology Center AU 2889 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.*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 07/24/09

TO SPE OF : ART UNIT 3629

SUBJECT : Request for Certificate of Correction for Appl. No.: 10947435 Patent No.: 7343303 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 9D40-D
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

SPE 3629

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE	Art Unit

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ROYLANCE, ABRAMS, BERDO & GOODMAN, L.L.P.
1300 19TH STREET, N.W.
SUITE 600
WASHINGTON,, DC 20036

Mail Date: 04/21/2010

Applicant	: Sang-am Lee	: DECISION ON REQUEST FOR
Patent Number	: 7606131	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/947,441	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/23/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1424** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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ANDRUS, SCEALES, STARKE & SAWALL, LLP
100 EAST WISCONSIN AVENUE, SUITE 1100
MILWAUKEE, WI 53202

Mail Date: 04/21/2010

Applicant	: Julian John Beld	: DECISION ON REQUEST FOR
Patent Number	: 7607973	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/947,468	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/22/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1435** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 24 2004

Charles J. Prescott, P.A.
2033 Wood Street, Suite 115
Sarasota, FL 34237

In re Application of	:	
James A. Patterson	:	
Serial No.: 10/947,484	:	PETITION TO MAKE SPECIAL
Filed: September 22, 2004	:	
Attorney Docket No.: P-1912	:	

This is in response to applicant's petition filed on September 22, 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 Marianne Seidel by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 572-272-0584 or by facsimile transmission to the general Office facsimile number.

Marianne Seidel

Marianne Seidel
Special Program Examiner
Technology Center 1600

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MUIRHEAD AND SATURNELLI, LLC
200 FRIBERG PARKWAY
SUITE 1001
WESTBOROUGH, MA 01581

Mail Date: 04/21/2010

Applicant	: Michael Muhlin	: DECISION ON REQUEST FOR
Patent Number	: 7631665	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/947,503	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/22/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **929** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OFFICE OF PETITIONS

In re Application of :
Iseki et al. :
Application No. 10/947,540 :
Filed: 09-23-2004 :
Attorney Docket No. 7372/84141 :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed October 25, 2006, to withdraw the holding of abandonment for the above-identified application.

On February 23, 2006, the Office mailed a final Office Action, which set a three-month shortened statutory period for reply. In the absence of a timely filed response, the application was held abandoned on May 24, 2006. A Notice of Abandonment was mailed on October 2, 2006.

In the present petition, applicants' legal representative requested that the Office withdraw the holding of abandonment, re-mail the final Office action, and restart the period for reply. Specifically, the legal representative asserted that neither applicants nor the legal representative received the final Office action dated February 23, 2006, for this application. The legal representative argued that all relevant times prior and subsequent to February 23, 2006, this application was associated with Customer Number 42798. The legal representative stated that Customer Number 42798 was associated with P.O. Box 65973 in February 2006. The legal representative further indicated that the P.O. Box did not change until September 2006, and that the change to P.O. Box 18415 was entered in the USPTO.

Additionally, the legal representative stated that the firm maintained a USPTO Mail Log Book to log mail picked up from P.O. Box 65973. The legal representative contended that a search of the USPTO Mail Log Book revealed no record of receiving the final Office action of February 23, 2006. In support of this contention, applicants submitted a copy of the USPTO Mail Log Book for the period at issue, as well as the Declaration of Blanche Dixon, who maintained the log, verifying that no mail was received from the USPTO during the relevant period of time.

A review of the record indicates no irregularity in the mailing of the final Office Action, and in the absence of any irregularity in the mailing, there is a strong presumption that the final Office Action was properly mailed to the address of record. This presumption may be overcome by a showing that

the final Office action was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner, stating that the practitioner did not receive the Office communication 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)(I)(A). For example, if a three-month period for reply was set in the non-received Office communication, a copy of the docket report showing all replies docketed for a date three months from the mail date of the non-received Office communication must be submitted as documentary proof of non-receipt of the Office communication. 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 (*e.g.* if the practitioner has a history of not receiving Office communications).

After reviewing the documents submitted on petition, the Office concludes that the showing of record is sufficient to warrant withdrawal of the holding of abandonment. Accordingly, the petition under 37 CFR 1.181 is **GRANTED**. No petition fee is required.

Technology Center Art Unit 1713 has been advised of this decision. The matter is being referred to the Technology Center's technical support staff for mailing of a new final Office action. The three (3) month shortened statutory time period for responding to the final Office action will be set to run from the mailing date of the new final Office action.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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SEP 02 2008

In re Application of	:	
Yuki ISEKI, et al	:	
Application No. 10/947,540	:	ON PETITION
Filed: September 23, 2004	:	
Attorney Docket No. 7372/84141	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 4, 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 21, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A two (2) month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is October 22, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1540; and (3) the required statement of unintentional delay have been received.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 1796 for 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 Page
Petitions Examiner
Office of Petitions

RAM Fee History Query

Revenue Accounting and Management

Name/Number: 10947540 Total Records Found: 12

Start Date: Any Date End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
03/05/2008	00000029	1	1453	$1,540.00	03/04/2008	DA 061135
03/05/2008	00000030	1	1801	$810.00	03/04/2008	DA 061135
03/05/2008	00000031	1	1253	$590.00	03/04/2008	DA 061135
10/19/2007	00000236	1	1252	$460.00	10/18/2007	DA 061135
10/18/2007	00000172	1	1806	$180.00	10/17/2007	DA 061135
11/30/2005	00000008	1	1202	$300.00	11/28/2005	DA 061135
11/30/2005	00000009	1	1251	$120.00	11/28/2005	DA 061135
01/19/2005	00000146		8021	$40.00	01/11/2005	DA 061135
01/12/2005	00000086	1	1001	$790.00	01/11/2005	DA 061135
01/12/2005	00000087	1	1051	$130.00	01/11/2005	DA 061135
01/12/2005	00000088	1	1202	$50.00	01/11/2005	DA 061135
01/12/2005	00000089	1	1203	$360.00	01/11/2005	DA 061135

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PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional) 7372/84141

First named inventor: Yuki ISEKI et al.

Application No.: 10/947,540 Art Unit: 1796

Filed: September 23, 2004 Examiner: R. Harlan

Title: Method for producing an extruded molded article of ethylene polymer and the film

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

03/05/2008 PCHOMP 00000017 061135 10947540
01 FC:1453 1540.00 DA

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee
☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.
☑ Other than small entity – fee $ 1540 (37 CFR 1.17(m))

2. Reply and/or fee
A. The reply and/or fee to the above-noted Office action in the form of an RCE (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.

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PTO/SB/64 (01-08)
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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	March 4, 2008 Date
Kendrew H. Colton Typed or printed name	30,368 Registration Number, if applicable
Fitch, Even, Tabin & Flannery, One Lafayette Centre Address	202-419-7000 Telephone Number
1120 - 20th Street, NW, Suite 750, WDC 20036 Address	

Enclosures:
- ☑ Fee Payment
- ☑ Reply (Request for Continued Examination)
- ☐ 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.

