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Alexandria, VA 22313-1450
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DONALD J. ERSLER
725 GARVENS AVENUE
BROOKFIELD, WI 53005

COPY MAILED
MAY 24 2006
OFFICE OF PETITIONS

In re Application of	:	
Kent R. Mayhugh	:	
Application No. 10/947,924	:	DECISION ON PETITION
Filed: September 23, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 1285	:	37 CFR 1.102(d)
	:	

This is a decision on the petition under 37 CFR §1.102(d), filed April 10, 2006, to make the above-identified application special based on actual infringement as set forth in M.P.E.P. § 708.02, Section II.

The petition is **GRANTED.**

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

> (A) That there is an infringing device or product actually on the market or method in use;
>
> (B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and
>
> (C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.
>
> Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

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

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

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

The application is being forwarded to the Technology Center Art Unit 3726 for action on the merits commensurate with this decision.

Amelia Au
Petitions Examiner
Office of Petitions

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PATENT LAW OFFICES OF RICK MARTIN, PC
PO BOX 1839
LONGMONT, CO 80502

COPY MAILED

AUG 2 9 2008

In re Patent No. 7,216,411 :
Issued: May 15, 2007 :
Application No. 10/947,924 : ON PETITION
Filed: September 23, 2004 :
Atty Docket No. 871-001-1 :

This is a decision on the petition under 37 CFR 1.137(f), filed April 29, 2008, which is being treated as a petition under 37 CFR 1.137(b) to accept an unintentionally delayed notification of the filing in a foreign country of an application directed to the invention disclosed in the subject application.

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

Petitioner indicates that the instant nonprovisional application became the subject of an application filed in a foreign country on February 19, 2007. 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 applicant became abandoned pursuant to the provisions of 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c), petitioner failed to timely notify the 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(b) to accept an unintentionally delayed notification to the USPTO of the filing of a counterpart application in an eighteen month publication country must be accompanied by:

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

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

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

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

This application matured into Patent No. 7,316,411 on May 15, 2007. Therefore, no further action being required, this patented file is being referred to Files Repository.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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Woodcock Washburn, LLP
Cira Centre, 12th Floor
2929 Arch Street
Philadelphia, PA 19104-2891

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MAY 20 2009

OFFICE OF PETITIONS

In re Application of	:	
Paul A. Kline et al.	:	
Application No. 10/947,929	:	DECISION ON PETITION
Filed: September 23, 2004	:	TO WITHDRAW
Attorney Docket No. CRNT-0216	:	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 8, 2005.

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

A review of the file record indicates that the power of attorney to Vincent J. Roccia and all attorneys/agents of record has been revoked by the assignee of the patent application on September 6, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Capital Legal Group, LLC
1100 River Bay Road
Annapolis, MD 21409

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LAW OFFICE OF DAN SHIFRIN, PC - IBM
14081 WEST 59TH AVENUE
ARVADA CO 80004

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JAN 2 6 2007

OFFICE OF PETITIONS

In re Application of	:	
Seger, Paul J.	:	
Application No. 10/947,934	:	ON PETITION
Filed: September 23, 2004	:	
Attorney Docket No. TUC92004095US01	:	

This is a decision on the petition filed July 14, 2006, requesting that the above-identified application be accorded a filing date of September 23, 2004, rather than the presently accorded date of September 24, 2004. The petition is properly treated as a petition under 37 CFR 1.10(d).

Applicant requests the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on September 23, 2004, pursuant to 37 CFR 1.10. In support, applicant has submitted a copy of Express Mail label No. EV 529322439 US, showing an incorrect handwritten "date-in" of "9-24-04." Additionally, applicant has submitted copy of the Express Mail Corporate Account Mailing Statement, showing that the package in question with a date of September 23, 2004.

Therefore, in view of all the evidence, it is concluded that the application was deposited in Express Mail service on September 23, 2004. Accordingly, the instant application is entitled to a filing date of September 23, 2004, and has been so accorded.

The petition is **GRANTED**.

A corrected filing receipt accompanies this decision on petition.

A petition under 37 CFR 1.10(d) does not require a petition fee and none was collected.

This matter will be referred to Technology Center 2800 for further examination on the merits.

Telephone inquiries concerning this matter may be directed Petitions Examiner Liana Walsh at (571) 272-3206.

Frances Hicks
Petitions Examiner
Office of Petitions

Attachment: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/947,934	09/23/2004	2857	1316	TUC920040095US1	12	36	6

CONFIRMATION NO. 1859

CORRECTED FILING RECEIPT

OC000000022048475

35825
LAW OFFICE OF DAN SHIFRIN, PC - IBM
14081 WEST 59TH AVENUE
ARVADA, CO 80004

Date Mailed: 01/18/2007

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)

Paul J. Seger, Tucson, AZ;

Assignment For Published Patent Application

International Business Machines (IBM) Corporation, Armonk, NY

Power of Attorney: None

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 11/17/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/947,934

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Identifying a state of a system using an artificial neural network generated model

Preliminary Class

702

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof

unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

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

NOT GRANTED

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

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SEP 19 2007

OFFICE OF PETITIONS

In re Application of	:	ON PETITION
Seger, Paul J.	:	
Application No. 10/947,934	:	
Filed: September 23, 2004	:	
Attorney Docket No. TUC920040095US1	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 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 a Notice of Appeal; (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.

The Notice of Appeal filed September 2, 2007, has been entered and made of record. Accordingly, the 2-month period for filing the appeal brief accompanied by the fee required by law, runs from the date of this decision.

This matter is being referred to Technology Center 2800 for further processing.

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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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.
10/947,936	09/23/2004	Yoshifumi Aoki	075834.00550	1851

7590 01/11/2008

ROBERT J. DEPKE
LEWIS T. STEADMAN
ROCKEY, DEPKE & LYONS, LLC
SUITE 5450 SEARS TOWER
CHICAGO, IL 60606-6306

EXAMINER
KRASNIC, BERNARD

ART UNIT	PAPER NUMBER
2624	

MAIL DATE	DELIVERY MODE
01/11/2008	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Richard Clemmons
Patent Publication Branch
Office of Data Management

FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/947,936	09/23/2004	Yoshifumi Aoki	075834.00550	1851

33448 7590 01/10/2008
ROBERT J. DEPKE
LEWIS T. STEADMAN
ROCKEY, DEPKE & LYONS, LLC
SUITE 5450 SEARS TOWER
CHICAGO, IL 60606-6306

EXAMINER
KRASNIC, BERNARD

ART UNIT	PAPER NUMBER
2624	

MAIL DATE	DELIVERY MODE
01/10/2008	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.

Notice of Abandonment	Application No.	Applicant(s)	
	10/947,936	AOKI, YOSHIFUMI	
	Examiner	Art Unit	
	Krasnic, Bernard	2624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☐ Applicant's failure to timely file a proper reply to the Office letter mailed on _____.
   (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
   (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
   (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
   (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
   (d) ☐ No reply has been received.

2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
   (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
   (b) ☐ The submitted fee of $_____ is insufficient. A balance of $_____ is due.
   The issue fee required by 37 CFR 1.18 is $_____. The publication fee, if required by 37 CFR 1.18(d), is $_____.
   (c) ☐ The issue fee and publication fee, if applicable, has not been received.

3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
   (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
   (b) ☐ No corrected drawings have been received.

4. ☑ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.

5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.

6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.

7. ☐ The reason(s) below:

Rick Clemons □□Administrative Assistant□□Art Unit: 3900

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT NO.	**:**	**US 7,561,682 B2**
DATED	**:**	**JULY 14, 2009**
INVENTOR	**:**	**JAMES M. DOHERTY, LARRY B. PEARSON**
ASSIGNEE	**:**	**AT&T INTELLECTUAL PROPERTY I, L.P.**

REQUEST FOR CERTIFICATE OF CORRECTION
UNDER 37 CFR 1.322

ATTENTION: CERTIFICATE OF CORRECTIONS BRANCH
COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

This paper is submitted in connection with the above referenced patent. The Patent contains errors and, accordingly, a Certificate of Correction is respectfully requested. Attachment A to this document shows the errors and requested corrections. In addition, a proposed Certificate of Correction is attached.

The Commissioner is authorized to charge the $100.00 fee, and any other fees that may be due, to Jackson Walker L.L.P. Deposit Account No. 10-0096.

If any questions arise during the processing of this request, please do not hesitate to contact the undersigned at 512.236.2019.

Respectfully submitted,

Joseph P. Lally
Reg. No. 38,947
ATTORNEY FOR ASSIGNEE

Please enter the amendments for a Certificate of Corrections.

CHS, 10 DEC '09

ATTACHMENT A

(73) Assignee: AT&T Intellectual Property ~~I.~~ **I,** L.P.

In the Claims

Please correct Claim 14 as follows:

14. The telephone communication system of claim 13 wherein the at least one telephone network maps the parameters values respectively to SMTP e-mail fields (i) From, (ii) From, (iii) From, (iv) Reply to, (v) Reply to, (vi) ~~To~~ **To,** (vii) ~~To~~ **To,** (viii) e-mail body.

Please correct Claim 15 as follows:

15. The telephone communication system of claim 1 wherein the call log data is in a TCAP message and includes parameters having parameter values (i) calling telephone number, (ii) call log gateway domain name, (iii) call log postmaster, (iv) communication platform domain name, (v) calling telephone ~~number~~ **number,** (vi) communication platform domain name, (vii) called telephone number, (viii) date and time associated with the call associated with the subscriber.

Please correct Claim 20 as follows:

20. The method of claim 19, receiving call log data relating to a call associated with at least one of a plurality of subscriber telephone numbers in at least one of a plurality of telephone networks; and

sending a call log message ~~form~~ **from** the at least one of a plurality of telephone networks in response to receiving said call log data associated with said at least one of subscriber telephone numbers.

Please correct Claim 31 as follows:

31. The method of claim 19 wherein the call log data is in a TCAP message and includes parameters having parameter values (i) caller name (CNAM), (ii) calling telephone number, (iii) call log gateway domain name, (iv) call-log-postmaster, (v) communication platform domain name associated with the call log ~~postmaster~~ **postmaster,** (vi) called telephone ~~number~~

number, (vii) communication platform domain name associated with the called telephone ~~number;~~ **number,** and (viii) date and time associated with the call associated with the subscriber telephone.

Please correct Claim 32 as follows:

32. The method of claim 31 wherein the at least one telephone network maps the parameters values respectively to SMTP e-mail fields (i) From, (ii) From, (iii) From, (iv) Reply to, (v) Reply to, (vi) ~~To~~ **To,** (vii) ~~To~~ **To,** (viii) e-mail body.

Please correct Claim 33 as follows:

33. The method of claim 19 wherein the call log data is in a TCAP message and includes parameters having parameter values (i) calling telephone number, (ii) call log gateway domain name, (iii) call log postmaster, (iv) communication platform domain name, (v) calling telephone ~~number~~ **number,** (vi) communication platform domain name, (vii) called telephone number, (viii) date and time associated with the call associated with the subscriber.

Please correct Claim 36 as follows:

36. A computer readable medium containing instructions that when executed by a computer perform a method for providing a call log associated with a subscriber, comprising:

a) receiving call log data associated with at least one subscriber telephone number in at least one telephone network;

b) sending a call log message in response to said call associated with the at least one subscriber telephone number;

c) receiving said call log message at a communication platform;

d) associating said call log message with said call log associated with said subscriber;

e) providing at said communication platform said call log associated with the subscriber in response to a request; and

f) receiving said call log data wherein said call log data is in a TCAP message and includes parameters having parameter values (i) caller name (CNAM), (ii) calling telephone number, (iii) call log gateway domain name, (iv) call-log-postmaster, (v) communication platform domain name associated with the call log ~~postmaster~~ **postmaster,** (vi) called telephone

~~number~~ **number,** (vii) communication platform domain name associated with the called telephone ~~number;~~ **number,** and (viii) date and time associated with the call associated with the subscriber telephone.

Please correct Claim 49 as follows:

49. The medium of claim 36, the method further comprising:

mapping in said at least one telephone network maps the parameters values respectively to SMTP e-mail fields (i) From, (ii) From, (iii) From, (iv) Reply to, (v) Reply to, (vi) ~~To~~ **To,** (vii) ~~To~~ **To,** (viii) e-mail body.

Please correct Claim 50 as follows:

52. A computer readable medium containing instructions that when executed by a computer perform a method for providing a call log associated with a subscriber, comprising:

a) receiving call log data associated with at least one subscriber telephone number in at least one telephone network;

b) sending a call log message in response to said call associated with the at least one subscriber telephone number;

c) receiving said call log message at a communication platform;

d) associating said call log message with said call log associated with said subscriber;

e) providing at said communication platform said call log associated with the subscriber in response to a request; and

f) receiving said call log data wherein said call log data is in a TCAP message and includes parameters having parameter values (i) caller name (CNAM), (ii) calling telephone number, (iii) call log gateway domain name, (iv) call-log-postmaster, (v) communication platform domain name associated with the call log ~~postmaster~~ **postmaster,** (vi) called telephone ~~number~~ **number,** (vii) communication platform domain name associated with the called telephone ~~number;~~ **number,** and (viii) date and time associated with the call associated with the subscriber telephone.

PTO/SB/44 (09-07)
Approved for use through 08/31/2010. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,561,682 B2

APPLICATION NO.: 10/947960

ISSUE DATE : JULY 14, 2009

INVENTOR(S) : JAMES M. DOHERTY, LARRY B. PEARSON

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:

(73) Assignee: AT&T Intellectual Property ~~I.~~ I, L.P.

In the Claims

Please correct Claim 14 as follows:

14. The telephone communication system of claim 13 wherein the at least one telephone network maps the parameters values respectively to SMTP e-mail fields (i) From, (ii) From, (iii) From, (iv) Reply to, (v) Reply to, (vi) ~~To~~ To, (vii) ~~To~~ To, (viii) e-mail body.

Please correct Claim 15 as follows:

15. The telephone communication system of claim 1 wherein the call log data is in a TCAP message and includes parameters having parameter values (i) calling telephone number, (ii) call log gateway domain name, (iii) call log postmaster, (iv) communication platform domain name, (v) calling telephone ~~number~~ number, (vi) communication platform domain name, (vii) called telephone number, (viii) date and time associated with the call associated with the subscriber.

Please correct Claim 20 as follows:

20. The method of claim 19, receiving call log data relating to a call associated with at least one of a plurality of subscriber telephone numbers in at least one of a plurality of telephone networks; and

sending a call log message ~~form~~ from the at least one of a plurality of telephone networks in response to receiving said call log data associated with said at least one of subscriber telephone numbers.

Please correct Claim 31 as follows:

31. The method of claim 19 wherein the call log data is in a TCAP message and includes parameters having parameter values (i) caller name (CNAM), (ii) calling telephone number, (iii) call log gateway domain name, (iv) call-log-postmaster, (v) communication platform domain name associated with the call log ~~postmaster~~ postmaster, (vi)

MAILING ADDRESS OF SENDER (Please do not use customer number below):
AT&T Legal Department
Attn: Patent Docketing, Room 2A-207
One AT&T Way
Bedminster NJ 07921

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,561,682 B2

APPLICATION NO.: 10/947960

ISSUE DATE : JULY 14, 2009

INVENTOR(S) : JAMES M. DOHERTY, LARRY B. PEARSON

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:

called telephone ~~number~~ **number,** (vii) communication platform domain name associated with the called telephone ~~number;~~ **number,** and (viii) date and time associated with the call associated with the subscriber telephone.

Please correct Claim 32 as follows:

32. The method of claim 31 wherein the at least one telephone network maps the parameters values respectively to SMTP e-mail fields (i) From, (ii) From, (iii) From, (iv) Reply to, (v) Reply to, (vi) ~~To~~ **To,** (vii) ~~To~~ **To,** (viii) e-mail body.

Please correct Claim 33 as follows:

33. The method of claim 19 wherein the call log data is in a TCAP message and includes parameters having parameter values (i) calling telephone number, (ii) call log gateway domain name, (iii) call log postmaster, (iv) communication platform domain name, (v) calling telephone ~~number~~ **number,** (vi) communication platform domain name, (vii) called telephone number, (viii) date and time associated with the call associated with the subscriber.

Please correct Claim 36 as follows:

36. A computer readable medium containing instructions that when executed by a computer perform a method for providing a call log associated with a subscriber, comprising:

a) receiving call log data associated with at least one subscriber telephone number in at least one telephone network;

b) sending a call log message in response to said call associated with the at least one subscriber telephone number;

c) receiving said call log message at a communication platform;

d) associating said call log message with said call log associated with said subscriber;

e) providing at said communication platform said call log associated with the subscriber in response to a request; and

f) receiving said call log data wherein said call log data is in a TCAP message and includes parameters having parameter values (i) caller name (CNAM), (ii) calling telephone number, (iii) call log gateway domain name, (iv) call-log-postmaster, (v) communication platform domain name associated with the call log ~~postmaster~~ **postmaster,** (vi) called telephone ~~number~~ **number,** (vii) communication platform domain name associated with the

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Attn: Patent Docketing, Room 2A-207
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This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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PTO/SB/44 (09-07)
Approved for use through 08/31/2010. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,561,682 B2

APPLICATION NO.: 10/947960

ISSUE DATE : JULY 14, 2009

INVENTOR(S) : JAMES M. DOHERTY, LARRY B. PEARSON

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:

called telephone ~~number;~~ **number,** and (viii) date and time associated with the call associated with the subscriber telephone.

Please correct Claim 49 as follows:

49. The medium of claim 36, the method further comprising:
mapping in said at least one telephone network maps the parameters values respectively to SMTP e-mail fields (i) From, (ii) From, (iii) From, (iv) Reply to, (v) Reply to, (vi) ~~To~~ **To,** (vii) ~~To~~ **To,** (viii) e-mail body.

Please correct Claim 50 as follows:

50. A computer readable medium containing instructions that when executed by a computer perform a method for providing a call log associated with a subscriber, comprising:
a) receiving call log data associated with at least one subscriber telephone number in at least one telephone network;
b) sending a call log message in response to said call associated with the at least one subscriber telephone number;
c) receiving said call log message at a communication platform;
d) associating said call log message with said call log associated with said subscriber;
e) providing at said communication platform said call log associated with the subscriber in response to a request; and
f) receiving said call log data wherein said call log data is in a TCAP message and includes parameters having parameter values (i) caller name (CNAM), (ii) calling telephone number, (iii) call log gateway domain name, (iv) call-log-postmaster, (v) communication platform domain name associated with the call log ~~postmaster~~ **postmaster,** (vi) called telephone ~~number~~ **number,** (vii) communication platform domain name associated with the called telephone ~~number;~~ **number,** and (viii) date and time associated with the call associated with the subscriber telephone.

MAILING ADDRESS OF SENDER (Please do not use customer number below):
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This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20091211

DATE : August 06, 2009

TO SPE OF : ART UNIT 2614

SUBJECT : Request for Certificate of Correction on Patent No.: 7561682

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:

/CURTIS KUNTZ/
Supervisory Patent Examiner.Art Unit 2614

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8-6-09

TO SPE OF : ART UNIT 2614

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/947960 Patent No.: 7561682

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

FOR IFW FILES: Should COFC be approved

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9C62-D
Palm Location 7580

Ennis Young
Certificates of Correction Branch
703-756-1542

Thank You For Your Assistance

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

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

Comments: _____

CURTIS KUNTZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600
SPE

2614
Art Unit

PTOL-306 (REV. 7/03)

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Bruce H. Cottrell
Los Alamos National Laboratory
LC/IP, MS A187
Los Alamos NM 87545

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OCT 05 2007

OFFICE OF PETITIONS

In re Application of	:
Naud et al.	:
Application No. 10/947,975	: DECISION ON PETITION
Filed: 09/23/2004	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. S-104,831	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 6, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed on September 7, 2007.

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) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1755 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/947,975	09/23/2004	1755	385	S-104,831	20	2

CONFIRMATION NO. 3131

CORRECTED FILING RECEIPT

OC000000026093745

Bruce H. Cottrell
Los Alamos National Laboratory
LC/IP, MS A187
Los Alamos, NM 87545

Date Mailed: 10/01/2007

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)

Darren Naud, Los Alamos, NM;
Steven F. Son, Los Alamos, NM;
Michael A. Hiskey, Los Alamos, NM;
James R. Busse, Los Alamos, NM;
Blaine W. Asay, Los Alamos, NM;

Power of Attorney:

Ray Wilson--28351
Milton Wyrick--29993
Bruce Cottrell--30620
Samuel Borkowsky--42346

Domestic Priority data as claimed by applicant

This application is a CON of 10/208,696 07/29/2002 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 12/09/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/947,975

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Lead-free electric match compositions

Preliminary Class

149

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

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The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING

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

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

NOT GRANTED

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SAN DIEGO, CA 92121

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FEB 27 2007

OFFICE OF PETITIONS

In re Application of Seo :
Application No. 10/947,980 : Decision on Petition
Filing Date: September 22, 2004 :
Attorney Docket No. 040533 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 21, 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 January 11, 2006, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on April 12, 2006. A Notice of Abandonment was mailed on August 21, 2006.

The instant petition requests revival of the application.

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

37 CFR 1.137(b)(3) requires "a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) [was] unintentional." To the extent 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, April 12, 2006, until the date the petition was filed, August 21, 2006, was not unintentional, petitioner must notify the Office.

Payment for an extension of time is unnecessary when reviving a petition. Therefore, the $1,020 charged to petitioner's deposit account for an extension of time has been credited back to petitioner's deposit account.

Technology Center Art Unit 2819 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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Kunzler Needham Massey & Thorpe
8 EAST BROADWAY
SUITE 600
SALT LAKE CITY, UT 84111

Mail Date: 04/20/2010

Applicant	: Pratima Ahuja	: DECISION ON REQUEST FOR
Patent Number	: 7607006	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/948,000	: 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 **1133** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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In re Application of	:	
Van Ingen et al.	:	
Application No. 10/948,009	:	ON PETITION
Filed: September 22, 2004	:	
Attorney Docket No. 13768.783.135	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 20, 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, February 7, 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 timely obtained. Accordingly, the application became abandoned on May 3, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,540, and (3) an adequate statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,050 extension of time fee submitted with the petition on August 20, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's credit card account as authorized.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

This application is being referred to Technology Center 2163 for further examination on the merits.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petition

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/948,017	09/23/2004	Naoko Inagaki	075834.00549	2366

7590 01/11/2008

ROBERT J. DEPKE
LEWIS T. STEADMAN
ROCKEY, DEPKE & LYONS, LLC
SUITE 5450 SEARS TOWER
CHICAGO, IL 60606-6306

EXAMINER
BEST, ZACHARY P

ART UNIT	PAPER NUMBER
4191	

MAIL DATE	DELIVERY MODE
01/11/2008	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

02 FC:1202 -54.00 OP

FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/948,017	09/23/2004	Naoko Inagaki	075834.00549	2366

33448 7590 01/10/2008
ROBERT J. DEPKE
LEWIS T. STEADMAN
ROCKEY, DEPKE & LYONS, LLC
SUITE 5450 SEARS TOWER
CHICAGO, IL 60606-6306

EXAMINER
BEST, ZACHARY P

ART UNIT	PAPER NUMBER
4191	

MAIL DATE	DELIVERY MODE
01/10/2008	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.

Notice of Abandonment	Application No.	Applicant(s)	
	10/948,017	INAGAKI ET AL.	
	Examiner	Art Unit	
	Best, Zachary P	4191	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☐ Applicant's failure to timely file a proper reply to the Office letter mailed on _____.
   (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
   (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
   (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
   (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
   (d) ☐ No reply has been received.

2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
   (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
   (b) ☐ The submitted fee of $_____ is insufficient. A balance of $_____ is due.
   The issue fee required by 37 CFR 1.18 is $_____. The publication fee, if required by 37 CFR 1.18(d), is $_____.
   (c) ☐ The issue fee and publication fee, if applicable, has not been received.

3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
   (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
   (b) ☐ No corrected drawings have been received.

4. ☑ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.

5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.

6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.

7. ☐ The reason(s) below:

Rick Clemons ☐☐Administrative Assistant☐☐Art Unit: 3900

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

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MAR 0 9 2005

CHANDRAKANT RAMCHANDRA YANDE
6 BOLFMAR AVE
WEST WINDSOR NJ 08550

In re Application of	:	
Chandrakant R. Yande	:	
Serial No.: 10/948,024	:	DECISION ON PETITION
Filed: September 23, 2004	:	
For: Dental Hygiene Pulsatory Slit Apparatus		

This is in response to applicants' petition filed January 6, 2005 to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

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

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

Should there be any questions with regard to this letter please contact Richard A. Bertsch by letter addressed to the Director, Technology Center 3700, or by telephone at (571) 272-2975 or by facsimile transmission at (571) 273-0275.

Richard A. Bertsch

Richard A. Bertsch, Director
Technology Center 3700

12 APR 2005

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Roy F. House
5726 Ettrick Drive
Houston TX 77035

In re Application of	:	
DOBSON, JR. et al.	:	
Application No.: 10/948,041	:	DECISION
Attorney Docket No.: TUC-23/PCT/US	:	
For: VISCOUS OLEAGINOUS FLUIDS AND	:	
METHODS OF DRILLING AND SERVICING	:	
WELLS THEREWITH	:	

This is a decision on applicants' submission filed 22 November 2004 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 09 April 2003, applicants filed international application PCT/US03/10845, which designated the United States and claimed priority of an earlier application filed on 16 April 2002. A copy of the international application was communicated from the International Bureau to the USPTO on 30 October 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 18 October 2004 (16 October 2004 being a Saturday).

On 23 September 2004, applicants filed a UTILITY PATENT APPLICATION TRANSMITTAL (Only for new nonprovisional applications *under 37 CFR 1.53(b)*) (PTO/SB/05) (emphasis added), an assertion of small entity status, a filing fee, a declaration of inventors, and a petition under 37 CFR 1.47(a).

On 10 November 2004, a NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION was mailed indicating that the specification was missing and that any specification must include at least one claim.

On 22 November 2004, applicants filed a "PETITION UNDER 37 CFR 1.181(a)(3) or 1.182 FOR A FILING UNDER 35 U.S.C. 371" and a "PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)".

DISCUSSION

Petition for Filing Under 35 U.S.C. 371

Any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in

35 U.S.C. 371(c). The official PTO Notice published in the Official Gazette at 1077 OG 13 entitled "Minimum Requirements for Acceptance of Applications Under 35 U.S.C. 371 (the National Stage of PCT)" states, in part, the following:

> The Patent and Trademark Office is continuing to receive application papers which do not clearly identify whether the papers (1) are being submitted to enter the national stage of the Patent Cooperation Treaty (PCT) under 35 U.S.C. 371 or (2) are being filed as a regular national application under 35 U.S.C. 111.
>
> * * *
>
> If there are any conflicting instructions as to which sections of the statute (371 or 111) is intended the application will be accepted under 35 U.S.C. 111.

The transmittal letter filed on 23 September 2004 is a "UTILITY PATENT APPLICATION TRANSMITTAL (Only for new nonprovisional applications under 37 CFR 1.53(b))." However, the declaration of inventors executes international application PCT/US03/10845 and contradicts the request in the transmittal letter to file under 37 CFR 1.53. The transmittal letter used by applicant is to be used only with submissions under 35 U.S.C. 111(a). Since applicant gave conflicting instructions, the papers should have been considered as having been filed under 35 U.S.C. 111(a). Accordingly, the original papers deposited on 23 September 2004 were properly accepted as a submission under 35 U.S.C. 111(a).

U.S. Statutes and Regulations do not make specific provision for the requested action and as such the Office does not grant such petitions for conversion as a mere matter of course. The Office will only grant such petitions upon a showing by applicant of sufficient cause (e.g., the loss of patent rights) where no other remedy is available. In the instant case, another remedy is available to maintain copendency between the instant 35 U.S.C. 111(a) filing and the international application.

Petition Under 37 CFR 1.137(b)

A petition to revive the present application under 37 CFR 1.137(b) must include:
(1) The required reply;
(2) The petition fee;
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), the filing of a continuing application under 35 U.S.C. 111(a) on 22 November 2004 is an appropriate response under 37 CFR 1.137(b).

As to item (2), the petition fee was paid 22 November 2004.

As to item (3), the required statement has been provided.

A review of the application file reveals that, with the filing of the present petition and

accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

Continuation Application

Applicant is entitled to claim benefit under 35 U.S.C. 120 and 365(c) of the filing date of the international application for the common subject matter, since this application (Serial No. 10/948,041) and the international application (PCT/US03/10845) designating the United States were copending on 22 November 2004. However, this reference must also be submitted within the later of four months from the actual filing date of this application or sixteen months from the filing date of the international application. 37 CFR 1.78(a)(2)(ii). Applicant may file a petition to accept an unintentionally delayed claim under 37 CFR 1.78(a)(3) for the benefit of the international application.

Applicant is reminded that in order to perfect the claim for priority under 35 U.S.C. 119, applicant must submit certified copies of the priority documents. The certified copies of priority documents submitted to the International Bureau cannot be relied upon to perfect the claim for priority. See MPEP § 1896.

Petition Under 37 CFR 1.47(a)

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17(h); (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the missing inventor; and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

As to item (1), the petition fee under 37 CFR 1.17(g) as of 22 November 2004 is $200. Applicants have paid $130. The balance of $70 has been charged to Deposit Account 50-2856. Thus, item (1) has been satisfied.

Items (3) and (4) have also been satisfied.

Item (2) has not been satisfied. The statement of facts should be made by the person who presented the inventor with the application papers and/or to whom the refusal was made. A statement of fact by Mr. James Dobson, Jr., has been presented. However, Mr. Dobson does not appear to have firsthand knowledge of either the presentation of the papers or the refusal. Additionally, applicants apparently intend that the nonsigning inventor's conduct should be construed as a refusal to sign. However, the letter sent to the nonsigning inventor Ronald Lee Rock is dated 27 May 2003, almost two years ago. There appears to have been no attempt to contact Mr. Rock since that time. Moreover, in that letter, Mr. Rock was asked to sign the PCT Request. For the instant application, Mr. Rock should be presented with a declaration of inventors in compliance with 37 CFR 1.497(a)-(b) for the instant application as well as the

specification including claims. To establish a refusal to sign, it is required that the inventor be presented with the application papers (specification, including claims, drawings, and oath or declaration). See MPEP 409.03(d). "It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. *In re Gray*, 115 USPQ 80 (Comm'r Pat. 1956)." MPEP 409.03(d).

CONCLUSION

For the reasons set forth above, the petition to convert the application from a filing under 35 U.S.C. 111(a) to a filing under 35 U.S.C. 371 is **DISMISSED** without prejudice.

The petition under 37 CFR 1.137(b) to revive international application PCT/US03/10845 is hereby **GRANTED** as to the National stage in the United States of America for purposes of continuity only and since continuity has been established by this decision reviving the international application, the international application is again abandoned in favor of the present continuing application number 10/948,041.

For the reasons set forth above, applicants' petition under 37 CFR 1.47(a) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. **Failure to timely file the proper response will result in abandonment of this application.** Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)". No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

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HOUSTON TX 77035

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OFFICE OF PETITIONS

In re Application of	:	
Dobson et al.	:	DECISION ON PETITIONS
Application No. 10/948,041	:	UNDER 37 CFR 1.78(a)(3)
Filed: 22 November, 2004	:	AND 37 CFR 1.78(a)(6)
Atty Docket No. TUC-23/PCT/US	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed 24 May, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed PCT Application No. PCT/US03/10845, filed 9 April, 2003, set forth in the amendment submitted concurrently with the instant petition. This is also being treated as a petition under 37 CFR 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petitions are **GRANTED**.

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

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

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

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 PCT application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the prior-filed PCT application satisfies the conditions of 37 CFR 1.78(a)(3), 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 instant nonprovisional application was pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(iii). Additionally,

the instant nonprovisional application claims the benefit of intermediate international Application No. PCT/US03/10845, which was filed within twelve months of the filing date of the prior-filed provisional application, Application No. 60/372,954, which was filed on 16 April, 2002, for which priority is claimed.

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

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

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should <u>not</u> be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 365(c) and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should <u>not</u> be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

Any questions concerning this matter may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3731 for appropriate action on the amendment submitted 24 May, 2005, including consideration by the examiner of the claim for the benefit of priority to the prior-filed applications.

Frances Hicks

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

Attachment: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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ROBERT B. WINTER
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THOUSAND OAKS, CA 91320-1799

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OFFICE OF PETITIONS

In re Application of	:	
Colin R. Dunstan	:	
Application No. 10/948,053	:	ON PETITION
Filed: September 22, 2004	:	
Attorney Docket No. A-605A	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 17, 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 February 21, 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 22, 2006.

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

This matter is being referred to Technology Center AU 1643 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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Robert B. Famiglio, Esquire
Famiglio & Associates
P.O. Box 1999
Media, PA 19063

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OFFICE OF PETITIONS

In re Application of
Yeramyan, Chen, Oshagan, Sexton, Drewniak, and Speirs
Application No. 10/948,054
Filed: September 22, 2004
Attorney Docket No. **4332-15**
For: METHOD OF MIND MAPPING UTILIZING META-COGNITIVE LEARNING

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

This is a decision on the petition under 37 CFR 1.47(a) April 7, 2004.

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

Any request for reconsideration under this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Failure to respond will result in the abandonment of this application. Any response should be titled "Request for Reconsideration of Petition Under 37 CFR 1.47(a).

The above-identified application was filed on September 22, 2004, and was not accompanied by an executed oath or declaration. On November 8, 2004, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Non-provisional Application requiring a properly executed declaration and payment of a surcharge. The notice allowed an extendable period for reply of two months from its mailing date. On April 7, 2004, the instant petition was filed accompanied by a request for an extension of time within the third month.

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

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

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

(3) the petition fee,

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

The instant petition lacks item (1) above.

As to item (1), the petition does not establish that a diligent effort was made to locate inventor Chen. Petitioner has concluded that inventor Chen is unavailable without providing a statement of facts supporting the conclusion. Further to this point, section 409.03(d) of the *Manual of Patent Examining Procedure* (MPEP) provides, in pertinent part, that:

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.
>
> The 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 CFR 1.47.
>
> Furthermore, the fact that an inventor is hospitalized and/or is not conscious is not an acceptable reason for filing under 37 CFR 1.47. 37 CFR 1.43 may be available under these circumstances. See MPEP § 409.02. Such a petition under 37 CFR 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.

Any renewed petition filed must provide a statement of facts describing the efforts put forth to locate inventor Chen along with any supporting documentary evidence.

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

By mail: Mail Stop Petitions
Commissioner for Patents,
PO Box 1450
Alexandria, VA 22313-1450

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Robert B. Famiglio, Esquire
Famiglio & Associates
P.O. Box 1999
Media, PA 19063

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OFFICE OF PETITIONS

In re Application of
Yeramyan, Chen, Oshagan, Sexton, Drewniak, and Speirs
Application No. 10/948,054
Filed: September 22, 2004
Attorney Docket No. **4332-15**
For: METHOD OF MIND MAPPING UTILIZING META-COGNITIVE LEARNING

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

This is in response to the renewed petition under 37 CFR 1.47(a), filed October 3, 2005.