March 4, 2008 Date	Signature
	Roseanna Kaplan Typed or printed name of person signing certificate

PAGE 2/4 * RCVD AT 3/4/2008 2:52:22 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-5/32 * DNIS:2738300 * CSID:202 419 7007 * DURATION (mm-ss):01-12

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Request for Continued Examination (RCE) Transmittal

Address to:
Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Application Number	10/947,540
Filing Date	September 23, 2004
First Named Inventor	Yuki ISEKI
Art Unit	1796
Examiner Name	R. Hartan
Attorney Docket Number	7372-84141

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application.
Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

1. Submission required under 37 CFR 1.114 Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).

   a. ☑ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.

      i. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on _____

      ii. ☐ Other _____

   b. ☐ Enclosed

      i. ☐ Amendment/Reply

      ii. ☐ Affidavit(s)/ Declaration(s)

      iii. ☐ Information Disclosure Statement (IDS)

      iv. ☐ Other _____

2. Miscellaneous

   a. ☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of _____ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)

   b. ☐ Other _____

3. Fees The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.

   a. ☑ The Director is hereby authorized to charge the following fees, any underpayment of fees, or credit any overpayments, to Deposit Account No. _____. I have enclosed a duplicate copy of this sheet.

      i. ☑ RCE fee required under 37 CFR 1.17(e) - $810

      ii. ☑ Extension of time fee (37 CFR 1.136 and 1.17) - $590

      iii. ☒ Other Petition and Statement 03/05/2008 PCHOMP 00000017 061135 10947540

   b. ☐ Check in the amount of $ _____ enclosed 02 FC:1801 810.00 DA

   c. ☐ Payment by credit card (Form PTO-2038 enclosed) 03 FC:1253 590.00 DA

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Signature		Date	March 4, 2008
Name (Print/Type)	Kendrew H. Colton	Registration No.	30,368

CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

Signature			
Name (Print/Type)	Roseanna Kaplan	Date	March 4, 2008

This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**
If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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www.uspto.gov

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

Mail Date: 04/21/2010

Applicant	: Chris R. Radosta	: DECISION ON REQUEST FOR
Patent Number	: 7660577	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/947,548	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/22/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1051** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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GREENBERG TRAURIG, LLP (SV2)
2450 COLORADO AVENUE
SUITE 400E
SANTA MONICA, CA 90404

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JAN 0 5 2009

OFFICE OF PETITIONS

In re Application of	:	
Stewart A. Skomra	:	
Application No. 10/947,566	:	DECISION ON PETITION
Filed: September 22, 2008	:	TO WITHDRAW
Attorney Docket No. 74069-200401/US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 8, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by John P. Ward on behalf of all attorneys of record who are associated with customer No. 56188. All attorneys/agents associated with the Customer Number 56188 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed November 13, 2008 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: APACHETA CORPORATION
2700 UNION STREET
SAN FRANCISCO, CA 94123

cc: SQUIRE, SANDERS & DEMPSEY, LLP
PATENT DEPARTMENT
ONE MARITIME PLAZA
SUITE 300
SAN FRANCISCO, CA 94111-3492

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
10/947,566	09/22/2004	Stewart A. Skomra	74069-200401/US

CONFIRMATION NO. 1276

POWER OF ATTORNEY NOTICE

56188
GREENBERG TRAURIG, LLP (SV2)
2450 Colorado Avenue, Suite 400E
Santa Monica, CA 90404

OC000000033862847

Date Mailed: 12/31/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/08/2008.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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AUG 2 6 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

THE LAW OFFICE OF JAMES J. RALABATE, ESQ
5792 MAIN STREET
WILLIAMSVILLE, NY 14221

In re Application of
PETERSON, F.

Application No. 10/947,581
Filed: September 22, 2004
For: WEARABLE COMPUTER SYSTEM

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the Request for Withdrawal as attorney or agent and change of address filed on May 19, 2005.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

The agent Bryan Latham has been withdrawn.

The correspondence address has not been changed.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LAW OFFICES OF JAMES J. RALABATE
5792 MAIN ST.
WILLIAMSVILLE, NY 14221

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OCT 1 2 2005

OFFICE OF PETITIONS

In re Application of	:	
Frederick A. Peterson III	:	DECISION ON PETITION
Application No. 10/947,581	:	TO WITHDRAW
Filed: September 22, 2004	:	FROM RECORD
Attorney Docket No. XIP220	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36(b), filed August 16, 2005.

The request is APPROVED.

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 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 of 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 J. Ralabate, the sole attorney of record.[1]

The attorney James J. Ralabate has 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.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

---

[1] The Associate Power of Attorney filed on September 22, 2004, 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)). The paper has been placed in the official file; however, the name of the patent practitioner Christopher Tucker listed on the Associate Power of Attorney has **not** been made of record.

This matter is being referred to Technology Center AU 2673 to await applicant's reply to the non-final Office action mailed June 15, 2006.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: XYBERNAUT CORPORATION
ATTN: CHRISTOPHER TUCKER, PATENT AGENT
SUITE 550, HYATT PLAZA
12701 FAIR LAKES CIRCLE
FAIRFAX, VA 22033

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Parin Bhadrik Dalal
681 Berkshire Place
Milpitas, CA 95035-7524

MAIL

SEP 0 9 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Parin B. DALAL
Application No. 10/947,613
Filed: September 22, 2004
For: INTERVAL MATCHING CIRCUIT FOR CLASSIFICATION

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed September 22, 2004 under 37 C.F.R. §102(c) and M.P.E.P. § 708.02(III): Health, to make the above-identified application special.

A grantable petition to make special under 37 C.F.R. § 1.102(c), and M.P.E.P. § 708.02, Section III, must be accompanied a showing, as by doctor's certificate, that the state of health of the applicant is such that he/she might not be available to assist in the prosecution of the application if it were to run its normal course. No fee is required for such a petition.

The petition includes a showing of applicant's current state of health as required under M.P.E.P. § 708.02, Section III.

Accordingly, the petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for expedited examination.

For Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

UNITED STATES PATENT AND TRADEMARK OFFICE

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

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OFFICE OF PETITIONS

In re Application of :
Peng C. Fu : DECISION ON PETITION
Application No. 10/947,621 :
Filed: 21 September, 2004 :
For: GAMEPAD CONTROLLER MAPPING :

This is a decision on the petition, filed on 18 April, 2006, under 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(f)." This is not a final agency decision.

Although the petition does not identify the required reply, the petition was filed concurrently with a Request to Rescind a Nonpublication Request. As such, the petition will be treated as a petition under 37 CFR 1.137(f). Petitioner **must** inform the Office if this is an incorrect interpretation.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The petition lacks item (1). The petition fails to provide proper notice of foreign or international filing pursuant to 35

U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) in that the filing date of the subsequently-filed foreign or international application must be provided. Petitioner must provide the date that the foreign or multinational application was filed with any renewed petition.

If a petition under 37 CFR 1.137(f) is intended, petitioner should use the enclosed form when filing a renewed petition. No further petition fee is due.

Receipt of the Rescission of Previous Nonpublication Request is acknowledged. A communication notifying petitioner of acceptance thereof is enclosed.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Any inquiries concerning this decision may be directed to the undersigned at 571.272.3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: PTO/SB/64a
Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing

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OFFICE OF PETITIONS

In re Application of	:	
Peng C. Fu	:	DECISION ON PETITION
Application No. 10/947,621	:	
Filed: 21 September, 2004	:	
For: GAMEPAD CONTROLLER MAPPING	:	

This is a decision on the renewed petition, filed on 18 August, 2006, under 37 CFR 1.137(f) which is treated as a petition to revive the above-identified nonprovisional application under the unintentional provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of a foreign or international application filed on 29 July, 2005. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The present petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded.

It is noted that petitioner filed a Request to Rescind the Nonpublication Request on 18 April, 2006. A Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing, showing the projected publication date of 9 November, 2006, was mailed on 1 August, 2006.

The application is being referred to Technology Center Art Unit 2629 for examination in due course.

Any inquiries concerning this decision may 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
www.uspto.gov

Date Mailed : 05/17/10

Patent No. : 7688801 B2
Inventor : DOUGHERTY, ANGUS O.
Patent Issued : 03/30/10
Docket No. : **020366-078201US**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

Inspection of the file of the application for the patent reveals that in columns 3 and 4, lines 38 and 40 is printed in accordance with the record (no fee or authorization to charge fee). **"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."**

In view of the foregoing, your request in this matter is hereby denied.

Lamonte M. Newsome

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 305-8309 or (703)-308-9390 #112

Qwest Communications International Inc.
1801 California Street, # 900
Denver CO 80202

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UNITED STATES PATENT AND TRADEMARK OFFICE

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JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

In re Application of	:
Peter S. Linsley et al	:
Serial No.: 10/947,637	: PETITION DECISION
Filed: September 22, 2004	:
Attorney Docket No.: 9301-243	:

This is in response to the petition under 37 CFR 1.181, filed October 29, 2007, requesting that the filing date of certain documents be corrected in the Office systems.