The renewed petition is **GRANTED**.

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

The above-identified application was filed on September 22, 2004, and was not accompanied by an executed oath or declaration. On November 8, 2004, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Non-provisional Application requiring a properly executed declaration and payment of a surcharge. The notice allowed an extendable period for reply of two months from its mailing date. On April 7, 2004, a petition under 37 CFR 1.47(a) was filed accompanied by a request for an extension of time within the third month. The petition was dismissed by a decision mailed May 3, 2005. The instant renewed petition was filed on October 3, 2005, with a request for an extension of time within the third month.

Petitioner has shown that inventor Chen is unavailable to join the prosecution of the above-identified application after having been presented with the application papers. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

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

It is noted that the amount of $200.00 was remitted for the petition fee, however, a renewed petition under 37 CFR 1.47(a) does not require a petition if, as in this case, the petition fee was paid with the first petition. The amount of $200.00 will be refunded, in due course.

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
Yeramyan, Chen, Oshagan, Sexton, Drewniak, and Speirs
Application No. 10/948,054
Filed: September 22, 2004
Attorney Docket No. **4332-15**
For: METHOD OF MIND MAPPING UTILIZING META-COGNITIVE LEARNING

: DECISION NOTING JOINDER

This is in response to the renewed petition filed October 3, 2005.

The decision mailed October 14, 2005, according the above-cited application status under 37 CFR 1.47(a) is vacated.

In view of the **joinder** of the inventor Chen, further consideration under 37 CFR 1.47(a) is not necessary. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

The Manual of Patent Examining Procedure ("MPEP"), § 409.03(j) provides that "[i]n the event the previously non-signing inventor decides to join the application by filing an executed oath or declaration complying with 37 CFR 1.63, the oath or declaration will be placed in the application file."

Accordingly, the declaration executed by all joint inventors is noted and made of record.

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

Telephone inquiries regarding this communication 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
www.uspto.gov

SHEMWELL MAHAMEDI
4880 STEVENS CREEK BOULEVARD
SUITE 201
SAN JOSE, CA 95129

COPY MAILED
JUN 15 2006
OFFICE OF PETITIONS

In re Application of	:	
Thomas L. Lyon et al	:	
Application No. 10/948,064	:	DECISION ON PETITION
Filed: September 23, 2004	:	TO WITHDRAW
Attorney Docket No. NTLM.P101	:	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) or 37 C.F.R. § 10.40, filed April 7, 2006.

The request is **APPROVED**.

A review of the file record indicates that Charles E. Shemwell and all attorneys/agents of record who are associated with customer No. 30554: (1) does not have power of attorney in this patent application;[1] and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, Charles E. Shemwell and all attorneys/agents of record who are associated with customer No. 30554 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).

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

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

---

[1] A power of attorney submitted on September 23, 2004 was improper. In this regard, compliance with 37 CFR 3.73(b) has not been satisfied in that the reel and frame number where the recorded assignment appears in the assignment records of the USPTO has not been provided.

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

This application is being referred to Technology Center AU 2189.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: THOMAS L. LYON
1400 EDGEWOOD DR
PALO ALTO, CA 94301

RANDY STRAHAN
MOHR DAVIDOW VENTURES
3000 SAND HILL ROAD
BUILDING 3, SUITE 290
MENLO PARK, CA 94025

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
10/948,064	09/23/2004	Thomas L. Lyon	NTLM.P101

CONFIRMATION NO. 3015

OC000000019250130

30554
SHEMWELL MAHAMEDI LLP
4880 STEVENS CREEK BOULEVARD
SUITE 201
SAN JOSE, CA 95129

Date Mailed: 06/13/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/07/2006:

- 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.

Wan Laymon

WAN LAYMON
OP (571) 272-3220

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HENRY M FEIEREISEN
350 FIFTH AVENUE
SUITE 4714
NEW YORK, NY 10118

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JUN 0 9 2005

OFFICE OF PETITIONS

In re Application of :
Karl Gebert :
Application No. 10/948,096 :
Filed: September 23, 2004 :
Attorney Docket No. GEBERT :

ON PETITION

This is in response to the petition under 37 C.F.R. 1.47(b), filed March 18, 2005.

The petition is dismissed

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to respond, correcting the below-noted deficiencies. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)" and may include an oath or declaration executed by the inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) proof of irreparable damage. Applicant lacks items (2), (3), and (5) set forth above.

As to item (2), the Office notes that pursuant to Section 409.03(b)(A) of the Manual for Patent Examining Procedure:

> Where a corporation is the 37 CFR 1.47(b) applicant, an officer (President, Vice-President, Secretary, Treasurer or Chief Executive Officer) thereof should normally sign the necessary oath or declaration. A corporation may authorize any person, including an attorney or agent registered to practice before the U.S. Patent and Trademark Office, to sign the application oath or declaration on its behalf. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorney's or agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney or agent may

> simply state that he or she is authorized to sign on behalf of the corporation. Where the oath or declaration is being signed on behalf of an assignee, see MPEP Section 324. An inventor may not authorize another individual to act as his or her agent to sign the application oath or declaration on his or her behalf. *Staeger v. Commissioner,* 189 USPQ 272 (D.D.C. 1976), *In re Striker*, 182 USPQ 507 (Comm'r Pat. 1973). Where an application is executed by one other than the inventor, the declaration required by 37 CFR 1.63 must state the full name, residence, post office address, and citizenship of the nonsigning inventor. Also, the title or position of the person signing must be stated if signing on behalf of a corporation under 37 CFR 1.47(b).

The declaration and power of attorney filed on March 18, 2005 is not acceptable since the party signing on behalf of the nonsigning inventor Karl Gebert fails to state his/her title or position if signing on behalf of a corporation under 37 CFR 1.47(b). Accordingly, an oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicant on behalf of Gebert is required. See MPEP 409.03(a).

As to item (3), an additional petition fee of $70 ($200 - 130) is required by 37 CFR 1.17(g).

As to item (5), Rule 47 applicant failed to show or provide proof that Siemens Aktiengesellschaft (Siemens), has sufficient proprietary interest in the subject matter to justify the filing of the application (see MPEP 409.03(f)). The petition asserts that Gebert was formerly employed by Siemens, that the invention at issue was made during Gebert's employment by Siemens, and that Gebert is thus obligated to assign all rights to such an invention to Siemens. However, the petition does not enclose a copy of the employment contract, or other documents supporting Siemens's proprietary interest in this application for prosecuting this application. Acceptable proof would include a copy of the employment agreement between the nonsigning inventor and the Rule 47(b) applicant, a copy of an assignment agreement showing that the invention disclosed in the application is assigned to the Rule 47(b) applicant, or a legal memorandum signed by an attorney familiar with the law of the jurisdiction stating that a court of competent jurisdiction would be the weight of authority in that jurisdiction award the title of the invention to the Rule 47(b) applicant.

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

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

By hand: Customer Service Window
Randolph Building

401 Dulany Street
Alexandria, VA 22314

By 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

HENRY M FEIEREISEN
350 FIFTH AVENUE
SUITE 4714
NEW YORK, NY 10118

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NOV 0 3 2005

OFFICE OF PETITIONS

In re Application of :
Karl Gebert :
Application No. 10/948,096 : ON PETITION
Filed: September 23, 2004 :
Attorney Docket No. GEBERT :

This is a decision on the petition under 37 C.F.R. 1.47(b), filed July 22, 2005, requesting reconsideration of a decision mailed June 9, 2005, which refused to accord 37 CFR 1.47(b) status to the above-identified application.

The petition is dismissed

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to respond, correcting the below-noted deficiencies. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)" and may include an oath or declaration executed by the inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) proof of irreparable damage. Applicant lacks item (5) set forth above.

Rule 47(b) applicant still has not satisfied item (5). Accordingly to the petition filed on March 18, 2005, Karl Gebert's former employer Weiss Spindeltechnologie GmbH (Weiss) acquired interest in the instant application from Gebert under an employment agreement in 1999 but was not executed. Apparently, Weiss assigned 80% of rights to Siemens Aktiengesellschaft (Siemens) in 2001. In the instant case, Siemens may do so provided it can be shown that:

(1) Gebert conceived the instant application while employed by Weiss.

(2) Gebert has assigned, or has agreed in writing to assign this application to Weiss; or

(3) Weiss otherwise had sufficient proprietary interest in the instant application to justify the filing of this application.

The instant renewed petition encloses an employment contract between Gebert and Weiss, but is not signed, to show that Gebert has agreed, through this employment contract, to assign rights of this invention to Weiss. This contract, being a general employment contract, does not aid in proving that Gebert was under an obligation to assign his interest to any party. Since the instant renewed petition fails to demonstrate that Gebert had agreed to assign this application to Weiss, or that Weiss otherwise has the requisite proprietary interest in this application to justify filing the application on behalf of Gebert, thus, the Rule 47 petition is dismissed.

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

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

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

By 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
Lead 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

HENRY M FEIEREISEN, LLC
350 FIFTH AVENUE
SUITE 4714
NEW YORK NY 10118

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OCT 17 2006

OFFICE OF PETITIONS

In re Application of
KARL GEBERT
Application No. 10/948,096
Filed: September 23, 2004
Attorney Docket No. GEBERT

DECISION NOTING JOINDER OF INVENTOR AND PETITION UNDER 37 CFR 1.47(b)

Papers filed on January 27, 2006 in response to a "Decision Refusing Status Under 37 CFR 1.47(b)" mailed November 3, 2005 included a Declaration signed by a previously non-signing inventor, Karl Gebert, in compliance with 37 CFR 1.63.

The petition is **DISMISSED AS MOOT**.

In view of the joinder of the inventor, further consideration under § 1.47(b) is not necessary. This application does not have any Rule 1.47 status and no such status should appear on the record of this file. This application need not be returned to this Office for any further consideration under 37 CFR 1.47(b).

This matter is being forward to Technology Center 3600 for examination in its regular turn.

Telephone inquiries should be directed to Amelia Au at (571) 272-7414.

Frances Hicks
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

PAPER NO.:

DATE 7/15/10

TO SPE OF ART UNIT 2624 Attn: BELLA MATTHEW C (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: Patent No.: 7623719

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square Building (RSQ)
2800 South Randolph Street, Suite 9XXXX
Arlington, VA 22206
PALM Location 7580

Tasneem Siddiqui

Certificates of Correction Branch
703-756-1593

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: The request for certificate of correction has been reviewed and is approved as directed to matters of form. All changes apply.

/Bhavesh Mehta/ 2624
SPE Art Unit

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

PAPER NO.:

DATE 7/15/10

TO SPE OF ART UNIT 2624 Attn: BELLA MATTHEW C (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: Patent No.: 7623719

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square Building (RSQ)
2800 South Randolph Street, Suite 9XXXX
Arlington, VA 22206
PALM Location 7580

Tasneem Siddiqui

Certificates of Correction Branch
703-756-1593

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: The request for certificate of correction has been reviewed and is approved as directed in matters of form. All changes apply.

/Bhavesh Mehta/ 2624
SPE Art Unit

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.: 7623719 B2

DATED: July 16, 2010

INVENTOR(S): Molino 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 Face of the patent:

Insert the following U.S. Priority Data:

--Related U.S. Application Data

(60) Provisional application No. 60/506,438, filed on September 26, 2003.--

In the Specification:

Col. 1, Line 5 Insert the following statement of U.S. Priority:

--PRIORITY CLAIM AND CROSS-REFERENCE TO RELATED APPLICATION

This application is entitled to the benefit of U.S. Provisional application No. 60/506,438, filed September 26, 2003 under 35 U.S.C. §119.--

/STEPHEN R KOZIOL/
Examiner.Art Unit 2624

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

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

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MAR 27 2008

OFFICE OF PETITIONS

In re Application of	:	
Razvan FLOREA et al.	:	
Application No. 10/948,114	:	DECISION ON PETITION
Filed: September 24, 2004	:	
Attorney Docket No. **PA-085.11090-US**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 01, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, June 19, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 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 $1,540.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of June 19, 2007 is accepted as having been unintentionally delayed.

The power of attorney filed by the assignee with the petition on February 01, 2008 is accepted and made of record.

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

The application file is being referred to Technology Center AU 2123 for appropriate action on the concurrently filed response.

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

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
www.uspto.gov

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

Mail Date: 04/28/2010

Applicant	: Razvan Florea	: DECISION ON REQUEST FOR
Patent Number	: 7610179	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/948,114	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1019** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 : 3/20/09

TO SPE OF : ART UNIT 1795

SUBJECT : Request for Certificate of Correction for Appl. No.: 10948117 Patent No.: 7452634 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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

Thank You For Your Assistance

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

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

Comments: _____

Patrick R 1795

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PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MOSER, PATTERSON & SHERIDAN, L.L.P.
Suite 1500
3040 Post Oak Blvd.
Houston, TX 77056

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FEB 24 2005
OFFICE OF PETITIONS

In re Application of	:
Hamilton, et al.	: DECISION REFUSING STATUS
Application No. 10/948,121	: UNDER 37 CFR 1.47(a)
Filed: September 23, 2004	:
Atty. Dkt. No.: DYNA/0002	:
For: METHODS AND APPARATUS FOR	:
ADJUSTING BODY CORE TEMPERATURE	:

This decision is in response to the petition under 37 CFR 1.47(a), filed February 10, 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 September 23, 2004 without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed November 8, 2004 requiring, *inter alia*, an executed oath or declaration and a surcharge.

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

The instant petition fails to satisfy (2) set forth above. Petitioners have failed to present a declaration in accordance with 37 CFR 1.63. The declaration presented with the instant petition is unacceptable as it contains alterations that have not been initialed. *See*, 37 CFR 1.52(c). Any renewed petition must be accompanied by a proper oath or declaration in full compliance with 37 CFR 1.63 and 37 CFR 1.64.

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 872-9306
By hand:	U.S. Patent and Trademark Office Customer Service Window Mail Stop Petition Randolph Building Alexandria, VA 22314

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MOSER, PATTERSON & SHERIDAN, L.L.P.
Suite 1500
3040 Post Oak Blvd.
Houston, TX 77056

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JUN 07 2005

OFFICE OF PETITIONS

In re Application of	:	
Hamilton, et al.	:	
Application No. 10/948,121	:	DECISION NOTING JOINDER
Filed: September 23, 2004	:	OF INVENTOR AND PETITION
Atty. Dkt. No.: DYNA/0002	:	UNDER 37 CFR 1.47(a) MOOT
For: METHODS AND APPARATUS FOR	:	
ADJUSTING BODY CORE TEMPERATURE	:	

This decision is in response to the renewed petition under 37 CFR 1.47(a), filed March 21, 2005.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is not necessary and the petition is considered to be moot. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

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) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/17/06

TO SPE OF : ART UNIT 2831

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/948161 Patent No.: 6960726

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**.

H. Rhodes

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: _____

Dean A. Reichard 2831

SPE Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

SPE: K. Hendricks

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/14/07

TO SPE OF : ART UNIT 1761

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/948,163 Patent No.: 7220444

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

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

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

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

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

SPE

1741
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

KEITH HENDRICKS
PRIMARY EXAMINER

Supervisory

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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H.C. PARK & ASSOCIATES, PLC
8500 LEESBURG PIKE, SUITE 7500
VIENNA, VA 22182

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AUG 0 1 2008

OFFICE OF PETITIONS

In re Application of	:	
JEONG, et al.	:	
Application No. 10/948,179	:	DECISION GRANTING PETITION
Filed: September 24, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **61610138US**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 30, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on May 20, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2629 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Monica A. Graves
Petitions Examiner
Office of Petitions

---

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

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JJGJR.: 02-05

Paper No: __

KRAMER & AMADO, P.C.
2001 JEFFERSON DAVIS HWY
SUITE 1101
ARLINGTON VA 22202

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FEB 0 9 2005

OFFICE OF PETITIONS

In re Application of	:	
Harbin, et al.	:	
Application No. 10/948,236	:	DECISION ON PETITION
Filing Date: 24 September, 2004	:	
Attorney Docket No. WHP 3001.01	:	

This is a decision on the petition filed 37 C.F.R. §1.53 on 2 February, 2005, to obtain a filing date of 24 September, 2004, for the instant application. A companion petition for expedited consideration has been filed under 37 C.F.R. §1.182.

Notably, Petitioner alleges that the drawings found to be missing from the application "are not necessary for the understanding of the subject matter" to be patented.

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

For the reasons set forth below, the petition under 37 C.F.R. §1.53 is **GRANTED in part** and **DISMISSED in part**.

BACKGROUND

This nonprovisional application was deposited on 24 September, 2004.

On 7 December, 2004, the Office mailed a "Notice of Incomplete Nonprovisional Application," (the 7 December Notice) and indicated that:

- a filing date had not been granted because the application had been deposited without drawings required under 35 U.S.C. §113 (first sentence); and

- it appeared that page 7 (description and claims) of the application also had been omitted by Petitioner on deposit.

The 7 December Notice also informed Petitioner that the application would receive the filing date consistent with the submission of required drawings, or that Petitioner might evidence that either drawings were not necessary for the understanding of the invention or the application as submitted otherwise satisfied the statutory requirements for a filing date.

Petitioner filed the instant petition on 2 February, 2005, and, *inter alia*, alleged therein that the instant application contains one or more method claims and the "application does not require drawings for the understanding of the subject matter" claimed; further, Petitioner acknowledged that no page "7" was deposited on filing because "the applicant unintentionally misnumbered the pages of the specification * * * [.]"

A review of the application indicates that, *inter alia*, the application contains one or more methods and/or process claims (*e.g.*, Claim 1).