Applicant states that an amendment was forwarded to the Office by Express Mail deposited and dated July 5, 2007. For unknown reasons the documents were accorded an Office receipt date of July 3, 2007. Applicants' petition request correction of Office records.

The petition is **GRANTED**. The documents have been corrected to show an Office receipt date of July 5, 2007, in accordance with the Express Mail deposit date.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number 571-273-8300.

William R., Dixon, Jr.
Special Program Examiner
Technology Center 1600

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BAKER & MCKENZIE LLP
PATENT DEPARTMENT
2001 ROSS AVENUE
SUITE 2300
DALLAS TX 75201

COPY MAILED
FEB 17 2006
OFFICE OF PETITIONS

In re Application of	:	
Lasensky et al.	:	
Application No. 10/947,639	:	DECISION GRANTING PETITION
Filed: September 22, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 6717598.1001103	:	

This is a decision on the petition, filed February 13, 2006, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant non-provisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on September 22, 2005. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of May 25, 2006, accompanies this decision on petition.

This matter is being referred to Technology Center AU 2166 to await a reply to the outstanding non-final Office action mailed January 30, 2006. Failure to timely reply will again result in the abandonment of the application.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

Liana Chase
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/947,639	09/22/2004	Peter J. Lasensky	6717598.1001103 (formerly

CONFIRMATION NO. 1359

23562
BAKER & MCKENZIE LLP
PATENT DEPARTMENT
2001 ROSS AVENUE
SUITE 2300
DALLAS, TX 75201

Date Mailed: 02/17/2006

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 05/25/2006.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

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P.O. BOX 919092
SAN DIEGO, CA 92191-9092

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OFFICE OF PETITIONS

In re Application of
Peter J. Lasensky, et al.
Application No. 10/947,639
Filed: September 22, 2004
Attorney Docket No. 6717598.1001103

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 2, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to the attorney(s) associated with Customer Number 36183 has been revoked by the assignee of the patent application on February 13, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (571)272-3213. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

Conferee:

cc: BAKER & MCKENZIE LLP
PATENT DEPARTMENT
2001 ROSS AVENUE
SUITE 2300
DALLAS TX 75201

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JJGJR.: 06-06

Paper No: __

CHRISTENSEN, O'CONNOR,
JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE WA 98101-2347

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JUN 12 2006
OFFICE OF PETITIONS

In re Application of :
Moreno, et al. :
Application No. 10/947,644 :
Filed: 22 September, 2004 :
Attorney Docket No. FAOC123635 :

ON PETITION

This is a decision on a petition filed on 18 November, 2005, under 37 C.F.R. §1.137(b).

For the reasons set forth below, the petition under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

The record indicates:

- Petitioner failed to reply timely to the Notice to File Missing Parts (fees/surcharge) mailed on 8 November, 2004, with reply due absent an extension of time on or before Monday, 10 January, 2005;
- the application went abandoned by operation of law after midnight 8 January, 2005;
- the Office mailed the Notice of Abandonment on 17 August, 2005;
- Petitioner filed the instant petition on 18 November, 2005, with fee, reply in the form of fees/surcharge, and made the statement of unintentional delay–thus, Petitioner appears to have satisfied the regulatory requirements under 37 C.F.R. §1.137(b).

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[2]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4] And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

Allegations as to Unintentional Delay

The requirements for relief under the provisions of 37 C.F.R. §1.137(b) are: petition, fee, reply,

---

[1] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[2] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[3] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[4] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[6] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

showing of unintentional delay, and–where appropriate–a terminal disclaimer and fee.

The record (including the petition filed on 18 November, 2005) does not necessitate a finding that the delay between midnight 8 January, 2005 (date of abandonment), and 18 November, 2005 (date of filing of grantable petition), was not unintentional.

Rather, the Patent and Trademark Office is relying in this matter on duty of candor and good faith of Petitioner/Applicants Moreno and Moore when accepting Petitioners' representation that the delay in filing the response was unintentional.

It appears that Petitioner has satisfied the requirements of the regulation.

CONCLUSION

Because Petitioner appears to have satisfied the regulatory requirements, regulation, the petition under 37 C.F.R. §1.137(b) is **granted**.

The application is released to OIPE for further processing in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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FEB 19 2008

In re Application of	:	
Moreno et al.	:	DECISION ON PETITION
Application Number: 10/947644	:	
Filing Date: 09/22/2004	:	
Attorney Docket Number: 02103-807002	:	

This is a decision on the petition under 37 CFR 1.59(b), filed on July 6, 2007, requesting that a patent purchase agreement submitted with a power of attorney be expunged.

The petition is **GRANTED-IN-PART**.

On January 31, 2007, a power of attorney on behalf of the assignee and a Statement Under 37 CFR 3.73(b) were filed in the subject patent file.

Petitioners assert that a patent purchase agreement was inadvertently submitted with the power of attorney, and that the patent purchase agreement contains confidential and proprietary information. Petitioner therefore seeks to have the patent purchase agreement expunged from the file.

37 C.F.R. §1.59 sets forth:

§ 1.59 Expungement of information or copy of papers in application file.
(a)
(1) Information in an application will not be expunged, except as provided in paragraph (b) of this section.
(2) Information forming part of the original disclosure (i.e., written specification including the claims, drawings, and any preliminary amendment specifically incorporated into an executed oath or declaration under §§ 1.63 and 1.175) will not be expunged from the application file.
(b) An applicant may request that the Office expunge information, other than what is excluded by paragraph (a)(2) of this section, by filing a petition under this paragraph. Any petition to expunge information from an application must include the fee set forth in § 1.17(h) and establish to the satisfaction

of the Director that the expungement of the information is appropriate in which case a notice granting the petition for expungement will be provided. (c) Upon request by an applicant and payment of the fee specified in § 1.19(b), the Office will furnish copies of an application, unless the application has been disposed of (see §§ 1.53(e), (f) and (g)). The Office cannot provide or certify copies of an application that has been disposed of.

[48 FR 2710, Jan. 20, 1983, effective Feb. 27, 1983; 49 FR 554, Jan. 4, 1984, effective Apr. 1, 1984; 49 FR 48416, Dec. 12, 1984, effective Feb. 11, 1985; 50 FR 23123, May 31, 1985, effective Feb. 11, 1985; revised, 60 FR 20195, Apr. 25, 1995, effective June 8, 1995; revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (b) revised, 65 FR 54604, Sept. 8, 2000, effective Nov. 7, 2000; para. (b) revised, 68 FR 14332, Mar. 25, 2003, effective May 1, 2003; revised, 68 FR 38611, June 30, 2003, effective July 30, 2003]

The matter Petitioners wish to have expunged does not form part of the original disclosure. Petitioners have included the fee associated with the filing of petition under 37 C.F.R. §1.59 and has established to the satisfaction of the Director that the expungement of this information is appropriate.

As such, the electronic documents which contain these pages have been closed in the Office's Image File Wrapper software viewing program. The paper documents will not be removed from the physical file however, as the Office does not remove papers from paper files which have been scanned.

The general phone number for the Office of Petitions, which should be used for status requests, is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Charles A. Pearson
Director, Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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NEW YORK NY 10022

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OCT 1 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Benjamin F. Dorfman	:	
Application No. 10/978,648	:	ON PETITION
Filed: 22 September, 2004	:	
Atty Docket 6612-23	:	

This is a decision on the paper filed on 12 August, 2005, requesting correction of the filing receipt and "provisional petition under 37 CFR 1.182," which is treated as a feeless petition under 37 CFR 1.181.

The petition is **DISMISSED**.

On 22 September, 2004, the application was filed with an Application Data Sheet (ADS) stating a benefit claim under 35 U.S.C. § 119(e) to prior-filed provisional application No. 60/506,336.

Subsequently, a Filing Receipt was mailed correctly listing the priority claim, but stating that applicant had provided data inconsistent with USPTO records.

On 12 August, 2005, the present petition was filed. Petitioner asserts that Application No. 60/506,336 was filed on 25 September, 2003, but that the Filing Receipt incorrectly lists the filing date of the prior-filed application as 27 September, 2003.