It is the practice of the Office to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for the understanding of the invention under 35 U.S.C. §113 (first sentence). (See: MPEP §601.01[1])

This application contains one or more method claims (*e.g.*, Claim 1). Therefore, the application should have been treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP §601.01(g).[2]

---

[1] The commentary at MPEP §601.01 provides in pertinent part:

* * *

601.01(f) Applications Filed Without Drawings

35 U.S.C. 111(a)(2)(B) and 35 U.S.C. 111(b)(1)(B) each provide, in part, that an "application shall include . . . a drawing as prescribed by section 113 of this title" and 35 U.S.C. 111(a)(4) and 35 U.S.C. 111(b)(4) each provide, in part, that the "filing date . . . shall be the date on which . . . any required drawing are received in the Patent and Trademark Office." 35 U.S.C. 113 (first sentence) in turn provides that an "applicant shall furnish a drawing where necessary for the understanding of the subject matter sought to be patented.

Applications filed without drawings are initially inspected to determine whether a drawing is referred to in the specification, and if not, whether a drawing is necessary for the understanding of the invention. 35 U.S.C. 113 (first sentence).

It has been USPTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence). The same practice has been followed in composition applications.

* * *

A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, not describing drawing figures in the specification, and filed without drawings will simply be processed for examination, so long as the application contains something that can be construed as a written description. A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g), so long as the application contains something that can be construed as a written description. In a situation in which the appropriate Technology Center (TC) determines that drawings are necessary under 35 U.S.C. 113 (first sentence) the filing date issue will be reconsidered by the USPTO.

* * *

[2] The commentary at MPEP §601.01 provides in pertinent part:

* * *

601.01(g) Applications Filed Without All Figures of Drawings

The Office of Initial Patent Examination (OIPE) reviews application papers to determine whether all of the figures of the drawings that are

The application will be processed and examined with the 13 pages of specification (pages 1 - 6 and 8 - 14), including claims and abstract deposited on 24 September, 2004, as a part of the original disclosure.

The petition is **granted in part** (and the fee for the petition under 37 C.F.R. §1.53 ($130.00) is waived, however, the fee for the petition for expedited consideration under 37 C.F.R. §1.182 ($400.00) is charged) to the extent that the application will be accorded the filing date of 24 September, 2004, without the drawings containing Figures 1 - 2 as part of the original disclosure of the application; in all other respects the petition **is dismissed**.

The application file is being released to the Office of Initial Patent Examination for further processing with a corrected filing date of 24 September, 2004, indicating in the Office records that "0" sheets of drawings and 13 pages of specification (description, claims, abstract, pages 1 - 6 and 8 - 14) were present on filing, and the mailing of a corrected filing receipt.

Telephone inquiries specific to 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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mentioned in the specification are present in the application. If the application is filed without all of the drawing figure(s) referred to in the specification, and the application contains something that can be construed as a written description, at least one drawing, if necessary under 35 U.S.C. 113 (first sentence), and, in a nonprovisional application, at least one claim, OIPE will mail a "Notice of Omitted Item(s)" indicating that the application papers so deposited have been accorded a filing date, but are lacking some of the figures of drawings described in the specification. The mailing of a "Notice of Omitted Item(s)" will permit the applicant to either: (1) promptly establish prior receipt in the USPTO of the drawing(s) at issue (generally by way of a date-stamped postcard receipt (MPEP § 503)); or (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the drawing(s) was in fact deposited in the USPTO with the application papers must, within 2 months from the date of the "Notice of Omitted Item(s)," file a petition under 37 C.F.R. 1.53(e) with the petition fee set forth in 37 C.F.R. 1.17(h), along with evidence of such deposit (37 C.F.R. 1.181(f)). The petition fee will be refunded if it is determined that the drawing(s) was in fact received by the USPTO with the application papers deposited on filing.

* * *

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ALEXANDRIA, VA 22320

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JAN 25 2007

OFFICE OF PETITIONS

In re Application of	:	
Michiko Aoyama et al	:	
Application No. 10/948,312	:	DECISION GRANTING PETITION
Filed: September 24, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 121251	:	

This is a decision on the petition, filed January 24, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 11, 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 1755 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\948312.wpd

---

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

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

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OFFICE OF PETITIONS

In re Application of	
Sonobe, et al.	
Application No. 10/948,314	DECISION GRANTING
Filed: September 24, 2004	PETITION
Attorney Docket No. Q83759	
For: ADSORBENT FOR ORAL ADMINISTRATION	

This is a decision on the petition, filed February 2, 2005, requesting, in effect, withdrawal of the Notice of Omitted Item(s) in a Nonprovisional Application (Notice), mailed December 10, 2004.

The application was filed on September 24, 2004. On December 10, 2004, the Office of Initial Patent Examination mailed a Notice informing petitioners that page 8 of the specification appeared to have been omitted.

In response to the Notice, petitioners timely filed the present petition. Petitioners request that page 8 be accorded a filing date of September 24, 2004 on the basis that the entire specification, including allegedly missing page 8, was received in the Patent and Trademark Office (PTO) on September 24, 2004.

In support, the petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing September 24, 2004 as the date of receipt. The postcard lists that the filing included, *inter alia*, 39 pages of specification and 1 page of abstract. A review of the application file reveals that there are 38 pages of specification and 1 page of abstract present. Page 8 of the specification is missing.

The return postcard constitutes *prima facie* evidence that the entire 39 page specification, including missing page 8, was filed on September 24, 2004. MPEP 503. Accordingly, the request is granted.

Pursuant to petitioners' authorization, the $400.00 petition fee will be credited to petitioners' deposit account, no. 19-4880.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **September 24, 2004**, using the copy of page 8 supplied with the petition.

Any inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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

Mail Date: 04/20/2010

Applicant	: Naohiro Sonobe	: DECISION ON REQUEST FOR
Patent Number	: 7651974	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/948,314	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1144** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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SUITE 800
WASHINGTON DC 20037

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OFFICE OF PETITIONS

ON PETITION

In re Patent No. 7,651,974 :
Issue Date: January 26, 2010 :
Application No. 10/948,314 :
Filed: September 24, 2004 :
Attorney Docket No. **Q83759** :

This is a decision on the petition filed May 20, 2010, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Petitioner states that the correct assignee's name is "Kureha Corporation" and that the incorrect assignee's name was included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent in the patent to be issued from the application.

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

JoAnne Burke
Petitions Examiner
Office of Petitions

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

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

RECEIVED
DEC 23 2008
OFFICE OF PETITIONS

In re Application of :
Chan et al. :
Application Number: 10/948330 :
Filing Date: 09/24/2004 : ON PETITION
Attorney Docket Number: BHT- :
3230-134 :

This is a decision on the petition under 37 CFR 1.137(b)[1] filed on November 17, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on April 25, 2008, for failure to timely submit the issue and publication fees in response to the Notice of Allowance and Fee(s) Due mailed on January 24, 2008, which set a three (3) month statutory period for reply. On April 24, 2008, a check for payment of the issue and publication fees was filed, along with the Fee(s) Transmittal Sheet. On May 6, 2008, however, the check was returned as unpaid. Notice of Abandonment was mailed on June 18, 2008.

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

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

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

Receipt of the payment made on November 17, 2008, is acknowledged.

The application is referred to the Office of Data Management for further processing.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

JR Engineering
Jessey Roger
P.O. Box # 361
Secane, PA 19018

In re Application of	:	
Jessey Roger	:	
Application No. 10/948,340	:	ON PETITION
Filed: September 24, 2004	:	
Attorney Docket No.	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed August 25, 2006.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on March 21, 2006, after it was believed that no response was received to the final Office action mailed December 20, 2005. The notice allowed a shortened statutory period for reply of three (3) 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 11, 2006.

A review of the application file history reveals that in response to the final Office action, a continuation-in-part application, application serial number 11/407,214, was filed on April 20, 2006, with a request for an extension of time within the first month. It is noted that Section 711.03 of the *Manual of Patent Examining Procedure* provides, in pertinent part, that:

> 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).

Accordingly, it is noted that the continuation-in-part application filed April 20, 2006, with the extension of time within the first month constituted a timely and proper response to the final Office action. The holding of abandonment is withdrawn, accordingly.

This application is being revived for continuity purposes only and is again abandoned in favor of the continuation-in-part application filed April 20, 2006.

Questions regarding this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Paper No.

SCHERING-PLOUGH CORPORATION
PATENT DEPARTMENT (K-6-1, 1990)
2000 GALLOPING HILL ROAD
KENILWORTH NJ 07033-0530

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AUG 06 2009

OFFICE OF PETITIONS

In re Application of :
Venkatraman et al. :
Application No. 10/948,367 :
Filed: September 23, 2004 :
Atty Docket No. IN06005US01 :
Title: MACROCYCLIC INHIBITORS :
OF HEPATITIS C VIRUS NS3- :
SERINE PROTEASE :

ON APPLICATION FOR
PATENT TERM ADJUSTMENT

This is in response to the LETTER REGARDING PATENT TERM ADJUSTMENT DETERMINATION," filed January 12, 2009. Applicant submits that the correct patent term adjustment to be indicated on the patent is three hundred and eighty-three (383) days, not three hundred and forty-six (346) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

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

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

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

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

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).

---

[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.

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 decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Schwegman, Lundberg, Woessner & Kluth, P.A.
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In re Application of

Brett D. Oliver
Application No. 10/948,368
Filed: September 23, 2004
Attorney Docket No. 258.165US1

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 24, 2006.

The request is **NOT APPROVED**.

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

The 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, **discontinuation of attorney/client relationship**, do not meet any the conditions set forth in 37 CFR 10.40.

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

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

David Bucci
Petitions Examiner
Office of Petitions

cc: Fogg & Associates, LLC
10 South Fifth Street
Suite 1000
Minneapolis, MN 55402

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WARE FRESSOLA VAN DER SLUYS & ADOLPHSON, LLP
BRADFORD GREE, BUILDING 5
755 MAIN STREET, PO BOX 224
MONROE, CT 06468

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AUG 14 2006

OFFICE OF PETITIONS

In re Application of :
Katsuaki Murakami et al. :
Application No. 10/948,392 :
Filed: September 22, 2004 :
Attorney Docket No. 542-007.6-1 :

ON PETITION

This is a decision on the petition filed June 5, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

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

This application became abandoned May 31, 2006 for failure to timely pay the issue fee on or before May 30, 2006. Accordingly, a Notice of Abandonment was mailed June 26, 2006, although after the filing of the instant petition.

The issue fee, publication fee and petition fee have been applied. All other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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MAR 11 2010

Myers, Andras, Sherman, LLP
19900 MacArthur Blvd.
Suite 1150
Irvine, CA 92612

In re Application of Alan Messer et al. Application No. 10/948,399 Filed: September 22, 2004 For: METHOD AND SYSTEM FOR THE ORCHESTRATION OF TASKS ON CONSUMER ELECTRONICS	: : : : : :	RESPONSE TO PETITION TO EXPUNGE FILED UNDER 37 CFR 1.59(b)

This is a response to the petition under 37 CFR 1.59(b), filed on February 26, 2010, to expunge information from the above identified application.

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

Petitioner requests that the *Proprietary Phase 3 Source Code* submitted on September 26, 2010 is considered to be proprietary information and that it be expunged from the record if not found to be material to the patentability of the application. The proprietary document was filed in accordance to MPEP § 724. The petition fee set forth in 37 CFR 1.17(h) has been paid.

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

In the meantime, the document will be closed whereby any non-Patent and Trademark Office personnel will be precluded from viewing or having access to the document, such as via public PAIR.

During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material." If the information is not considered by the examiner to be material, the information will be removed from the official file.

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

SM/sm: 3/9/10

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/948,402	09/23/2004	Jason R. Kolodziej	GP-305076	9678

65798 7590 01/26/2009
MILLER IP GROUP, PLC
GENERAL MOTORS CORPORATION
42690 WOODWARD AVENUE
SUITE 200
BLOOMFIELD HILLS, MI 48304

EXAMINER
ALEJANDRO, RAYMOND

ART UNIT	PAPER NUMBER
1795	

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.

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

wk

Mailed: 1/26/09

In re application of	:	
Jason R. Kolodziej	:	DECISION ON
Serial No. 10/948,402	:	PETITION
Filed: September 23, 2004	:	
For: Optimal Temperature Tracking For Necessary And Accurate Thermal Control Of A Fuel Cell System	:	

This is a decision on PETITION TO WITHDRAW EXAMINER'S REQUIREMENT THAT FIGURE 1 BE DESIGNATED AS PRIOR ART filed June 17, 2008 and being treated as a petition filed under 37 CFR 1.181 (no fee).

DECISION

Petitioner requests that the examiner's requirement that figure 1 be designated as prior art be withdrawn. The Examiner required that Figure 1 be designated as prior art because only that which is old is illustrated. Applicant asserts that figure 1 includes more than what is old and particularly included part of the claimed invention. Applicant asserts that the operation of the controller 28 for controlling the pump 20 and the by-pass valve 26 form part of the claimed invention. Applicant's description of the invention includes the pump 20 and the by-pass valve 26.

The petition is **GRANTED**.

Jacqueline M. Stone

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

John A. Miller
MILLER IP GROUP, PLC
GENERAL MOTORS CORPORATION
42690 WOODWARD AVENUE
SUITE 200
BLOOMFIELD HILLS MI 48304

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United States Patent and Trademark Office
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RISTO A. RINNE, JR.
COMPLETE PATENTING SERVICES
4525 MONTGOMERY DRIVE
SUITE 10
SANTA ROSA CA 95409-5358

COPY MAILED

JUN 03 2009

OFFICE OF PETITIONS

In re Application of	:	
Che Ram Souza Voigt, et al.	:	
Application No. 10/948,432	:	DECISION ON PETITION
Filed: September 22, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. LENS	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 13, 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.

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) 272-3204. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2872 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Sherry D. Brinkley
Petition Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/948,432	09/22/2004	2872	1576	LENS	60	4

CONFIRMATION NO. 2348

CORRECTED FILING RECEIPT

OC000000036235139

45498
RISTO A. RINNE, JR.
COMPLETE PATENTING SERVICES
4525 MONTGOMERY DRIVE
SUITE 10
SANTA ROSA, CA 95409-5358

Date Mailed: 06/01/2009

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)

Che Ram Souza Voigt, Santa Rosa, CA;
Allan Alfred Voigt, Geyserville, CA;
John Mark Speicher, Geyserville, CA;
Chet Alister Johnston, Santa Rosa, CA;
Eric Herlen Ford, La Canada, CA;

Power of Attorney:
Risto Rinne Jr--37055

Domestic Priority data as claimed by applicant
This application is a CIP of 10/763,297 01/21/2004 PAT 7,023,615

Foreign Applications

If Required, Foreign Filing License Granted: 11/18/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/948,432**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Optical telescope

Preliminary Class

359

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

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JUL 27 2005

OFFICE OF PETITIONS

Applicant: Suzuki
Appl. No.: 10/948,465
Filing Date: September 24, 2004
Title: METHOD-FOR PRODUCING A SPARK PLUG, AND SPARK PLUG
Attorney Docket No.: Q83218
Pub. No.: US 2005/0077807 A1
Pub. Date: April 14, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on June 2, 2005, for the above-identified application.

The request is granted.

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

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY
STE 1500
ATLANTA GA 30339

In re Application of :
Ghobrial, et al. : DECISION ON PETITION
Application No. 10/948,492 :
Filed: September 23, 2004 :
For: 710101.1450 :

This is a decision on the petition to expunge under 37 CFR 1.59 filed March 7, 2007.

The petition under 37 CFR 1.59 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.59(b)." This is not a final agency decision.

Petitioners indicate that an information disclosure statement (IDS) filed March 16, 2006, while intended for the instant application, inadvertently cited U.S. Application No. 10/94**2**,492 as the application number. Petitioners request that the IDS filed March 16, 2006 and entered into U.S. Application No. 10/94**2**,492 be expunged from that application.

In accordance with 37 CFR 1.59(b), "[a]n 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."

Petitioners have failed to establish that expungement is appropriate in this instance.

A review of the application files at issue reveals that the IDS, while intended for the instant application, was matched with the application number identified thereon, namely, U.S. Application No. 10/94**2**,492.

All correspondence related to a national patent application already filed with the U.S. Patent and Trademark Office must include the identification of the application number or the serial number and the filing date assigned to the application by the Office. Any correspondence not containing the proper identification set forth in 37 CFR 1.5(a) will be returned to the sender by OIPE. Each paper should be inspected to assure that the papers being returned contain either an "Office Date" stamp or a TC date stamp. A minor error in the identification of the application can be corrected by the Office provided the correct identification can be quickly discovered. Examples of minor errors are transposed numbers, typographical errors, and listing the parent application number. *See*, MPEP 502.

The IDS in question contained sufficient identifiers, including the correct application title, attorney docket number, filing date, and inventor name. Thus, in this instance, the transposed number set forth in the IDS filed March 16, 2006 is deemed a minor correctable error and expungement is deemed unnecessary. Accordingly, the IDS filed March 16, 2006 intended for the instant application but entered into the file of 10/94**2**,492 will be transferred to instant application, i.e., 10/948,942.