A review of Office records reveals that the filing date accorded to provisional Application No. 60/506,336 is **27 September, 2003**. As such, the Office did not error in listing the filing date as such, rather, applicants' erred in listing the filing date of the prior-filed application as 25 September, 2003, on the ADS.

Copied from 10978648 on 10/27/2005

If petitioners believe that the filing date accorded the prior-filed application is in error, petitioners may wish to file a petition in the prior-filed provisional application, requesting correction of the filing date thereof.

Telephone inquiries concerning this matter may be directed to the undersigned at 571-272-3231.

DIWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Copied from 10978648 on 10/27/2005

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OCT 28 2005

OFFICE OF PETITIONS

In re Application of	:	
Benjamin F. Dorfman	:	CORRECTED DECISION
Application No. 10/947,648	:	ON PETITION
Filed: 22 September, 2004	:	
Atty Docket 6612-23	:	

This is a corrected decision on the paper filed on 12 August, 2005, requesting correction of the filing receipt, which is treated as a feeless petition under 37 CFR 1.181.

The petition is **DISMISSED**.

On 22 September, 2004, the application was filed with an Application Data Sheet (ADS) stating a benefit claim under 35 U.S.C. § 119(e) to prior-filed provisional application No. 60/506,336.

Subsequently, a Filing Receipt was mailed correctly listing the priority claim, but stating that applicant had provided data inconsistent with USPTO records.

On 12 August, 2005, the present petition was filed. Petitioner asserts that Application No. 60/506,336 was filed on 25 September, 2003, but that the Filing Receipt incorrectly lists the filing date of the prior-filed application as 27 September, 2003.

A review of Office records reveals that the filing date accorded to provisional Application No. 60/506,336 is **27 September, 2003**. As such, the Office did not error in listing the filing date as such, rather, applicants' erred in listing the filing date of the prior-filed application as 25 September, 2003, on the ADS.

If petitioners believe that the filing date accorded the prior-filed application is in error, petitioners may wish to file a

petition in the prior-filed provisional application, requesting correction of the filing date thereof.

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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Robert M. Isackson
Orrick, Herrington & Sutcliffe LLP
666 Fifth Avenue
New York NY 10103

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OFFICE OF PETITIONS

In re Application of	:	
Jean-Francois Ollivier, et al.	:	
Application No. 10/947,649	:	DECISION ON PETITION
Filed: September 22, 2004	:	
Attorney Docket No. 8707-2178	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 31, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before July 2, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed April 2, 2009. Accordingly, the date of abandonment of this application is July 27, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510 and the publication fee of $300, (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to the Office of Data Management for processing into a patent.

Terri Johnson

Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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TROP, PRUNER & HU, P.C.
1616 S. VOSS ROAD, SUITE 750
HOUSTON, TX 77057-2631

Mail Date: 04/21/2010

Applicant	: Anit Lohtia	: DECISION ON REQUEST FOR
Patent Number	: 7596115	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/947,656	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/22/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1248** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON, DC 20005-3096

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OFFICE OF PETITIONS

In re Application of :
Ryuhei Amano, et al. :
Application No.: 10/947,666 : ON PETITION
Filed: September 23, 2004 :
Attorney Docket No.: 70594-034 :

This is a decision on the petition, filed April 29, 2008, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 25, 2008, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2629 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B - Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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NEW YORK, NY 10017

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OFFICE OF PETITIONS

In re Application of Logvinov et al. :
Application No. 10/947,678 :
Filing Date: September 23, 2004 :
Attorney Docket No. 34585-521-059 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(b), filed December 5, 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 8, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on January 9, 2005. A Notice of Abandonment was mailed on September 16, 2005.

The instant petition requests revival of the application.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

The Office of Initial Patent Examination will be informed of the instant decision and will prepare the application for examination 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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BOSTON MA 02111

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SEP 29 2008

OFFICE OF PETITIONS

In re Application of	:	
LOGVINOV, Oleg et al.	:	
Application No. 10/947,678	:	DECISION ON PETITION
Filed: September 23, 2004	:	TO WITHDRAW
Attorney Docket No. **34585-521-059**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 27, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Peter Snell on behalf of all attorneys of record who are associated with customer No. 35437. All attorneys/agents associated with the Customer Number 35437 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence address of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee

(e.g., copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number).

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **OLEG LOGVINOV**
27 BEACON HILL DR.
EAST BRUNSWICK NJ 08816

cc: **ARKADOS, INC.**
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OFFICE OF PETITIONS

In re Application of	:	
David R. Gore	:	
Application No. 10/947,693	:	DECISION ON PETITION
Filed: September 22, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 185772/US	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 22, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **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 signed Declaration under 37 C.F.R 1.102(c)(1) stating that applicant is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Charles Smoot at 571-272-3299.

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 2841 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

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STAMFORD, CT 06901-2138

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OFFICE OF PETITIONS

In re Application of	:	
Peter G. Vander Jagt, et al	:	
Application No. 10/947,696	:	ON PETITION
Filed: September 23, 2004	:	
Attorney Docket No. 115190.00055	:	

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**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, May 23, 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 24, 2006.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1020 extension of time fee submitted with the petition on February 1, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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 $1500; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 11/603,566 and 11/603,661.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that

such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to April Wise at (571) 272-1642.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: ROBERTO CAPRIOTTI
KIRKPATRICK & LOCAHART
NICHOLSON GRAHAM, LLP
HENRY W. OLIVER BUILDING
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OFFICE OF PETITIONS

DONALD R. HEINER, ESQ.
71 MOUNT VERNON STREET
RIDGEFIELD PARK, NJ 07660

In re Application of	:	
Vincent MARGIOTTA	:	
Application No. 10/947,715	:	DECISION ON PETITION
Filed: September 24, 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 November 21, 2007.

The request is **NOT APPROVED**.

The Office cannot approve the request at this time since the reason provided does 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, "if 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, retiring from the practice of law, 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.

There are no outstanding Office actions pending at the present time.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: VINCENT MARGIOTTA
43 GERALDINE ROAD
ENGLEWOOD CLIFFS, NJ 07632

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OFFICE OF PETITIONS

In re Patent No. 7,470,443	:	
Stefano Ceriali et al.	:	DECISION ON
Issue Date: December 30, 2008	:	REQUEST FOR RECONSIDERATION
Application No. 10/947,723	:	OF
Filed: September 23, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 1410/67475	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)," filed February 19, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from six hundred seventy-six (676) days to one thousand one hundred and fifteen (1155) days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On December 30, 2008, the above-identified application matured into US Patent No. 7,470,443 with a patent term adjustment of 676 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 recalculation of the patent term adjustment to include a 464-day period of adjustment pursuant to 37 C.F.R. §1.703(b). Patentees maintain entitlement to a period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), of 464 days and the period of adjustment

due to other examination delay, pursuant to 37 CFR §1.702(a), of 694 days.

The 464-day period is calculated based on the application having been filed under 35 U.S.C. §111(a) on September 23, 2004, and the instant patent issued on December 30, 2008, which is 3 years and 464 days after its filing date.

Under 37 CFR § 1.703(f), Patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR § 1.702 reduced by the period of time equal to the period of time during which Patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR § 1.704. In other words, the period of Office delay reduced by the period of applicant delay. The period of reduction of 18 days for applicant delay is not in dispute.

Patentees do not dispute that the total period of Office delay is the sum of the period of Three Years Delay (464 days) and the period of Examination Delay (694 days) to the extent that these periods of delay are not overlapping. However, Patentees contend that 25 days of the Three Year Delay period overlaps with the period of 14-month examination delay. Accordingly, Patentees submit that the total period of adjustment for Office delay is 1133 days, which is the sum of the period of Three Year Delay (464 days) and the period of Examination Delay (694 days), reduced by the period of overlap (25 days).

As such, Patentees assert entitlement to a patent term adjustment of 1115 days (464 + 694 reduced by 25 overlap - 18 (applicant delay)).

The Office agrees that the application was pending 3 years and 464 days after its filing date. The Office agrees that the action detailed above was not taken within the specified time frame, and thus, the entry of a period of adjustment of 694 days for Office delay is correct. At issue is whether Patentees should accrue 439 days of patent term adjustment for the Office taking in excess of three years to issue the patent (464 days less the 25 days of overlap), as well as 694 days for Office failure to take a certain action within a specified time frame (or examination delay).

<u>The Office contends that the entire 694-day period overlaps</u>. Patentees' calculation of the period of overlap is inconsistent

with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final*

Rule, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of Patentees. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding 37 C.F.R. § 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3 year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a

> patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[1]

As such, the period for over 3 year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application. Treating the relevant period as starting on September 23, 2007, the date that is 3 years after the actual filing date of the application, is incorrect.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, September 23, 2004 to December 30, 2008. 694 days of patent term adjustment were accorded prior to the issuance of the patent for the Office failing to respond within a specified time frame during the pendency of the application. <u>All of the 464 days for Office delay in issuing the patent overlap with the 694 days of Office delay</u>. During that time, the issuance of the patent was delayed by 694 days, not 694 + (464 - 25 = 439) days. Other than the period of Office delay pursuant to 37 C.F.R. § 702(a)(1) which totals 694 days, the Office took all actions set forth in 37 C.F.R. § 1.702(a) within the prescribed timeframes. Nonetheless, given the initial 694 days of Office delay and the 18 days of applicant delay and the time allowed within the time frames for processing and examination, as of the date of issuance of this patent, the application was pending three years and 464 days. <u>The Office did not delay 694 days and then an additional 439 days</u>. Accordingly, 694 days of patent term adjustment (not 694 and 439 days) was properly entered since the entire period of delay of 464 days attributable to the delay in

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[1] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

the issuance of the patent overlaps with the adjustment of 694 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted. 694 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 464 days over three years to the issuance of this patent.

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.

In view thereof, no adjustment to the patent term will be made on decision on request for reconsideration of patent term adjustment.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The request for refund of this fee is denied. 35 U.S.C. 41(d) authorizes the Office to establish a fee to recover the estimated average cost of treating applications for patent term adjustment (as well as a fee for treating a request for reinstatement of patent term adjustment), and the cost of treating an application for patent term adjustment is about the same regardless of whether the Office's initial determination of patent term adjustment indicated in the notice of allowance is correct. In any event, refunding the fee under § 1.18(e) when the application for patent term adjustment is correct would: (1) require the Office to raise the fee set forth in § 1.18(e) (to enable the Office to recover the same aggregate amount); and (2) add further complication to a review process that must take place in a limited period of time.

Patentees remain under a duty to disclose to the Office entry of additional patent term adjustment that is not warranted.

Telephone inquiries specific to this matter should be directed to Paul Shanoski, Senior Attorney, at (571) 272-3225.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

STATUTE AND REGULATION

35 U.S.C. § 154(b) as amended by § 4402 of the American Inventors Protection Act of 1999[2] (AIPA) provides that:

> ADJUSTMENT OF PATENT TERM. –
>
> (1) PATENT TERM GUARANTEES. –
>
> (A) GUARANTEE OF PROMPT PATENT AND TRADEMARK OFFICE RESPONSES. – Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the Patent and Trademark Office to –
>
> (i) provide at least one of the notifications under section 132 of this title or a notice of allowance under section 151 of this title not later than 14 months after –
>
> (I) the date on which an application was filed under section 111(a) of this title; or
>
> (II) the date on which an international application fulfilled the requirements of section 371 of this title;
>
> (ii) respond to a reply under section 132, or to an appeal taken under section 134, within 4 months after the date on which the reply was filed or the appeal was taken;
>
> (iii) act on an application within 4 months after the date of a decision by the Board of Patent Appeals and Interferences under section 134 or 135 or a decision by a Federal court under section 141, 145, or 146 in a case in which allowable claims remain in the application; or
>
> (iv) issue a patent within 4 months after the date on which the issue fee was paid under section 151 and all outstanding requirements were satisfied, the term of the patent shall be extended 1 day for each day after the end of the period specified in clause (i), (ii), (iii), or (iv), as the case may be, until the action described in such clause is taken.
>
> (B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY. – Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including –

[2] Public Law 106-113, 113 Stat. 1501, 1501A-557 through 1501A-560 (1999).

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

(ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or

(iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

(C) GUARANTEE OR ADJUSTMENTS FOR DELAYS DUE TO INTERFERENCES, SECRECY ORDERS, AND APPEALS. — Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to —

(i) a proceeding under section 135(a);

(ii) the imposition of an order under section 181; or

(iii) appellate review by the Board of Patent Appeals and Interferences or by a Federal court in a case in which the patent was issued under a decision in the review reversing an adverse determination of patentability, the term of the patent shall be extended 1 day for each day of the pendency of the proceeding, order, or review, as the case may be.

(2) LIMITATIONS. —

(A) IN GENERAL. — To the extent that periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

The implementing regulation, 37 CFR § 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

(a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be

adjusted if the issuance of the patent was delayed due to the failure of the Office to:

(1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application;

(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;

(b) Failure to issue a patent within three years of the actual filing date of the application. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including[3]:

In pertinent part, 37 CFR § 1.703 provides for calculation of the periods, as follows:

Period of adjustment of patent term due to examination delay.

(a) The period of adjustment under § 1.702(a) is the sum of the following periods:

(1) The number of days, if any, in the period beginning on the day after the date that is fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first;

(b) The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day

[3] (1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);

(2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);

(3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;

(4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or

(5) Any delay in the processing of the application by the Office that was requested by the applicant.

> after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of the following periods[4]:

37 CFR 1.703(f) provides that:

> The adjustment will run from the expiration date of the patent as set forth in 35 U.S.C. 154(a)(2). To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed. The term of a patent entitled to adjustment under § 1.702 and this section shall be adjusted for the sum of the periods calculated under paragraphs (a) through (e) of this section, to the extent that such periods are not overlapping, less the sum of the periods calculated under § 1.704. The date indicated on any certificate of mailing or transmission under § 1.8 shall not be taken into account in this calculation.

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[4] (1) The number of days, if any, in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued;

(2)(i) The number of days, if any, in the period beginning on the date an interference was declared or redeclared to involve the application in the interference and ending on the date that the interference was terminated with respect to the application; and (ii) The number of days, if any, in the period beginning on the date prosecution in the application was suspended by the Office due to interference proceedings under 35 U.S.C. 135(a) not involving the application and ending on the date of the termination of the suspension;

(3)(i) The number of days, if any, the application was maintained in a sealed condition under 35 U.S.C. 181; (ii) The number of days, if any, in the period beginning on the date of mailing of an examiner's answer under § 41.39 of this title in the application under secrecy order and ending on the date the secrecy order was removed; (iii) The number of days, if any, in the period beginning on the date applicant was notified that an interference would be declared but for the secrecy order and ending on the date the secrecy order was removed; and (iv) The number of days, if any, in the period beginning on the date of notification under § 5.3(c) of this chapter and ending on the date of mailing of the notice of allowance under 35 U.S.C. 151; and,

(4) The number of days, if any, in the period beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and § 41.31 of this title and ending on the date of the last decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145, or on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first, if the appeal did not result in a decision by the Board of Patent Appeals and Interferences.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 07/23/09

TO SPE OF : ART UNIT 1794

SUBJECT : Request for Certificate of Correction for Appl. No.: 10947723
Patent No.: 7470443

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)

Randolph Square
Palm Location 7580

Should the changes be made **Valerie Jackson** **Certificates of Correction Branch**

703-756-1573

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ❑ **Approved** — **All** changes apply.
- ❑ **Approved in Part** — Specify below which changes **do not** apply.
- **XDenied** — State the reasons for denial below.