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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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HOWARD & HOWARD ATTORNEYS PLLC
450 West Fourth Street
Royal Oak, MI 48067

Mail Date: 04/21/2010

Applicant	: Thomas G. Xydis	: DECISION ON REQUEST FOR
Patent Number	: 7589614	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/948,497	: 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 **569** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 : **5-5-10**

TO SPE OF : ART UNIT **2163**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10948523** Patent No.: **7516121**

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 – 9D10-E
Palm Location 7580

Omega Lewis
Certificates of Correction Branch

703-756-1575

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 2163 **Art Unit**

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/948,528	09/22/2004	3732	385	65090-5002	9	12	1

24574
JEFFER, MANGELS, BUTLER & MARMARO, LLP
1900 AVENUE OF THE STARS, 7TH FLOOR
LOS ANGELES, CA 90067

CONFIRMATION NO. 2709

CORRECTED FILING RECEIPT

OC000000015435585

Date Mailed: 03/11/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please 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)

Yeong-Jin Choe, Yongin-city, KOREA, REPUBLIC OF;

Power of Attorney: The patent practitioners associated with Customer Number **24574**.

Domestic Priority data as claimed by applicant

Foreign Applications

REPUBLIC OF KOREA 20-2003-0030216 09/24/2003
REPUBLIC OF KOREA 20-2004-0000163 01/05/2004

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 US10/948,528

Projected Publication Date: 03/24/2005

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

False eyelashes

BEST AVAILABLE COPY

Preliminary Class

132

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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MAR 3 1 2008

OFFICE OF PETITIONS

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

In re Patent No. 7,295,680	:	
Issued: November 13, 2007	:	
Application No. 10/948,564	:	PATENT TERM ADJUSTMENT
Filed: September 24, 20074	:	
Dkt. No.: 08411.0005	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(b)," filed January 2, 2008. This matter is being properly treated under 37 CFR 1.705(d).

The application for patent term adjustment ("PTA") under 37 CFR 1.705(d) is GRANTED TO THE EXTENT INDICATED HEREIN.

The above-identified application matured into U.S. Patent No. 7,295,680 on November 13, 2007. The instant application for patent term adjustment was timely filed January 2, 2008 in accordance with 37 CFR 1.705(d). The patent issued with a PTA of 294 days. Patentee argues that the patent is entitled to an adjustment of 363 days. Patentee further argues that the reduction of 105 days under 37 CFR 1.704(c)(10) in connection with the Rule 312 amendment filed August 1, 2007 is longer than appropriate and argue that the correct period of reduction in this regard is 36 days.

In accordance with 37 CFR 1.704(c)(10), the adjustment of 399 days under 37 CFR 1.702(a)(1) is properly reduced 37 days in connection with the Rule 312 amendment filed August 1, 2007. The reduction began August 1, 2007, the date amendment was filed, and ended September 6, 2007, the date that the Supplemental Notice of Allowability was mailed in response to the amendment.

Accordingly, at the time of issuance, the application was entitled to a patent term adjustment of 362 days.

The Office acknowledges receipt of the required PTA application fee of $200.00.

This application file will be forwarded to the Certificate of Corrections branch for issuance of a certificate of correction to indicate that the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 362 days.

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

Kery A. Fries

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

Enclosure: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	7,295,680 B2
DATED	:	November 13 2007
INVENTOR(S)	:	Isogai.

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 294 days

Delete the phrase "by 294 days" and insert – by 362 days--

Day : Monday
Date: 3/31/2008

PALM INTRANET

Time: 11:46:59

PTA Calculations for Application: 10/948564			
Application Filing Date:	09/24/2004	PTO Delay (PTO):	399
Issue Date of Patent:	11/13/2007	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	105
Post-Issue Petitions:	0	Total PTA (days):	362
PTO Delay Adjustment:	68		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
61	03/31/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	68		
57.5	10/24/2007	PTA 36 MONTHS			
57	11/13/2007	PATENT ISSUE DATE USED IN PTA CALCULATION			
56	10/02/2007	EXPORT TO FINAL DATA CAPTURE			
55	10/01/2007	DISPATCH TO FDC			
54	10/01/2007	APPLICATION IS CONSIDERED READY FOR ISSUE			
53	10/01/2007	RESPONSE TO AMENDMENT UNDER RULE 312			
52	10/01/2007	ISSUE FEE PAYMENT VERIFIED			
51	09/21/2007	ISSUE FEE PAYMENT VERIFIED			
50	09/21/2007	ISSUE FEE PAYMENT RECEIVED			
49	09/06/2007	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
48	09/04/2007	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
47	08/01/2007	AMENDMENT AFTER NOTICE OF ALLOWANCE (RULE 312)		105	
46	08/08/2007	FINISHED INITIAL DATA CAPTURE			
45	07/16/2007	EXPORT TO INITIAL DATA CAPTURE			
44	07/09/2007	MAIL NOTICE OF ALLOWANCE			
43	07/05/2007	ISSUE REVISION COMPLETED			
42	07/05/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
41	06/26/2007	DOCUMENT VERIFICATION			
40	06/21/2007	NOTICE OF ALLOWABILITY			
39	01/24/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			

38	04/07/2007	DATE FORWARDED TO EXAMINER			
37	03/28/2007	RESPONSE AFTER NON-FINAL ACTION			
36.7	01/24/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
36	01/24/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
35	03/07/2007	CASE DOCKETED TO EXAMINER IN GAU			
34	01/25/2007	CASE DOCKETED TO EXAMINER IN GAU			
33	12/28/2006	MAIL NON-FINAL REJECTION	399		-1
32	12/21/2006	NON-FINAL REJECTION			
31	09/24/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
30	07/14/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
29	09/19/2006	CASE DOCKETED TO EXAMINER IN GAU			
28	09/19/2006	CASE DOCKETED TO EXAMINER IN GAU			
27	03/28/2006	CASE DOCKETED TO EXAMINER IN GAU			
26	03/22/2006	CASE DOCKETED TO EXAMINER IN GAU			
25	09/24/2004	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
24.7	09/24/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
24	09/24/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
23	07/28/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
22	07/26/2005	CASE DOCKETED TO EXAMINER IN GAU			
21	07/14/2005	REFERENCE CAPTURE ON IDS			
20.7	07/14/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	07/14/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	04/08/2005	CORRESPONDENCE ADDRESS CHANGE			
18	01/28/2005	APPLICATION RETURN FROM OIPE			
17	01/28/2005	APPLICATION IS NOW COMPLETE			
16	01/28/2005	APPLICATION RETURN TO OIPE			
15	01/28/2005	APPLICATION RETURN FROM OIPE			
14	01/28/2005	APPLICATION RETURN TO OIPE			
13	01/27/2005	APPLICATION RETURN FROM OIPE			
12	01/28/2005	APPLICATION IS NOW COMPLETE			

11	01/27/2005	APPLICATION RETURN TO OIPE			
10	01/27/2005	APPLICATION DISPATCHED FROM OIPE			
9	01/27/2005	APPLICATION IS NOW COMPLETE			
8	01/12/2005	ADDITIONAL APPLICATION FILING FEES			
7	01/12/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
6	11/12/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	11/01/2004	CLEARED BY OIPE CSR			
3	11/01/2004	CASE CLASSIFIED BY OIPE			
2	10/14/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	09/24/2004	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to OASIS | Home page

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ——

DATE : 12/17/08

TO SPE OF : ART UNIT 1615

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/948575 Patent No.: 7384653 B22

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.

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

Comments: THE INCORPORATION BY REFERENCE STATEMENT APPEARS TO BE NEW MATTER.

M Woodward 1615
SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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November 9, 2009

James G. Markey
Duane Morris LLP
1540 Broadway
New York, NY 10036

Patent No: 7,384,653 B2
Application No: 10/948,575
Applicant: Curtis Wright, IV, et al.
Issued: June 10, 2008
Title: **ORAL DOSAGE FORM COMPRISING A THERAPEUTIC AGENT AND AN ADVERSE-EFFECT AGENT**

Request for Certificate of Correction:

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

The errors complained of on the Title page and in column 1, line 5, per the examiner "The incorporation by reference statement appears to be new matter".

In view of the foregoing, your requests in these matters are hereby denied.

The request filed on 09/28/2009 appears to be a duplicate of the request filed 12/04/2008.

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

/Virginia Tolbert/
Virginia Tolbert
For Mary F. Diggs, Supervisor
Decisions and Certificate of Correction
571 272-0460 (voice)
571 270-9892 (fax)

vt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100221

DATE : February 22, 2010

TO SPE OF : ART UNIT 1615

SUBJECT : Request for Certificate of Correction on Patent No.: 7384653

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 correction of priority data requires a petition under 37 CFR 3.81, since the specification of the instant application was not amended at the first line of page 1, to provide the proper claim to priority.

/MICHAEL G HARTLEY/
Supervisory Patent Examiner.Art Unit 1618

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Alexandria, VA 22313-1450
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March 11, 2010

James G. Markey
Duane Morris LLP
1540 Broadway
New York, NY 10036

Patent No: 7,384,653 B2
Application No: 10/948,575
Applicant: Curtis Wright, IV, et al.
Issued: June 10, 2008
Title: **ORAL DOSAGE FORM COMPRISING A THERAPEUTIC AGENT AND AN ADVERSE-EFFECT AGENT**

Request for Certificate of Correction:

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

Respecting the alleged errors on the Title page and in column 1, per the examiner "the correction of priority data requires a petition under 37 CFR 3.81, since the specification of the instant application was not amended at the first line of page 1, to provide the proper claim to priority".

In view of the foregoing your request in these matters is hereby again **denied**.

Further correspondence concerning this matter should be filed and directed to Decisions & certificated of Correction Branch.

/Virginia Tolbert/
Virginia Tolbert
For Mary Diggs, Supervisor
Decisions and Certificate of Correction
(571) 272-0460 (voice)
(571) 270-9892 (fax)

vt

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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
10/948,586	09/23/2004	2816	986	55123P316	7	32	3

CONFIRMATION NO. 2885

CORRECTED FILING RECEIPT

OC000000015007587

08791
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

Date Mailed: 01/24/2005

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)

Christopher Francis Edwards, Sunnyvale, CA;

Power of Attorney: The patent practitioners associated with Customer Number **08791**.

Domestic Priority data as claimed by applicant

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 US10/948,586

Projected Publication Date: 03/23/2006

Non-Publication Request: No

Early Publication Request: No

Title

Efficient low EMI switching output stages and methods

Preliminary Class

327

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

GRANTED

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

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

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

NOT GRANTED

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

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Wei Yu
1327 Grand Ave.
Piedmont CA 94610

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JUN 0 8 2009

OFFICE OF PETITIONS

In re Application of	:	
Hui Zhao, et al.	:	
Application No. 10/948,590	:	ON PETITION
Filed: September 24, 2004	:	
Attorney Docket No. N/A	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 5, 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 of Non-Complaint Amendment mailed November 13, 2007 which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 14, 2007. The Notice of Abandonment was mailed June 5, 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/election; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

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

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

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

The application file is being referred to Technology Center AU 1655 for appropriate action on the concurrently filed amendment.

Chris Bottorff
Petitions Examiner
Office of Petitions

cc: **Stephen R. Duly**
Nixon Peabody LLP
100 Summer Street
Boston, MA 02110-2131

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

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AUG 15 2006

OFFICE OF PETITIONS

In re Application of
Joseph P. Miller :
Application No. 10/948,600 : ON PETITION
Filed: September 23, 2004 :
Attorney Docket No: 200314195-1 :

This is a decision on the petition filed June 27, 2006, to withdraw the holding of abandonment, which is treated under 37 CFR 1.181.

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

The application was held abandoned on January 27, 2006, for failure to file a timely response to the Final Office Action mailed October 26, 2005. A three month period for reply was set. No response and no extension of time having been filed, accordingly, a Notice of Abandonment was mailed on June 12, 2006.

Petitioner asserts that a response to the Final Office Action was timely filed and provides a copy of the response with a certificate of mail dated January 24, 2006 pursuant to 37 CFR 1.8(b) and a postcard receipt date stamped January 27, 2006 by the USPTO.

A review of the evidence provided reveals that while the certificate of mail and postcard receipt are in order to show a timely and properly filed response to the office action, the serial number on the papers filed was incorrectly noted. The requirement for filing papers with the USPTO is that every paper bear an appropriate application no. or identifier. However, a review of the materials submitted show that other identifiable information was found to be on the papers filed as the response and could therefore have been properly matched. While the papers were not matched when filed, the papers have now been moved from the incorrect application and in view of the evidence submitted, it can be concluded that a response to the non-Final Office Action was timely filed.

Accordingly, the Notice of Abandonment mailed June 12, 2006 was mailed in error and is hereby withdrawn. No petition fee is due and none has been charged.

This matter is being referred to Technology Center 2818 for a review of the response filed January 24, 2006 and resubmitted with the instant petition.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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AUG 29 2007

OFFICE OF PETITIONS

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

In re Application of

DUTTA, Santanu
Application No. 10/948,606
Filed: September 23, 2004
Attorney Docket No. **9301-91**

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 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 Robert M. Meeks on behalf of all attorneys of record who are associated with customer No. 20792. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed June 28, 2007 that requires a reply from the applicant.

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

T. Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **SANTANU DUTTA**
201 TAWNY RIDGE LANE
CARY, NORTH CAROLINA 27513

cc: **JOHN T. WHELAN, ESQ.**
THE LAW OFFICE OF JOHN T. WHELAN LLC
135 WEST DARES BEACH ROAD
SUITE 204
PRINCE FREDERICK, MD 20678

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/948,606	09/23/2004	Santanu Dutta	9301-91

CONFIRMATION NO. 3465

OC000000025551707

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

Date Mailed: 08/24/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/10/2007.

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

Michelle R. Eason

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

FORMER ATTORNEY/AGENT COPY

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Approved for use through 12/31/2008. OMB 0651-0035
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REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	10/948,606
Filing Date	September 23, 2004
First Named Inventor	Santanu Dutta
Art Unit	2609
Examiner Name	Hsieh, Ping Y.
Attorney Docket Number	9301-91

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

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

- [ ] all the attorneys/agents of record.
- [ ] the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- [x] the attorneys/agents associated with Customer Number 20792

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practitioners associated with a customer number.

The reasons for this request are: CONFLICT OF INTEREST

CORRESPONDENCE ADDRESS

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

[ ] The address associated with Customer Number:

OR

[x] Firm *or* Individual Name	John T. Whelan, Esq. The Law Office of John T. Whelan LLC				
Address	135 West Dares Beach Road Suite 204				
City	Prince Frederick	State	MD	Zip	20678
Country	US				
Telephone	(410) 535-6554	Email	john@baysidelaw.com		
Signature					
Name	Robert M. Meeks	Registration No.	40,723		
Date	July 10, 2007	Telephone No.	(919) 854-1400		

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
10/948,607	09/23/2004	Robert G. Campbell	200400425-1	3464

EXAMINER
KOVALICK, VINCENT E

ART UNIT	PAPER NUMBER
2629	

NOTIFICATION DATE	DELIVERY MODE
04/09/2008	ELECTRONIC

7590 04/09/2008
HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

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), 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:

1. ☐ 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).
2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).
3. ☐ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.
4. ☑ The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Tomi Farner

Patent Publication Branch
Office of Data Management

FORM PET651D (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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INTERNATIONAL BUSINESS MACHINES CORP
IP LAW
555 BAILEY AVENUE , J46/G4
SAN JOSE, CA 95141

Mail Date: 04/20/2010

Applicant	: Pratima Ahuja	: DECISION ON REQUEST FOR
Patent Number	: 7644266	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/948,609	: 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 **1193** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

KELLEY DRYE & WARREN LLP
400 ATLANTIC STREET
13TH FLOOR
STAMFORD CT 06901

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JUL 24 2009

OFFICE OF PETITIONS

In re Application of	:	
Schwager et al.	:	DECISION ON PETITION
Application No. 10/948,625	:	TO WITHDRAW
Filed: September 23, 2004	:	FROM RECORD
Attorney Docket No. NU-143(US)	:	

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, 2009.

The request is **NOT APPROVED**.

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.*

According to a review of current USPTO records petitioner has not requested the address be changed to a properly recorded assignee or the first listed inventor. The Customer Number 23628 is neither the first named inventor nor the assignee who properly became of record under 37 CFR 3.71 As such, the request is not approved and all future communications from the Office will continue to be directed to the above-listed address until otherwise properly notified.

Additionally, 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 Marvin R. Wachs on behalf of all attorneys of record, but reflects an incorrect Customer Number. Accordingly, since the practitioners were appointed by a Customer Number upon filing of the instant application, the Request must reflect withdrawal of practitioners associated with same Customer Number. Further, the Change of Correspondence Address filed June 27, 2008 requesting a different customer number did not change the Power of Attorney customer number.

Currently, there is an outstanding Office action mailed March 18, 2009 that requires a reply.

Telephone inquires concerning this decision should be directed to Petitions Examiner Joan Olszewski at (571) 272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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KELLEY DRYE & WARREN LLP
400 ATLANTIC STREET, 13TH FLOOR
STAMFORD, CT 06901

MAILED

SEP 11 2009

OFFICE OF PETITIONS

In re Application of	:	
Schwager et al.	:	DECISION ON PETITION
Application No. 10/948,625	:	TO WITHDRAW
Filed: September 23, 2004	:	FROM RECORD
Attorney Docket No. N0484.70817US01	:	

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 14, 2009.

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

A review of the file record indicates that on September 4, 2009 the power of attorney to Kelley Drye & Warren LLP was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Wolf Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston MA 02210-2206

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PULSE-LINK, INC.
1969 KELLOGG AVENUE
CARLSBAD CA 92008

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JUN 0 6 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Lakkis, Ismail	:	
Application No. 10/948,634	:	
Filed: September 23, 2004	:	
Attorney Docket No. 00283	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 13, 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 2600 for further examination on the merits.