Comments: The applicant'r request for foreign priority is not timely. No copy of the foreign priority document was provided. Furthermore, the oath merely lists the EP document; it does not make a claim for priority. (See MPEP 201.35)

/D. Lawrence Tarazano/ SPE AU 1794

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P.O. Box 1450
Alexandria, VA 22313-1450
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MOTOROLA, INC.
1303 EAST ALGONQUIN ROAD
IL01/3RD
SCHAUMBURG IL 60196

In re Application of	:	
Michael Kloos	:	
Application No. 10/947,724	:	DECISION ON PETITION
Filed: September 23, 2004	:	
Attorney Docket No. CE12637R	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 13, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before June 5, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed March 5, 2009. Accordingly, the date of abandonment of this application is June 6, 2009. A Notice of Abandonment was mailed on July 2, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510 and the publication fee of $300, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to the Office of Data Management for further processing into a patent.

/Kimberly A. Inabinet/

Kimberly A. Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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OFFICE OF PETITIONS

LAW OFFICES OF ROY ANDERSON
3541 OCEAN VIEW BLVD
GLENDALE CA 91208

In re Application of	:	
Wong	:	
Application No. 10/947,731	:	DECISION ON PETITION
Filed: September 23, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. RLA35.109	:	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 declaration statement signed by the applicant. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3711 for action on the merits commensurate with this decision.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MOORE & VAN ALLEN PLLC
P.O. BOX 13706
RESEARCH TRIANGLE PARK, NC 27709

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OFFICE OF PETITIONS

In re Application of	:	
Steve R. Levine, et al.	:	
Application No. 10/947,741	:	DECISION GRANTING PETITION
Filed: September 23, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 014881-000254	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 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 April 9, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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 regarding this decision should be directed to undersigned at (571) 272-1642.

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

This application is being referred to Technology Center AU 3724 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

April M. Wise
Petitions Examiner
Office of Petitions

Cc: MOORE & VAN ALLEN, PLLC
430 DAVIS DRIVE
SUITE 500
MORRISVILLE, NC 27560

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

TOLER, LARSON & ABEL, L.L.P.
5000 PLAZA ON THE LAKE, SUITE 265
AUSTIN, TX 78746

In re Application of :

Russell W. WHITE, et al. :
Application No. 10/947,755 : DECISION ON PETITION
Filed: September 23, 2004 : TO MAKE SPECIAL
For: AUDIO SYSTEM AND METHOD :

This is a decision on the petition filed May 6, 2005 under 37 CFR §1.102(d) to make the application special.

A grantable petition under 37 CFR §1.102(d) and MPEP §708.02, section II (Infringement), must be accompanied by the required fee and a statement alleging:

(1) that there is an infringing device or product actually on the market or method in use;
(2) that a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and
(3) that he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art. Further, Applicant must provide a copy of each of the references deemed most closely related to the subject matter encompassed by the claims if the references are not already of record.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

The application is being forwarded to the examiner for expedited prosecution.

Doris To
Special Program Examiner
Technology Center 2600
Communications

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NOV 14 2006

TECHNOLOGY CENTER 3600

Banner Development, Inc.
19 Chenango Street, Suite 904
Binghamton, NY 13901

In re application of	:	**DECISION ON PETITION**
Marion Lisenby	:	**TO MAKE SPECIAL FOR**
Application No. 10/947,767	:	**NEW APPLICATION**
Filed: September 22, 2004	:	**UNDER 37 CFR 1.102**
For: RECONFIGURABLE, MODULAR, TWO-IN-ONE WALKING SUPPORT SYSTEM		

This is a decision on the petition filed on October 13, 2006 to make the above-identified application special for accelerated examination procedure based upon statements made by Heads of a Department of the Government under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DENIED**.

REGULATION AND PRACTICE

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), the following conditions must be satisfied:

1. The application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);
2. The application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours;
3. The application, at the time of filing, must be complete under 37 CFR 1.51 and in condition for examination;
4. The application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

The petition to make special under 37 C.F.R. § 1.102(d) is not acceptable for at least the reason that it was not filed with the application as required in the above Federal Register Notice of June 26, 2006. It appears that the petition was filed under the guidelines for making an application special that were in effect prior to August 25, 2006. As of August 25, 2006 the new guidelines replaced the old guidelines. Since applicant's petition was received on October 13, 2006 the petition must be considered under the new guidelines and thus is properly **DENIED**.

For the above-stated reasons, the petition is denied. The application will therefore be taken up by the examiner for action in its regular turn.

Any inquiry regarding this decision should be directed to Steven N. Meyers, Special Program Examiner, at (571) 272-6611.

Steven N. Meyers,
Quality Assurance Specialist
Technology Center 3600

Sm/sm: 11/7/06

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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BLANK ROME LLP
WATERGATE
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON, DC 20037

Mail Date: 05/20/2010

Applicant	: Marion Lisenby	: DECISION ON REQUEST FOR
Patent Number	: 7637273	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/947,767	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/22/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **678** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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4204 NORTH BROWN AVENUE
SCOTTSDALE AZ 85251

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JUN 22 2009

OFFICE OF PETITIONS

In re Application of	:	
Daniel M. LIEBERMAN	:	
Application No. 10/947,798	:	DECISION ON PETITION
Filed: September 23, 2004	:	
Attorney Docket No. 3998P2815	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 26, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed April 14, 2008 which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 15, 2008.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an election (2) the petition fee of $810.00 and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the restriction requirement of April 14, 2008 has been accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

The application is being referred to the Technology Center AU 3731 for appropriate action on the concurrently filed election.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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UT-Battelle, LLC
Office of Intellectual Property
One Bethal Valley Road
4500N, MS-6258
Oak Ridge TN 37831

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OFFICE OF PETITIONS

In re Application of :
DOKTYCZ et al. :
Application No. 10/947,799 :
Filed: September 23, 2004 :
Attorney Docket No. 1275.0 :

DECISION
ON PETITION

This is a decision on the petition filed October 13, 2006 under 37 CFR 1.181 (no fee) for withdrawal of the holding of abandonment.

The petition under 37 CFR 1.181 is **DISMISSED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, January 4, 2006, which set a shortened statutory period for reply of three (3) months. A one-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on May 5, 2006.

Petitioner states that the wrong file was uploaded to the Electronic Filing System (EFS) on May 4, 2006 in response to the January 4, 2006 Office action. A copy of the January 4, 2006 office action, drawings, a fee worksheet and an article were uploaded through EFS to the above-identified application on May 4, 2006. Petitioner also provides a copy of petitioner's hard drive showing the date the intended reply, "1275_04Jan06_OA_Rep-ly.pdf," to the January 4, 2006 Office action was last modified as May 4, 2006. The present petition filed October 13, 2006 includes a reply to the January 4, 2006 Office action.

Petitioner's argument appears to be premised on a reply to the January 4, 2006 Office action, while not timely filed, was timely prepared on May 4, 2006. Petitioner's position is not well taken. Petitioner concededly received the Office action mailed January 4, 2006 but failed to provide the necessary and timely reply. A review of the file does not include evidence or a certification demonstrating that the reply to the January 4, 2006 Office action was timely mailed or filed within the maximum period set forth in 35 U.S.C. 133 and 37 CFR 1.135. The failure to supply the proper reply was the fault of petitioner, not the USPTO. Petitioner had received the reasonable notice required so as ensure a timely and full response to the January 4, 2006 Office action. That petitioner failed to timely and adequately respond was unfortunate, but such failure did not operate to save this application from abandonment, nor was the failure to properly reply

unavoidable delay. See Brenner v. Ebbert, 398 F.2d. 762, 765, 157 USPQ 609, 611 (D.C. Cir. 1968), *cert. den.* 159 USPQ 799.

Additionally, although the USPTO attempts to notify parties as to defective papers in order to permit timely refiling, it has no obligation to do so. See In re Colombo Inc., 33 USPQ2d 1530, 1532. (Comm'r Pat. 1994). Rather, it is the applicants who are ultimately responsible for filing proper documents. Id.

Alternatively, if petitioner cannot provide the evidence necessary to establish withdrawing the holding of abandonment, or simply does not wish to, petitioner might wish to consider filing a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $750 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

In conclusion, petitioner has not provided evidence in order to permit withdrawing the holding of abandonment under 37 CFR 1.181. A complete reply to the January 4, 2006 Office action was not timely mailed or filed. The Notice of Abandonment was properly mailed[1], and the status of the application remains abandoned.