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

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Cooley Goodward LLP
Attn: Patent Group
The Bowen Building
875 15th Street, N.W. Suite 800
Washington D.C. 20005-2221

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SEP 28 2006

OFFICE OF PETITIONS

In re Application of	:	
Uwe Scherf et al.	:	
Application No. 10/948,635	:	DECISION ON PETITION
Filed: September 24, 2006	:	TO WITHDRAW
Attorney Docket No. GENE-002/05US	:	FROM RECORD
	:	

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

The request is **APPROVED**.

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

The request was signed by Michael S. Tuscan on behalf of all attorneys of record who are associated with Customer No. 022903.

All attorneys/agents associated with the Customer No. 022903 have been withdrawn.

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

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

There is no outstanding Office action at this time.
Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Amelia Au
Petitions Examiner
Office of Petitions

cc: **Uwe Scherf**
1425 Fallsmead Way
Potomac, MD 20854

cc: **Morgan Lewis & Bockius LLP**
1111 Pennsylvania Avenue NW
Washington D.C. 20004

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Medtronic
Attn: Noreen C. Johnson, IP Legal Department
2600 Sofamor Danek Drive
Memphis, TN 38132

Mail Date: 04/21/2010

Applicant	: Hai H. Trieu	: DECISION ON REQUEST FOR
Patent Number	: 7618461	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/948,659	: 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 **748** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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
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JEFFREY D. MYERS
PEACOCK MYERS PC
P O BOX 26927
ALBUQUERQUE, NM 87125-6927

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OFFICE OF PETITIONS

In re Application of	:	
Joel A. Silver	:	
Application No. 10/948,660	:	DECISION GRANTING PETITION
Filed: September 22, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 70047-48-CIP	:	

This is a decision on the petition, filed January 6, 2006, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on July 21, 2005. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

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

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

(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of July 20, 2006 has been mailed under separate cover.

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

This application is being forwarded to Technology Center Art Unit 2877 for examination in due course.

Frances Hicks
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/24/09

TO SPE OF : ART UNIT 2416

SUBJECT : Request for Certificate of Correction for Appl. No.: 10948681 Patent No.: 7460541 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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

Thank You For Your Assistance

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

☒ **Approved** — **All** changes apply.

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

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

Comments: _____

WILLIAM TROST
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

2416

SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/24/09

TO SPE OF : ART UNIT 2416

SUBJECT : Request for Certificate of Correction for Appl. No.: 10948681 Patent No.: 7460541 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
[redacted]

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: _____

/William Trost/ 2416

Deleted: _____
Deleted: _____

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OFFICE OF PETITIONS

Knobbe Martens Olson & Bear LLP
2040 Main Street
Fourteenth Floor
Irvine, CA 92614

In re Application of	:	
Roberto E. Jerez	:	
Application No. 10/948,683	:	DECISION ON PETITION
Filed: September 22, 2004	:	TO WITHDRAW
Attorney Docket No. JEREZ.001A	:	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 15, 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 Michael A. Guiliana on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Roberto E. Jerez at the address indicated below.

The application became abandoned for failure to timely respond to the Office action mailed April 26, 2007.

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Roberto E. Jerez**
17128 Colima Road, #406
Hacienda Heights, CA 91745

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
10/948,683	09/22/2004	Roberto E. Jerez	JEREZ.001A

CONFIRMATION NO. 2011

POWER OF ATTORNEY NOTICE

20995
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

OC000000028384713

Date Mailed: 02/20/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/15/2007.

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

/tswilliams/

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

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MAIL

MAR 14 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Zilka-Kotab, PC
P.O. BOX 721120
SAN JOSE CA 95172-1120

In re Application of :
MARSHALL, et al. :
Application No. 10/948,688 :
Filed: September 22, 2004 :
For: **DIGITAL MEDIA CREATED USING ELECTRON BEAM TECHNOLOGY** :

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed January 25, 2005 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

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

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

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

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OFFICE OF PETITIONS

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ZILKA-KOTAB, PC
P.O. BOX 721120
SAN JOSE CA 95172-1120

In re Application of

MARSHALL, Charles et al.
Application No. 10/948,688
Filed: September 22, 2004
Attorney Docket No. **MRSHP004**

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, 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 Dominic Katab on behalf of all attorneys of record who are associated with customer No. 28875. All attorneys/agents associated with the Customer Number 28875 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 Charles Marshall at the address indicated below.

There is an outstanding Office action mailed January 14, 2008 that requires a reply from the applicant.

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

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **CHARLES MARSHALL**
MARSHALL MEDIA, INC.
655 NORTH CENTRAL AVE. 17th FLOOR
GLENDALE, CA 91203

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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AUG 2 6 2008

OFFICE OF PETITIONS

In re Application of	:	
Chandrashekhar Appanna, et al.	:	
Application No. 10/948,732	:	DECISION ON PETITION
Filed: September 22, 2004	:	TO WITHDRAW
Attorney Docket No. 03311.0008U1	:	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 12, 2007.

The request is **NOT APPROVED** because it is 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 January 24, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Needle & Rosenberg, P.C.**
Suite 1000
999 Peachtree Street
Atlanta, GA 30309-3915

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MOUNTAIN VIEW CA 94041

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JUN 0 4 2009

OFFICE OF PETITIONS

In re Application of	:	
O'Sullivan et al.	:	
Application No. 10/948,734	:	ON APPLICATION FOR
Filed: September 22, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. 24207-08844	:	
Title: IMAGE DISTORTION FOR	:	
CONTENT SECURITY	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT RECONSIDERATION UNDER 37 C.F.R. § 1.705(b)" filed April 28, 2009. Applicant requests that the determination of patent term adjustment be increased by two hundred (200) days to nine hundred sixty-nine (969) days, if the patent issues on Tuesday, August 25, 2009. Applicant requests this correction 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, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b).

Applicant is given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Applicant may seek such consideration without payment

of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

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

The application is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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In re Patent No. 7,561,755	:	DECISION ON REQUEST
O'Sullivan	:	FOR
Issue Date: July 14, 2009	:	RECONSIDERATION OF
Application No. 10/948,734	:	PATENT TERM ADJUSTMENT
Filed: September 22, 2004	:	and
Atty Docket No. 24207-08844	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on September 14, 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 nine hundred and fifty-six (956) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.** The patent term adjustment is corrected to indicate that the term of the above-identified patent is extended or adjusted by **nine hundred fifty-five (955)** 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 23, 2007 and ends on July 17, 2008, the day before the first RCE was filed, which amounts to 299 (not 300) days. See U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 955, not 956 days.

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

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 **nine hundred and fifty-five (955) 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 : 7,561,755 B2

DATED : **July 14, 2009** **DRAFT**

INVENTOR(S) : O'Sullivan

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 756 days

Delete the phrase "by 756 days" and insert – by 955 days--

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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON DC 20044-4300

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MAR 1 5 2007

OFFICE OF PETITIONS

In re Application of	:
Eriksson et al.	:
Application No. 10/948,736	: DECISION GRANTING PETITION
Filed: September 24, 2004	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 029065-41979C6	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed January 22, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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

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

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

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3282.

This application is being forwarded to Technology Center Art Unit 1647 for appropriate action on the amendment filed January 22, 2007, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/948,736	09/24/2004	1647	439	029065-41979C6	26	2

CONFIRMATION NO. 2971
CORRECTED FILING RECEIPT
OC000000022898297
OC000000022898297

23911
CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

Date Mailed: 03/14/2007

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)

Ulf Eriksson, Balsta, SWEDEN;
Birgitta Olofsson, Stockholm, SWEDEN;
Kari Alitalo, Espoo, FINLAND;
Katri Pajusola, Helsinki, FINLAND;

Assignment For Published Patent Application

LICENTIA LTD., Helsinki, FINLAND

Power of Attorney:

Herbert Cantor--24392
James McKeown--25406
Donald Evenson--26160
Joseph Evans--26269
Gary Edwards--31824
Jeffrey Sanok--32169

Domestic Priority data as claimed by applicant

This application is a CON of 09/961,756 09/25/2001
which is a DIV of 08/851,896 05/06/1997 PAT 6,331,301
which is a DIV of 08/469,427 06/06/1995 PAT 5,607,918
which is a CIP of 08/397,651 03/01/1995 ABN
and said 09/961,756 09/25/2001
is a CON of 08/609,443 03/01/1996 PAT 5,840,693
which is a CIP of 08/569,063 12/06/1995 PAT 5,928,939
which is a CIP of 08/469,427 06/06/1995 PAT 5,607,918

Foreign Applications

If Required, Foreign Filing License Granted: 12/13/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/948,736

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Antibodies specific for vascular endothelial growth factor-B and DNA coding therefor

Preliminary Class

424

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

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

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

NOT GRANTED

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

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OFFICE OF PETITIONS

MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

In re Application of	:	
Thorsten Bucksch	:	
Application No. 10/948,741	:	DECISION ON PETITION
Filed: September 24, 2004	:	TO WITHDRAW
Attorney Docket No. 543822009200	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed May 2, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster, LLP has been revoked by the assignee of the patent application on June 12, 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: SLATER & MATSIL, LLP
17950 PRESTON ROAD
SUITE 1000
DALLAS, TX 75252

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Ronald D. Trice
2101 Crystal Plaza Arcade 138
Arlington, VA 22202-4600

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OFFICE OF PETITIONS

In re Application of	:	
Stephen M. Kelly et al.	:	
Application No. 10/948,748	:	DECISION ON PETITION
Filed: September 24, 2004	:	TO WITHDRAW
Attorney Docket No. ZLX-HUL-004	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 13, 2006.

The request is **APPROVED**.

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

The request was signed by Ronald D. Trice, the sole attorney of record.

Ronald D. Trice has been withdrawn as attorney or agent of record.

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

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

There is no outstanding Office action at this time.

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

David Bucci
Petitions Examiner
Office of Petitions

cc: Stephen M. Kelly
25 Richmond Way
Beverley, HU17 8XA
United Kingdom

cc: McKee, Vorhees & Sease
801 Grand Avenue
Suite 3200
Des Moines, IA 50309-2721

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OFFICE OF PETITIONS

In re Application of	:	
Elizabeth Downing et al.	:	
Application No. 10/948,757	:	DECISION GRANTING PETITION
Filed: September 24, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 080437.51702CP	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 25, 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 6, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2828 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

---

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

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GENENTECH, INC.
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OFFICE OF PETITIONS

In re Application of	:
Ellen H. Fivaroff	:
Application No. 10/948,780	: DECISION DISMISSING
Filed: 23 September, 2004	: PETITION
Atty Docket No. P1834C1	:

This is a decision on the petition filed on 24 January, 2005, which is treated as a petition under 37 CFR 1.182 requesting that the Notice of Omitted Items mailed on 24 January, 2004, be withdrawn.

The petition is **DISMISSED**.

On 23 September, 2004, the application was deposited. The original application papers included 91 pages of written description as well as a preliminary amendment containing three (3) pages of claims.

On 21 December, 2004, Initial Patent Examination Division mailed a Notice of Omitted Item(s) in a Nonprovisional Application, stating, however, that the three (3) pages of claims appeared to have been omitted.

In response, on 21 December, 2004, the present petition was filed, accompanied by the petition fee. Petitioners state that the three (3) pages of claims were included in the preliminary amendment filed with the original application papers on 23 September, 2004.

A review of the application papers filed on 23 September, 2004, reveals that the preliminary amendment filed on that date did include three (3) pages of claims. As such, the application is entitled to a filing date of 23 September, 2004. However, the

Notice of Omitted Items was correct in stating that the three (3) pages of claims appeared to have been omitted, as the specification as filed did not conclude with the claims.[1]

As the petition was necessitated by applicants' filing error, the petition fee will not be refunded.

The application is being forwarded to Technology Center 1645 for examination in due course.

Telephone inquiries specific to this matter should be directed to the undersigned at 571-272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[1] 37 CFR 1.75(a) states: The specification **must conclude with** a claim particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention or discovery. (Emphasis added)

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HELLER EHRMAN LLP
4350 LA JOLLA VILLAGE DRIVE, 7TH FLOOR
SAN DIEGO CA 92122

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JUL 24 2008

In re Application of	:	
FIVAROFF, Ellen H.	:	
Application No. 10/948,780	:	DECISION ON PETITION
Filed: September 23, 2004	:	TO WITHDRAW
Attorney Docket No. **P1834C1**	:	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 08, 2008.

The request is **APPROVED**.

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

The request was signed by Leslie B. Overman on behalf of all attorneys of record who are associated with customer No. 25213. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed June 26, 2008 that requires a reply from the applicant.

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **ELLEN H. FILVAROFF**
538 18TH AVENUE
SAN FRANCISCO, CA 94121

cc: **GOODWIN PROCTER LLP**
ATTN: PATENT ADMINISTRATOR
135 COMMONWEALTH DRIVE
MENLO PARK, CA 94025-1105

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

JUN 11 2009

OFFICE OF PETITIONS

In re Application of	:	
Yoo et al.	:	
Application Number: 10/948783	:	ON PETITION
Filing Date: 09/24/2004	:	
Attorney Docket Number:	:	
1793.1369	:	

This is a decision on the petition to withdraw the holding of abandonment filed on April 24, 2009.

This application was held abandoned on December 3, 2008, for failure to timely reply to the non-final Office action mailed on September 2, 2008, which set a three (3)-month shortened statutory period for reply. Notice of Abandonment was mailed on March 25, 2009.

Petitioner asserts that the non-final Office action mailed on September 2, 2008 was never received. In support of that allegation, petitioners submitted a statement by registered patent practitioner Kari P. Footland, stating that the practitioner conducted a search of the file jacket of this application and the Office Action was not found therein. Additionally, the petition, signed by the patent practitioner, states that, as shown in the petition, based on a search of the Staas & Halsey docket records, an Office Action was never received by Staas & Halsey or the undersigned practitioner. The master docket report is referenced in the petition.

A review of the record indicates no irregularity in the mailing of the non-final Office action mailed on September 2, 2008, and in the absence of any irregularity in the mailing, there is a strong presumption that the non-final Office action mailed on September 2, 2008 was properly mailed to the address of record. This presumption may be overcome by a showing that the non-final Office action mailed on September 2, 2008 was not in fact received.

MPEP 711.03(c) states, in pertinent part:

> In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).
>
> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail

> date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

Petitioner has made a sufficient showing that the non-final Office action mailed on September 2, 2008 was not received.

Accordingly, there was no abandonment in fact. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is **GRANTED.**

The application is being referred to Technology Center Art Unit 2625 for remailing of the Office action mailed on September 2, 2008. The period for reply will be reset from the mailing date thereof.

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

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

Wang, Chih Chiang
7F, No.213
Civic Boulevard Sec.4
Taipei 105 TW
TAIWAN

COPY MAILED

APR 2 7 2007

OFFICE OF PETITIONS

In re Application of Wang :
Application No.10/948,810 : Decision on Petition
Filing Date: September 24, 2004 :
For: Leg Support Structure of Computer :
Desk Capable of Synchronous :
Sliding Movement :

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

The petition is **dismissed.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment mailed March 30, 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 May 1, 2006. A Notice of Abandonment was mailed on October 27, 2006.

Petitioner contends the Notice on Non-Complaint Amendment was never received. The petition cannot be granted at this time because it is unclear why the Notice was not received. Specifically, the address provided in the petition is different than the official address of record.

The address of record is:

Wang, Chih Chiang
7F, No.213
Civic Boulevard Sec.4
Taipei 105 TW
TAIWAN

The petition states petitioner's address is:

Chih Chiang Wang
2F, No. 3, Lane 280
Chung-Chan Road
Hsin Tien City
Taipei Hsien
TAIWAN R.O.C.

Any request for reconsideration should clearly state the current mailing address for petitioner. If the mail was not received due to a failure to keep the Office informed of the most current mailing address for petitioner, then a petition to withdraw the holding of abandonment cannot be granted.

For example, if the mail was lost because a failure of the Post Office to properly forward the mail from petitioner's former mailing address, then a petition to withdraw the holding of abandonment is improper.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

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

cc: Chih Chiang Wang
2F, No. 3, Lane 280
Chung-Chan Road
Hsin Tien City
Taipei Hsien
TAIWAN R.O.C.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

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OFFICE OF PETITIONS

In re Application of Wang :
Application No. 10/948,810 :
Filing Date: September 24, 2004 :
For: Leg Support Structure of Computer :
Desk Capable of Synchronous :
Sliding Movement :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(b), filed June 27, 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 Notice of Non-Compliant Amendment mailed March 30, 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 May 1, 2006. A Notice of Abandonment was mailed on October 27, 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 March 30, 2006 Notice in the form of an amendment. 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 Joe Muncy signed the petition. Attorney Muncy was not an attorney or agent of record at the time the application became abandoned. Therefore, it appears attorney Muncy was not in a position to have firsthand or direct knowledge of the facts and circumstances of the delay. Nevertheless, the statement by attorney Muncy 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 unintentional, petitioner must notify the Office.

Technology Center Art Unit 3636 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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10951 SORRENTO VALLEY ROAD
SAN DIEGO, CA 92121-1613

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OFFICE OF PETITIONS

In re Application of	:	
Diamond et al.	:	
Application No. 10/948,834	:	DECISION ON PETITION
Filed: September 22, 2004	:	
Attorney Docket No. PS 00006P	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 3, 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 an Election, (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 1631 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application	:
Gerry Gersovitz	:
Application No. 10/948,837	: DECISION ON APPLICATION
Filed: October 24, 2000	: FOR PATENT TERM ADJUSTMENT
Attorney Docket No. 021849-000110US	:

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION UNDER 37 C.F.R. § 1.705(b)filed May 8, 2009. Applicant requests that the determination of patent term adjustment be corrected from four hundred forty-five (445) days to seven hundred fifty-eight (758) days. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being HELD IN ABEYANCE until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b). This is true even in this instance where a request for continued examination (RCE) was filed.