Because the address of record differs from the address on the petition, a courtesy copy of the decision is being copied to the below address. Future Office communications will be mailed 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
P. O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300

[1] The Notice of Abandonment mailed October 6, 2006 incorrectly stated the applicant failed to reply timely to the Office letter mailed on May 4, 2006. In fact, the Office action was mailed January 4, 2006.

Attn: Office of Petitions

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314.

Telephone inquiries concerning this decision should be directed to Denise Pothier at (571) 272-4787.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: UT-Battelle, LLC
P.O. Box 2008
Oak Ridge, TN 37831-6258

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Paper No: __

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& ROGERS, P.C.
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OKLAHOMA CITY OK 73113

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OFFICE OF PETITIONS

In re Application of
Shafer
Application No.: 10/947,806
Filing Date: 23 September, 2004
Attorney Docket No. 7118.003

DECISION

This is a decision on the petition filed on 28 September, 2006, and considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181–Petitioner also references relief pursuant to 37 C.F.R. §1.137(b) and so the papers are considered as a petition averring abandonment due to unintentional delay.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.[1]

The petition as considered under 37 C.F.R. §1.181 is **DISMISSED**; and the petition as considered under 37 C.F.R. §1.137(b) is **DISMISSED**.

NOTES:

(1) Any petition (and fee) for reconsideration of this decision must be submitted within two (2) months from the mail date of this decision.

[1] **NOTE: Monitoring of the status of applications on PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected. Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181.**

Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.181."

(If Petitioner is unable to present even a satisfactory showing to support a petition under 37 C.F.R. §1.137(a), and Petitioner's only alternative will be to file a petition under 37 C.F.R. §1.137(b).)

(2) Thereafter, there will be no further reconsideration of this matter.[2]

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 31 January, 2006, with reply due absent extension of time on or before 30 April, 2006;
- the application went abandoned by operation of law after midnight 30 April, 2006;
- on 8 May, 2006, Petitioner submitted an amendment, however, there was no request and fee for extension of time to make timely the submission–further, to the extent that Petitioner may have authorized fees with the application transmittal, that authorization was linked not to a deposit account but to a credit card, which information is not retained of record in the file and so was not available absent Petitioner's submission contemporaneously with the amendment;
- the Office mailed a Notice of Abandonment on 18 August, 2006;
- on 20 September, 2006, Petitioner filed the instant petition with, *inter alia*, an averment that he timely filed a reply and sought five months after abandonment to submit his request and fee for extension of time–which was improper and which Petitioner may now seek to have refunded by submitting such request and a copy of this decision to the Office of Finance (Petitioner complains that no one notified him of these conditions), and Petitioner further fails to satisfy the showings set forth in the guidance of the Commentary at MPEP §711.03(c), as discussed below, particularly as to a timely

[2] For more than a century, punctuality and due diligence, equally with good faith, have been deemed essential requisites to the success of those who seek to obtain the special privileges of the patent law, and they are demanded in the interest of the public and for the protection of rival inventors. See: Porter v. Louden, 7 App.D.C. 64 (C.A.D.C. 1895), citing Wollensak v. Sargent, 151 U.S. 221, 228, 38 L. Ed. 137, 14 S. Ct. 291 (1894). An invention benefits no one unless it is made public, and the rule of diligence should be so applied as to encourage reasonable promptness in conferring this benefit upon the public. Automatic Electric Co. v. Dyson, 52 App. D.C. 82; 281 F. 586 (C.A.D.C. 1922). Generally, 35 U.S.C. §6; 37 C.F.R.§§1.181, 182, 183.

submission of request and fee for extension of time–Petitioner also avers a petition under 37 C.F.R. §1.137(b) but fails to pay the fee or properly make the statement of unintentional delay.

The statutes, the rules of practice and the guidance set forth in the Commentary of the Manual of Patent Examining Procedure (MPEP) provide many avenues for action and methods of protection for applicants, patentees, assignees, practitioners and others to accomplish tasks before the Office.

However, persons who fail to utilize those statutes and rules fail to succeed in their tasks or obtain those protections.

Notably, 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 immediate and on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)); and those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[3]

---

[3] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

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).[4]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[5]

Delays in responding properly raise the question whether delays are unavoidable.[6] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[7]

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;

(2) Returning papers;

(3) Precluding a party from filing a paper, or presenting or contesting an issue;

(4) Imposing a monetary sanction;

(5) Requiring a terminal disclaimer for the period of the delay; or

(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).

[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[4] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[5] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[6] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[7] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

And the Petitioner must be diligent in attending to the matter.[8] Failure to do so does not constitute the care required under Pratt,[9] and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[10]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[11]

The commentary at MPEP §711.03(c) provides:

* * *

> **B. Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed**
>
> 37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), * (e), or (g) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.
>
> Similarly, applicants may establish that a reply was filed with a

---

[8] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[9] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913).

[10] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[11] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. §1.8(b) and MPEP § 512. As stated in 37 C.F.R §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).

37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of

the correspondence before notifying the Office. See MPEP § 512.

* * *

Moreover, the regulation places upon Petitioner a diligence requirement to seek relief within two (2) months of the act complained of.

It appears that Petitioner has not satisfied the showing requirement herein.

As to the Allegation
of Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

It appears that Petitioner has not satisfied the requirements of the regulation as to petition, fee and statement/showing.

CONCLUSION

Because it appears that Petitioner has not satisfied the burdens herein, the petition as considered under 37 C.F.R. §1.181 is **dismissed**, and the petition as considered under 37 C.F.R. §1.137(b) is **dismissed**.

ALTERNATIVE VENUE

Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)[12]

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply (the amendment), the petition fee, a terminal disclaimer and fee where appropriate and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form available online.)

---

[12] See fee schedule: http://www.uspto.gov/main/howtofees.htm

Further correspondence with respect to this matter should be addressed as follows:[13]

By mail: Commissioner for Patents[14]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

By hand: Mail Stop: Petition
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[15]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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[13] On July 15, 2005, the Central Facsimile (FAX) Number changed to (571) 273-8300. The old FAX number no longer is in service and (571) 273-8300 will be the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

[14] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

[15] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

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OFFICE OF PETITIONS

DUNLAP CODDING
& ROGERS, P.C.
PO BOX 16370
OKLAHOMA CITY OK 73113

In re Application of
Shafer
Application No.: 10/947,806
Filing Date: 23 September, 2004
Attorney Docket No. 7118.003

DECISION

This is a decision on the petition filed on 16 October, 2007, to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.

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.)

It appears that Petitioner has satisfied the requirements of the regulation, as set forth below:

BACKGROUND

The record reflects that:

Petitioner failed to reply timely and properly to the non-final Office action mailed on 31 January, 2006, with reply due absent extension of time on or before 30 April, 2006.

The application went abandoned by operation of law after midnight 30 April, 2006.

On 8 May, 2006, Petitioner submitted an amendment, however, there was no request and fee for extension of time to make timely the submission–further, to the extent that Petitioner may have authorized fees with the application transmittal, that authorization was linked not to a deposit account but to a credit card, which information is not retained of record in the file and so was not available absent Petitioner's submission contemporaneously with the amendment.

The Office mailed a Notice of Abandonment on 18 August, 2006.

On 20 September, 2006, Petitioner filed the original petitions with, *inter alia*, an averment that he timely filed a reply and sought five months after abandonment to submit his request and fee for extension of time, and Petitioner further failed to satisfy the showings set forth in the guidance of the Commentary at MPEP §711.03(c), and Petitioner also averred a petition under 37 C.F.R. §1.137(b) but failed to pay the fee or properly make the statement of unintentional delay—and so the petitions were dismissed on 9 October, 2007.

On 16 October, 2007, Petitioner filed the instant petition (with fee) alleging unintentional delay under 37 C.F.R. §1.137(b), included therewith, *inter alia*, a reply in the form of an amendment previously filed, and made the statement of unintentional delay.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office). See specifically, the regulations at 37 C.F.R. §10.18.