Applicant is given TWO (2) MONTHS from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Applicant may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicant is advised that they may wait until

the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

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

The application is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

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

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

I hereby certify that this correspondence is being filed via EFS-Web with the United States Patent and Trademark Office on May 8, 2009.

TOWNSEND and TOWNSEND and CREW LLP

By: [signature]

PATENT
Docket No.: 021849-000110US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

I In re application of:

Gerry Gersovitz

Application No.: 10/948,837

Filed: September 22, 2004

For: MULTI-COMPARTMENT CONTAINER

Customer No.: 20350

Confirmation No. 1599

Examiner: Stephen J. Castellano

Technology Center/Art Unit: 3781

REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION UNDER 37 C.F.R. § 1.705(b)

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

560
313
873
115
758

758
445
313

Sir:

Pursuant to 37 C.F.R. § 1.705(b), Applicant respectfully request reconsideration of the patent term adjustment determination. This request is accompanied by the fee set forth in §1.18(e) and a statement of facts as required under 37 C.F.R. § 1.705(b)(2).

Statement of Facts

Correct Patent Term Adjustment and the Bases Under § 1.702 for the Adjustment

The correct patent term adjustment is 758 days, not 445 days as stated on the Determination of Patent Term Adjustment under 35 U.S.C.§ 154(b) mailed on February 10, 2009.

The period of adjustment under 37 C.F.R. § 1.702(a) is 560 days ("A delay"). Applicant is in agreement with the USPTO determination of this period.

Applicant and the USPTO are in disagreement over the period of adjustment under 37 C.F.R. § 1.702(b). The USPTO has not calculated any time under 37 C.F.R. § 1.702(b). However, as calculated in more detail below, the current effective period of adjustment under 37 C.F.R. § 1.702(b) is 313 days ("B delay").

The period adjustment under 37 C.F.R. § 1.704(a) is 115 days ("applicant delay"). Applicant is in agreement with the USPTO determination of this period.

Applicant thus submits that the total period of adjustment is 758 days ("A delay + B delay – Applicant delay").

The relevant dates as specified in 37 C.F.R. §§ 1.703(a)-(e) & the adjustments specified in 37 C.F.R. § 1.703(f) and 37 C.F.R. § 1.704

1. § 1.703(a)

Applicants are in agreement with the USPTO determination of a period of adjustment of 560 days under 37 C.F.R. § 1.703(a). The application was filed on September 22, 2004. The fourteen month date under 37 C.F.R. § 1.703(a)(1) is then November 22, 2005. The first action under 35 U.S.C. §132 was mailed on June 5, 2007. The 560 day period under 37 C.F.R. § 1.703(a) thus covers the time period between November 22, 2005 until June 5, 2007.

Applicants respectfully request an additional period of adjustment equal to the number of days, if any, in the period beginning on the day after the date that is four months after the date the issue fee was paid, May 8, 2009, and all outstanding requirements were satisfied and ending on the date the patent was issued. *See* 37 C.F.R. § 1.703(a)(6).

2. § 1.703(b)

The period of adjustment under 37 C.F.R. § 1.702(b) begins on the day after the date that is three years from the filing date of the instant application. The application was filed on September 22, 2004. The three year date is thus September 22, 2007. The period under 37 C.F.R. § 1.702(b) normally ends on the date a patent was issued. However, a Request for

Continued Examination was filed on July 31, 2008. Thus, under 37 C.F.R. § 1.702(b)(1) the period of adjustment under 37 C.F.R. § 1.702(b) runs from September 22, 2007 until July 31, 2008. This period is 313 days.

3. § 1.703(c)-(e)

There are no relevant dates as specified under § 1.703(c)-(e).

4. § 1.703(f)

The period of adjustment under 37 C.F.R. § 1.703(f) is 873 days, *i.e.*, 560 days of A delay plus 313 days of B delay.

There are no overlapping periods under §§ 1.703(a)-(e). The time period under § 1.703(a) runs from November 22, 2005 until June 5, 2007. The time period under 37 C.F.R. § 1.702(b) runs from September 22, 2007 until July 31, 2008. The time period under 37 C.F.R. § 1.702(b) occurs entirely after the time period under 37 C.F.R. § 1.703(a).

Applicants request that overlapping periods be determined in accordance with *Wyeth v. Dudas* (Case No. 07-1492, D.D.C. 2008). The periods of delay under 35 U.S.C. §154(b)(1)(A) and 35 U.S.C. §154(b)(1)(B) overlap only if they occur on the same calendar day or days.

As discussed above, Applicants respectfully request an additional period of adjustment equal to the number of days, if any, under 37 C.F.R. § 1.703(a)(6). Any such period of adjustment under 37 C.F.R. § 1.703(a)(6) begins on September 22, 2007 will not overlap with a period of adjustment under 37 C.F.R. § 1.702(b).

4. § 1.704(a)

The period adjustment under 37 C.F.R. § 1.704(a) is 115 days ("applicant delay"). Applicant is in agreement with the USPTO determination of this period.

Patent Term Adjustment Determination

Currently as of May 8, 2009 applicants are entitled to 758 days of patent term adjustment, *i.e.*, 873 days (A delay + B delay) under as calculated under 37 C.F.R. § 1.703 minus 115 days (applicant delay) under 37 C.F.R. § 1.704(a) . Applicants are also entitled to any period of adjustment under 37 C.F.R. § 1.703(a)(6). Please charge the fee set forth in 37 C.F.R. §1.18(e) ($200.00) to Deposit Order Account No. 20-1430. Please charge any necessary additional fees or credit any overpayments to our Deposit Order Account No. 20-1430.

Terminal disclaimer

Assignees of the instant application note that no terminal disclaimer has been filed in the above referenced application at this point. Applicants note that US Patent Nos. 7,179,892 and 7,189,819 are the patents at issue in *Wyeth v. Dudas* which is currently being appealed by the USPTO. Hence the final expiration dates of these patents has not yet been determined.

Based on the foregoing, Applicants respectfully request reconsideration of the patent term adjustment determination.

Respectfully submitted,

James R. Czaja
Reg. No. 63,554

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OFFICE OF PETITIONS

In re Patent No. 7,571,829
Issued: August 11, 2009
Application No. 10/948,837
Filed: September 22, 2004
Attorney Docket No. 021849-000110US

: DECISION ON REQUEST
: FOR RECONSIDERATION OF
: PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION UNDER 37 C.F.R. § 1.705(b)" filed August 14, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from four hundred forty-five (445) days to seven hundred fifty-eight (758) days.

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

On August 11, 2009, the above-identified application matured into US Patent No. 7,571,829 with a patent term adjustment of 445 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 758 days, which includes 313 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 (313 days) and the period of Examination Delay (560 days) to the extent that these periods of delay are not overlapping. However, in effect, patentees contend that no portion of the Three Year Delay period overlaps with the period of 14-

month examination delay. As such, patentees assert entitlement to a patent term adjustment of 758 days (560 + 313 reduced by 0 overlap – 115 (applicant delay)).

The Office contends that all 313 days for over three year pendency overlap with the 560 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 22, 2004, to the date the first RCE was filed on July 31, 2008. Prior to the issuance of the patent, 560 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 313 days for Office delay in issuing the patent overlap with the 560 days of Office delay. During that time, the issuance of the patent was delayed by 560 days, not 560 + 313 days. The Office experienced 560 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 560 days of Office delay and the time allowed within the time frames for processing and examination, the application was pending three years and 313 days. The Office did not delay 560 days and then an additional 313 days. Accordingly, 560 days of patent term adjustment (not 560 and 313 days) was properly entered. The period of delay of 313 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 560 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted. 560 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 313 days over three years to the issuance of the patent.

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

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

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

/Kery A. Fries/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, Virginia 22313-1450
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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 04/21/2010

Applicant	: Gerry Gersovitz	: DECISION ON REQUEST FOR
Patent Number	: 7571829	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/948,837	: 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 **757** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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.:20070827

DATE : August 27, 2007

TO SPE OF : ART UNIT 3651

SUBJECT : Request for Certificate of Correction on Patent No.: 7,207,434

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:

SPE: Gene Crawford Art Unit 3651

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SAN FRANCISCO, CA 94111-3834

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JUL 24 2006
OFFICE OF PETITIONS

In re Application of	:	
Yulan Wang, et al	:	
Application No. 10/948,853	:	DECISION ON PETITION
Filed: September 23, 2004	:	TO WITHDRAW
Attorney Docket No. 022001-00272OUS	:	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, 2005.

The request is **APPROVED**.

A review of the file record indicates that Mark Barrish and Attorneys associated with the customer number 20350, (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, Mark Barrish and Attorneys associated with the customer number 20350, 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).

A review of the file record indicated a new power of attorney was filed on June 6, 2005.

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

for David 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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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/948,870	09/24/2004	2828	788	15436.438.3.1	20	21	2

CONFIRMATION NO. 3813

CORRECTED FILING RECEIPT

OC000000014810038

022913
WORKMAN NYDEGGER (F/K/A WORKMAN NYDEGGER & SEELEY)
60 EAST SOUTH TEMPLE
1000 EAGLE GATE TOWER
SALT LAKE CITY, UT 84111

Date Mailed: 12/22/2004

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

Applicant(s)

James A. Cox, New Brighton, MN;
Robert A. Morgan, Plymouth, MN;

Assignment For Published Patent Application

Honeywell to Finisar

Power of Attorney:

John Shudy Jr–31214
Brian Tufte–38638
Andrew Abeyta–39582

Domestic Priority data as claimed by applicant

This application is a CON of 10/121,490 04/12/2002 PAT 6,836,501
which is a CIP of 09/751,422 12/29/2000 PAT 6,782,027

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 US10/948,870

Projected Publication Date: 02/17/2005

Non-Publication Request: No

Early Publication Request: No

Title

Tunable detector

Preliminary Class

372

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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Locke Lord Bissell & Liddell LLP
Attn: IP Docketing
600 Travis Street
Suite 3400
Houston, TX 77002-3095

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MAR 1 4 2008

OFFICE OF PETITIONS

In re Application of	:	
F. Charles Brunicardi	:	
Application No. 10/948,872	:	DECISION ON PETITION
Filed: September 24, 2004	:	TO WITHDRAW
Attorney Docket No. 023698-002US	:	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 6, 2007.

The request is **APPROVED**.

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

The request was signed by Mark J. Gatschet on behalf of all attorneys or record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is no outstanding Office action at this time.

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **F. Charles Brunicardi**
6550 Fannin, Suite 1661
Houston, TX 77030

cc: **F. Charles Brunicardi, MD, FACS**
DeBakey/Bard Professor and Chairman
Micheal E. DeBakey Dept. of Surgery
Baylor College of Medicine
1709 Dryden, Suite 1500
Houston, TX 77030

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AGILENT TECHNOLOGIES, INC.
INTELLECTUAL PROPERTY ADMINISTRATION, LEGAL DEPT.
P.O. BOX 7599
M/S DL429
LOVELAND, CO 80537-0599

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MAR 1 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Schremp et al.	:	
Application No. 10/948,886	:	
Filed: September 23, 2004	:	ON PETITION
Attorney Docket Number:	:	
10040543-1	:	

This is a decision on the Petition, filed January 19, 2005, requesting the application be accorded a filing date of September 23, 2004, including page 2 of the specification.

The petition is **granted**.

The application was filed on September 23, 2004. However, on November 22, 2004, the Office of Initial Patent Examination mailed a Notice of Omitted Item(s) in a Provisional Application (hereinafter ("Notice"), stating that the application had been accorded a filing date; however page 2 of the specification appeared to have been omitted from the application.

In response, Applicant files the instant petition wherein Applicant avers that page 2 of the specification was included among 44 pages of Specification filed with the application on September 23, 2004, and was received by this Office as evidenced by the return-receipt postcard. In support, Petitioner provides a copy of a return receipt postcard acknowledging receipt of, *intern alia*, 44 pages of Specification filed on September 23, 2004.

A review of the return receipt postcard reveals that Applicant is correct. The postcard acknowledges receipt of 44 pages of Specification by this Office on September 23, 2004. Applicant has also re-submitted page 2 of the specification with the instant petition.

Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self-addressed postcard properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the postcard in the outgoing mail. "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." MPEP § 503.

Accordingly, the petition is granted. The copy of page 2 of the specification, supplied with the instant petition on January 19, 2005, will be used for examination purposes.

A refund of the petition fee has been credited to deposit account 50-1078 as authorized in the instant petiion[1].

The application will be returned to the Office of Initial Patent Examination for further processing as a nonprovisional application with a filing date of September 23, 2004, and an indication that page 2 of the Specification was included among 44 pages of Specification that were present on filing on September 23, 2004.

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

Derek L. Woods
Attorney/Advisor
Office of Petitions

[1] Applicant is advised that a Revised Schedule of Fees was enacted into law on December 8, 2004.

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

MAILED

JUN 25 2010

OFFICE OF PETITIONS

In re Application of	:	
Daniel P. Gold	:	
Application No.: 10/948894	:	DECISION ON
Filing or 371(c) Date: 09/23/2004	:	PETITION
Attorney Docket Number: P09580US01	:	

This is a decision in response to the Petition for Revival of Application Abandoned Unintentionally Under 37 CFR 1.137(b), filed March 17, 2010.

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 Office communication, mailed February 19, 2008. The Office communication set a one (1) month or 30 day period for reply. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on March 20, 2008. A Notice of Abandonment was mailed September 5, 2008.

The present petition

Applicant files the present petition to revive the application, and in relevant part provides that "[o]n June 2, 2008, Dan Gold, PhD, the inventor of the above referenced patent and an employee of Favrille, Inc., instructed its agent (Wilson Sonsini Goodrich & Rosati) to no longer prosecute the above referenced application. Therefore, no response was filed to the Office Action with Restriction Requirement." Petition at p.2.

Petitioner provides further that on November 8, 2008, Favrille, Inc., entered into an Agreement and plan of Merger and Reorganization ("Agreement") with MyMedicalRecords.Com, Inc. (now

MyMedicalRecords.Inc., a wholly owbed subsidiary of MMR Information Systems, Inc.), which demonstrates Favrille's intent to provide MMR Information Systems the intellectual property assets, including the present application, as a pending application, rather than to abandon the application.

Applicable Law, Rules and MPEP

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.

However, an applicant is unable to make 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 this paragraph was unintentional, where there is shown to be intentional delay.

The MPEP provides

> A delay resulting from a deliberately chosen course of action on the part of the applicant does not become an "unintentional" delay within the meaning of 37 CFR 1.137(b) because:
>
> (A) the applicant does not consider the claims to be patentable over the references relied upon in an outstanding Office action;
> (B) the applicant does not consider the allowed or patentable claims to be of sufficient breadth or scope to justify the financial expense of obtaining a patent;
> (C) the applicant does not consider any patent to be of sufficient value to justify the financial expense of obtaining the patent;
> (D) the applicant does not consider any patent to be of sufficient value to maintain an interest in obtaining the patent; or
> (E) the applicant remains interested in eventually obtaining a patent, but simply seeks to defer patent fees and patent prosecution expenses.
>
> Likewise, a change in circumstances that occurred subsequent to the abandonment of an application does not render "unintentional" the delay resulting from a previous deliberate decision to permit an application to be abandoned. These matters simply confuse the question of whether there was a deliberate decision not to continue the prosecution of an application with why there was a deliberate decision not to continue the prosecution of an application.
>
> D. Delay Until the Filing of a Grantable Petition

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

(A) the delay in reply that originally resulted in the abandonment;
(B) the delay in filing an initial petition pursuant to 37 CFR 1.137 to revive the application; and
(C) the delay in filing a grantable petition pursuant to 37 CFR 1.137 to revive the application.

As discussed above, the abandonment of an application is considered to be a deliberately chosen course of action, and the resulting delay cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b), where the applicant deliberately permits the application to become abandoned. See Application of G, 11 USPQ2d at 1380. 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). An intentional delay resulting from a deliberate course of action chosen by the applicant is not affected by:

(A) the correctness of the applicant's (or applicant's representative's) decision to abandon the application or not to seek or persist in seeking revival of the application;
(B) the correctness or propriety of a rejection, or other objection, requirement, or decision by the Office; or
(C) the discovery of new information or evidence, or other change in circumstances subsequent to the abandonment or decision not to seek or persist in seeking revival.

Obviously, delaying the revival of an abandoned application, by a deliberately chosen course of action, until the industry or a competitor shows an interest in the invention is the antithesis of an "unavoidable" or "unintentional" delay. An intentional abandonment of an application, or an intentional delay in seeking the revival of an abandoned application, precludes a finding of unavoidable or unintentional delay pursuant to 37 CFR 1.137. See Maldague, 10 USPQ2d at 1478.

MPEP 711.03(c)(2)

Analysis and conclusion

Applicant has provided that "[o]n June 2, 2008, Dan Gold, PhD, the inventor of the above referenced patent and an employee of Favrille, Inc., instructed its agent (Wilson Sonsini Goodrich & Rosati) to no longer prosecute the above referenced application. Therefore, no response was filed to the Office Action with Restriction Requirement." More than five (5) months after instructions were given to then applicant's duly chosen and appointed

representative, Petitioner herein entered into an Agreement to provide Petitioner with the present application, wherein Favrille would not abandon the application.

However, more than five (5) months prior to the Agreement, the decision was made by the inventor to no longer prosecute the application.

Moreover, an internet search of Favrille, Inc., and Dan Gold reveals that Dan Gold was also the founder and Chief Scientific Office of Favrille, Inc. As such, it appears that Dan Gold was authorized to act in the application. It was Mr. Gold who made a deliberate decision to permit this application to be abandoned. An intentional abandonment of an application, or an intentional delay in seeking the revival of an abandoned application, precludes a finding of unavoidable or unintentional delay pursuant to 37 CFR 1.137.