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[2],[3]

CONCLUSION

The instant petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to Technology Center/AU 2851 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Technology Center/AU in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center/AU OPAP where that change of status must be effected—that does not occur in the Office of Petitions.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

---

[2] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

[3] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

[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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United States Patent and Trademark Office
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www.uspto.gov

IBM CORPORATION
3039 CORNWALLIS RD.
DEPT. T81 / B503, PO BOX 12195
RESEARCH TRIANGLE PARK, NC 27709

Mail Date: 04/20/2010

Applicant	: Adrian Faur	: DECISION ON REQUEST FOR
Patent Number	: 7636693	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/947,835	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/23/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **986** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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QUARLES & BRADY LLP
411 E. WISCONSIN AVENUE
SUITE 2040
MILWAUKEE, WI 53202-4497

Mail Date: 07/08/2010

Applicant	: Michael Z. Hu	: DECISION ON REQUEST FOR
Patent Number	: 7641997	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/947,836	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/23/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1151** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Paper No.

Michael P. Dunnam
WOODCOCK WASHBURN LLP
One Liberty Place – 46th Floor
Philadelphia, PA 19103

MAILED

JUL 12 2005

Technology Center 2100

In re Application of: Rocco L. Martino.	)	
Application No. 10/947,853	)	
Attorney Docket No. CFTI-0155	)	DECISION ON PETITION TO
Filed: September 23, 2004	)	MAKE SPECIAL
For: TELEPHONE/TRANSACTION	)	
ENTRY DEVICE AND SYSTEM FOR	)	
ENTERING TRANSACTION DATA INTO	)	
DATABASES		

This is a decision on the petition under 37 C.F.R. § 1.102(c) and M.P.E.P. § 708.02, Section IV: Applicant's Age, filed April 27, 2005, to make the above-identified application special.

A grantable petition to make special under 37 C.F.R. § 1.102(c) and in accordance with M.P.E.P. § 708.02, Section IV must include a showing, as by a birth certificate or the applicant's statement, that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a true and correct copy of the applicant's passport showing a birth date of June 25, 1929 and evidencing that the applicant, Rocco L. Martino, is over sixty five (65) years of age.

Accordingly, the petition is **GRANTED**. The application is being forwarded to the examiner for expedited prosecution.

for James R. Matthews
Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
(571) 272-3613

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THE WEBB LAW FIRM, P.C.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH, PA 15219

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DEC 1 2 2005

OFFICE OF PETITIONS

In re Application of :
Yen-Jen Chang, et al. :
Application No. 10/947,894 : ON PETITION
Filed: September 23, 2004 :
Attorney Docket No. 0624-045541 :

This is a decision on the petition under 37 CFR 1.137(b) filed October 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 mailed November 9, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 10, 2005.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

This application matter is being forwarded to the Office of Initial Patent Examination for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions

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Commissioner for Patents
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SIEMENS CORPORATIONS
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

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MAR 09 2005

OFFICE OF PETITIONS

In re Application of :
Babak B. Makooi et al, :
Application No. 10/947,895 : ON PETITION
Filed: September 23, 2004 :
Attorney Docket No. 2003P07014US01 :

This is in response to the petition under 37 CFR 1.47(a), filed December 20, 2004.

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks items (1) and (2) set forth above.

As to item (1), the declaration of John P. Musone, a patent attorney for Siemens Corporation, states that he presented the application papers to inventors Arthur James Croone and Don D. Harlan. As to Guy A. Cole, Mr. Musone states that messages were left by Mrs. Steunenberg.

Rule 47 applicant has failed to show that Mr. Cole cannot be located. Applicant has not stated what steps were taken to attempt to contact Mr. Cole. Did Mr. Cole receive the

application papers (specification, claims and drawings)? See MPEP 409.03(d). A copy of the application papers should be sent to the last known address of Mr. Cole with a request that he sign the declaration for the patent application. A forwarding address should be requested, if the papers are returned. In addition, if other attempts to locate Mr. Cole, e.g., through E-mail, continue to fail, then applicant will have established that Mr. Cole cannot be reached by submitting a statement of facts showing such efforts. Copies of documentary evidence such as certified mail return receipt, cover letter of instructions, telegrams, through E-mail, the Internet etc., that support a finding that Mr. Cole could not be found or reached should be made part of the statement of facts.

If the inventor orally refuses to join in the application, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. If, on the other hand, petitioner receives an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.

When it is concluded by the rule 47 petitioner that an omitted inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence must be submitted.

Whenever an omitted inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

The showing is sufficient to establish the refusal of joint inventors Croone and Harlan to join in the application.

As to item (2), the declarations filed December 20, 2004, lack compliance with 37 CFR 1.63(a)(2) in that the declarations do not list all the named inventors. Petitioner's attention is directed to MPEP Section 602, which states: "Where joint inventors execute separate oaths or declarations, each oath or declaration should make reference to the fact that the affiant is a joint inventor together with the other joint inventors indicating them by name." Accordingly, a new declaration which lists all the inventors and is signed by the signing inventors and leaving the signature blocks of the nonsigning inventors blank is required. *See also* MPEP Sections 201.03 and 409.03(3).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Randolph Building
401 Dulany street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

Telephone inquiries related to this decision should be directed to Wan Laymon at (571) 272-3220.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

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NOV 16 2005

OFFICE OF PETITIONS

In re Application of Babak B. Makooi et al Application No. 10/947,895 Filed: September 23, 2004 For: METHOD & APPARATUS FOR RETARDING FIRE IN A TELECOMMUNICATIONS BOX	DECISION GRANTING STATUS UNDER 37 CFR 1.47(A)

This is a decision on the petition filed May 9, 2005, requesting reconsideration of a decision mailed March 9, 2005, which refused to accord 37 CFR 1.47(a) status to the above-identified application.

The petition is granted.

Petitioner has shown that the non-signing inventors have 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 inventors at the addresses 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 Petitions Examiner Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 2835 for examination in due course.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy

UNITED STATES PATENT AND TRADEMARK OFFICE

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10982 CRESCENDO CIRCLE
BOCA RATON, FL 33489

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NOV 16 2005

OFFICE OF PETITIONS

In re Application of
Makooi; Guzik; Cole; Croone; Edwards; Harlan; Polacek-Attenberger; and Schuster
Application No.10/947,895
Filed: September 23, 2004
For: METHOD & APPARATUS FOR RETARDING FIRE IN A TELECOMMUNICATIONS BOX

Dear Mr. Cole:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Wan Laymon at (571) 272-3220. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions

cc:
SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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ARTHUR JAMES CROONE
15 TRILLUM TERRANCE
COVINGTON, GA 30016

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OFFICE OF PETITIONS

In re Application of
Makooi; Guzik; Cole; Croone; Edwards; Harlan; Polacek-Attenberger; and Schuster
Application No.10/947,895
Filed: September 23, 2004
For: METHOD & APPARATUS FOR RETARDING FIRE IN A TELECOMMUNICATIONS BOX

Dear Mr. Croone:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Wan Laymon at (571) 272-3220. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions

cc:
SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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www.uspto.gov

DON D. HARLAN
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WALLINGTON, FL 33414

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NOV 16 2005

OFFICE OF PETITIONS

In re Application of
Makooi; Guzik; Cole; Croone; Edwards; Harlan; Polacek-Attenberger; and Schuster
Application No.10/947,895
Filed: September 23, 2004
For: METHOD & APPARATUS FOR RETARDING FIRE IN A TELECOMMUNICATIONS BOX

Dear Mr. Harlan:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Wan Laymon at (571) 272-3220. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Frances Hicks
Lead Petitions Examiner
Office of Petitions

cc:
SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Nov. 17, 2008

TO SPE OF : ART UNIT 2813

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/947909 /7408214

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Magdalene Talley
Certificates of Correction Branch
703-308-9390 ext. 116

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes do not apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

Matthew C. Landau SPE AU 2813