The petition is dismissed without prejudice. Applicant may file a request for reconsideration of petition and include evidence that Mr. Gold was not in a position to act on behalf of farville, Inc., when Mr. Gold instructed its agent (Wilson Sonsini Goodrich & Rosati) to no longer prosecute the above referenced application.

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

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

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

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

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

/Derek L. Woods/

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

MORRISON AND FOERSTER LLP
425 MARKET ST
SAN FRANCISCO, CA 94105

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AUG 20 2007

OFFICE OF PETITIONS

In re Application of	
Cameron Dale Hinman, et al.	
Application No. 10/948,911	DECISION ON PETITION
Filed: September 24, 2004	TO WITHDRAW
Attorney Docket No. 506512002200	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 28, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster, LLP has been revoked by the assignee of the patent application on June 29, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: JAMES SHAY
SHAY LAW GROUP, LLC
2755 CAMPUS DRIVE
SUITE 210
SAN MATEO, CA 94403

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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SHAY GLENN LLP
2755 CAMPUS DRIVE
SUITE 210
SAN MATEO, CA 94403

Mail Date: 04/21/2010

Applicant	: Cameron Dale Hinman	: DECISION ON REQUEST FOR
Patent Number	: 7678117	: RECALCULATION of PATENT
Issue Date	: 03/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/948,911	: OF WYETH
Filed	: 09/24/2004	:
		:

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

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JUN 16 2006

OFFICE OF PETITIONS

In re Application of	:	
Feinleib et al.	:	DECISION ON PETITION
Application No. 10/948,927	:	TO WITHDRAW
Filed: September 23, 2004	:	FROM RECORD
Attorney Docket No. 7097.P007	:	

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 **APPROVED**.

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

The request was signed by James Y. Go on behalf of all attorneys of record who are associated with Customer Number 08791.

All attorneys/agents associated with Customer Number 08791 have been withdrawn. Applicants are reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor David A. Feinleib at the address indicated below.

There is an outstanding Office action mailed January 17, 2006 that requires a reply from the applicants.

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

David Bucci
Petitions Examiner
Office of Petitions

Cc:

DAVID FEINLEIB
949 SCOTT STREET
PALO ALTO, CA 94301

OIPE, IAP22
MAR 10 2006
PATENT & TRADEMARK OFFICE

1fw

PTO/SB/83 (01-06)
Approved for use through 12/31/2008. OMB 0651-0035
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REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	10/948,927
Filing Date	September 23, 2004
First Named Inventor	David A. Feinleib
Art Unit	2143
Examiner Name	Michael R. Gayeski
Attorney Docket Number	7097.P007

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

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

- [x] all the attorneys/agents of record.
- [ ] the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- [ ] the attorneys/agents associated with Customer Number 08791

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practitioners associated with a customer number.

The reasons for this request are: Client Instructions.

CORRESPONDENCE ADDRESS

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

[ ] The address associated with Customer Number:

OR

[x] Firm or Individual Name	David Feinleib				
Address	949 Scott St.				
City	Palo Alto	State	CA	Zip	94301
Country	USA				
Telephone	(650) 814-7114	Email	feinleib@stanford.edu		
Signature					
Name	James Y. Go	Registration No.	40,621		
Date	March 8, 2006	Telephone No.	(206) 292-8600		

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or (f), or 365(b) of any foreign application(s) for patent, inventor's or plant breeder's rights certificate(s), or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent, inventor's or plant breeder's rights certificate(s), or any PCT international application having a filing date before that of the application on which priority is claimed:

Prior Foreign Application(s)			Priority Claimed?		Certified Copy Attached?	
(Number)	(Country)	(Foreign Filing Date - MM/DD/YYYY)	Yes	No	Yes	No
(Number)	(Country)	(Foreign Filing Date - MM/DD/YYYY)	Yes	No	Yes	No
(Number)	(Country)	(Foreign Filing Date - MM/DD/YYYY)	Yes	No	Yes	No

I hereby appoint the practitioners listed associated with the Customer Number listed below as my respective patent attorneys and patent agents, with full power of substitution and revocation, to prosecute this application and to transact all business in the U. S. Patent and Trademark Office connected herewith.

Direct all correspondence to:

X Customer Number or Bar Code Label 08791

X Correspondence Address Below:

R. Alan Burnett
(Name of Attorney or Agent)
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, California 90025
Telephone: (206) 292-8600
Fax: (206) 292-8606

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GREENBERG & LIEBERMAN, LLC
2141 WISCONSIN AVE, N.W.
SUITE C-2
WASHINGTON DC 20007

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MAY 17 2007

OFFICE OF PETITIONS

In re Application of	:	
Autry, Vence L.	:	
Application No. 10/948,932	:	ON PETITION
Filed: September 24, 2004	:	
Attorney Docket No. 2384-3	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 15, 2007, to revive the above-identified application.

The petition is **GRANTED.**

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

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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Cozen O'Connor, P.C.
1900 Market Street
Philadelphia, PA 19103-3508

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MAY 22 2009

OFFICE OF PETITIONS

In re Application of	:	
Brett P. Monia	:	
Application No. 10/948,947	:	DECISION ON PETITION
Filed: September 24, 2004	:	TO WITHDRAW
Attorney Docket No. ISIS0218-100 (ISPH-0871)	:	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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STMICROELECTRONICS, INC.
MAIL STATION 2346
1310 ELECTRONICS DRIVE
CARROLLTON, TX 75006

Mail Date: 04/20/2010

Applicant	: Kabi PrakashPadhi	: DECISION ON REQUEST FOR
Patent Number	: 7660718	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/948,950	: 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 **1137** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/948,964	09/24/2004	3611	385	ACAT-1-1001	4	16	3

CONFIRMATION NO. 4547

CORRECTED FILING RECEIPT

OC000000015298861

25315
BLACK LOWE & GRAHAM, PLLC
701 FIFTH AVENUE
SUITE 4800
SEATTLE, WA 98104

Date Mailed: 02/28/2005

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

Applicant(s)

Gary C. Blakely, Thief River Falls, MN;

Power of Attorney: The patent practitioners associated with Customer Number **25315**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 11/07/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/948,964

Projected Publication Date: 03/30/2006

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Snowmobile exhaust exit

Preliminary Class

180

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

GRANTED

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

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

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

NOT GRANTED

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/948,980	09/24/2004	Mark S. Manasse	50037.307US01	4560

27488 7590 01/27/2008
MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

EXAMINER
DINH, KHANH Q

ART UNIT	PAPER NUMBER
2151	

MAIL DATE	DELIVERY MODE
01/27/2008	PAPER

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

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

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Gregory D. Leibold
Merchant & Gould (Microsoft)
P.O. Box 2903
Minneapolis, MN 55402-0903

MAILED

JAN 28 2008

TECHNOLOGY CENTER 2100

In re Application of:
Mark MANASSE et al.
Appl. No.: 10/948,980
Filed: September 24, 2004
For: EFFICIENT ALGORITHM FOR FINDING CANDIDATE OBJECTS FOR REMOTE DIFFERENTIAL COMPRESSION

DECISION ON PETITION UNDER 37 CFR § 1.59

This is a decision on the petition under 37 CFR § 1.59(b), filed on 14 January 2008, to expunge information submitted pursuant to MPEP § 724.05.

The petition is **DISMISSED**.

Petitioner requests that the information submitted on 14 January 2008 be expunged from the record if found not to be important to a reasonable examiner in deciding whether to allow the application to issue as a patent. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The petition is premature because the application has not been allowed or abandoned. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material," with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the petition to expunge must be dismissed at this time.

During prosecution on the merits, the examiner will determine whether or not the information submitted on 14 January 2008 is considered to be "material." Once prosecution on the merits is closed, applicant may re-submit a petition to expunge the information. No further fee is required for such a second submission of a petition under 37 CFR § 1.59 to expunge information. If the information is not considered by the examiner to be material, the information will be expunged from the application and may be returned to applicant.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

Vincent N. Trans, SPRE/QAS
Technology Center 2100
Computer Architecture, Software, and
Information Security

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Rene' A. Pereyra
MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

MAILED

SEP 29 2009

DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

In re Application of:
MANASEE, Mark S. et. al.
Application No. 10/948980
Filed: Sept 24, 2004
Docket No. 50037.307US01
Title: EFFICIENT ALGORITHM FOR FINDING CANDIDATE OBJECTS FOR REMOTE DIFFERENTIAL COMPRESSION

DECISION ON PETITION FOR EXPUNGING INFORMATION UNDER UNDER 37 CFR § 1.59

This is a decision on the renew petition under 37 CFR § 1.59(b), filed on Sept 17, 2009, to expunge information from the above identified application.

The petition is **GRANTED**.

Petitioner requests that the references cited on the Information Disclosure Statement (IDS), submitted on Jan 14, 2008, be expunged from the record. Petitioner states that the information cited on the IDS contains trade secrets and/or proprietary material which has not been made public. The petition fee set forth in 37 CFR 1.17(g) has been paid.

The information in question has been determined by the undersigned to not be material to the examination of the instant application.

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

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

Any inquiry regarding this decision should be directed the undersigned whose telephone number is (571) 272-4147.

If attempts to reach the undersigned by telephone are unsuccessful, Beatriz Prieto, Quality Assurance Specialist, can be reached at (571) 272-3902.

/Kim Huynh/

Kim Huynh,
Quality Assurance Specialist
Technology Center 2400
Network, Multiplexing, Cable and Security

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/948,980	09/24/2004	Mark S. Manasse	50037.307US01	4560

27488 7590 09/29/2009
MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

EXAMINER
DINH, KHANH Q

ART UNIT	PAPER NUMBER
2451	

MAIL DATE	DELIVERY MODE
09/29/2009	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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CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

MAILED

JUN 10 2009

OFFICE OF PETITIONS

In re Application of	:	
KOHANE, Daniel S. et al.	:	
Application No. 10/948,981	:	DECISION ON PETITION
Filed: September 23, 2004	:	TO WITHDRAW
Attorney Docket No. **0492611-0587**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 13, 2009.

The request is **APPROVED**.

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

The request was signed by Brenda Jarrell on behalf of all attorneys of record who are associated with customer No. 24280. All attorneys/agents associated with the Customer Number 24280 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Daniel Kohane at the address indicated below. There is an outstanding Office action mailed May 29, 2009 that requires a reply from the applicant.

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **DANIEL S. KOHANE**
41 LESLIE ROAD
NEWTON MA 02466

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P.O. BOX 1450
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JOHN H. THOMAS, P.C.
536 GRANITE AVENUE
RICHMOND, VA 23226

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APR 25 2007

OFFICE OF PETITIONS

In re Application of :
Mary Morgan :
Application No. 10/948,991 : DECISION ON PETITION
Filed: September 24, 2004 :
Attorney Docket No. MORGAN 1 :

This is a decision on the petition, filed June 29, 2006, requesting withdrawal of the holding of abandonment in the above-identified application under 37 CFR 1.181.

A review of the record discloses that the application was held abandoned for failure to reply to the non-final Office action mailed September 20, 2005, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on April 13, 2006.

On June 29, 2006, the present petition was filed wherein petitioner states that the Office action dated March 14, 2005 was not received, even though steps were repeatedly taken to ensure that the correct correspondence address was provided to the Office.

For the reasons detailed in the petition, the Office concedes that there was an irregularity in the mailing of the Office action. Accordingly, the petition is **GRANTED**.

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

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

This application is being referred to the Technology Center technical support staff of Art Unit 3643 for (1) withdrawing the holding of abandonment, (2) re-mailing the Office action of September 20, 2005 and (3) restarting the period for reply.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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Paper No. 020105

FELLERS, SNIDER, BLANKENSHIP,
BAILEY & TIPPENS
BANK ONE TOWER
100 NORTH BROADWAY, SUITE 1700
OKLAHOMA CITY, OK 73102-8820

FEB 4 2005

In re Application of:	:	
MARCUS L. WEST *et al.*	:	DECISION ON PETITION
Serial No.: 10/949,015	:	TO MAKE SPECIAL
Filed: September 24, 2004	:	
Attorney Docket No.: **OKC00499**	:	

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed September 24, 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, Oliver Dale Northup, stating that the he is sixty-five (65) years of age or more.

Accordingly, the petition is GRANTED.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

Inquiries regarding this decision should be directed to Jose G. Dees at (571) 272-1569.

Jose G. Dees, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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MAR 24 2008

OFFICE OF PETITIONS

Friedrich Kueffner
Suite 910
317 Madison Avenue
New York NY 10017

In re Application of :
Schutz : DECISION ON PETITION
Application No. 10/949,026 :
Filed: September 24, 2004 :
Atty. Dkt. No.: PR-65 :

This is a decision on the petition to withdraw the holding of abandonment, filed February 11, 2008, 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.

The instant application became abandoned June 18, 2007 for failure to timely file a proper reply to the restriction requirement mailed May 17, 2007. The restriction requirement set a one month shortened statutory period of time for reply. No petition for extension of time was timely submitted. Notice of Abandonment was mailed January 28, 2008.

Petitioner argues that he did not receive the restriction requirement mailed May 17, 2007. Petitioner has provided a copy of a logbook of incoming mail covering the time period of May 17, 2007 to June 20, 2007. Petitioner states that practitioner searched the file jacket of the application, but the office action was not found.

In the absence of any irregularity in the mailing of an Office communication, there is a strong presumption that the Office communication was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office communication was not in fact received.

The showing required to establish non-receipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response. Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required. A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the non-received Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of non-receipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

The 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). *See*, MPEP 711.03(c).

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 has been carefully reviewed, but does not satisfy the showing required to establish non-receipt of an Office communication. Any renewed petition must be accompanied by evidence to establish that the Office communication mailed May 17, 2007 was not received in accordance with the procedures set forth at MPEP 711.03(c).

ALTERNATE VENUE

Petitioner may wish to consider filing a petition stating that the delay was unintentional. Petitioner's attention is directed to 37 CFR 1.137(b) which provides for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable". An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required petition fee and reply.

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Friedrich Kueffner
Suite 910
317 Madison Avenue
New York NY 10017

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JUN 20 2008

In re Application of :
Schutz : DECISION ON PETITION
Application No. 10/949,026 :
Filed: September 24, 2004 :
Atty. Dkt. No.: PR-65 :

This is a decision on the renewed petition to withdraw the holding of abandonment, filed June 2, 2008, 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.

The instant application became abandoned June 18, 2007 for failure to timely file a proper reply to the restriction requirement mailed May 17, 2007. The restriction requirement set a one month shortened statutory period of time for reply. No petition for extension of time was timely submitted. Notice of Abandonment was mailed January 28, 2008.

Petitioner argues non-receipt of the restriction requirement mailed May 17, 2007. Of record is a copy of a logbook of incoming mail covering the time period of May 17, 2007 to June 20, 2007 as well as a copy of the file jacket for the application.

The instant petition has been carefully reviewed, but does not satisfy the showing required to establish non-receipt of an Office communication set forth at MPEP 711.03(c).

Specifically, the calendar attachment referenced in the petition does not appear in the official application file.

Any renewed petition must be accompanied by a copy of the attachment referenced in the instant petition.

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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Suite 910
317 Madison Avenue
New York NY 10017

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OFFICE OF PETITIONS

In re Application of :
Schutz : DECISION ON PETITION
Application No. 10/949,026 :
Filed: September 24, 2004 :
Atty. Dkt. No.: PR-65 :

This is a decision on the renewed petition to withdraw the holding of abandonment, filed September 8, 2008, under 37 CFR 1.181.

The petition is **GRANTED**.

The instant application was held abandoned for failure to timely file a proper reply to the restriction requirement mailed May 17, 2007. The restriction requirement set a one month shortened statutory period of time for reply. No petition for extension of time was timely submitted. Notice of Abandonment was mailed January 28, 2008.

Petitioner asserts that the Office action dated May 17, 2007 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

As set forth at MPEP 711.03(c), the showing required to establish non-receipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response. Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required. A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the non-received Office action, a copy of the master docket report showing

all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of non-receipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

The 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.

This application is being referred to the Technology Center technical support staff of Art Unit 3754 for re-mailing the Office action of May 17, 2007. The period for reply will run from the mailing date of the Office action.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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FROST BROWN TODD, LLC
2200 PNC CENTER
201 E. FIFTH STREET
CINCINNATI, OH 45202

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JUL 3 1 2007

OFFICE OF PETITIONS

In re Application of	:	
Robert Gerald Palmer, Jr., et al.	:	
Application No. 10/949,031	:	DECISION ON PETITION
Filed: September 24, 2004	:	TO WITHDRAW
Attorney Docket No. 0103079-0528169	:	FROM RECORD

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

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Frost, Brown Todd, LLC has been revoked by the assignee of the patent application on April 6, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the 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: DONALD F. KING
9302 LEE HIGHWAY
SUITE 1100
FAIRFAX, VA 22030

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
10/949,031	09/24/2004	Robert Gerald Palmer JR.	0103079-0528169

CONFIRMATION NO. 1948

OC000000025075545

26874
FROST BROWN TODD, LLC
2200 PNC CENTER
201 E. FIFTH STREET
CINCINNATI, OH 45202

Date Mailed: 07/30/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/06/2007.

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20091119

DATE : November 19, 2009

TO SPE OF : ART UNIT 2627

SUBJECT : Request for Certificate of Correction on Patent No.: 7,502,188

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 Certificate of Correction is approved as scope of claims are not changed.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20091119-A

DATE : November 19, 2009

TO SPE OF : ART UNIT 2627

SUBJECT : Request for Certificate of Correction on Patent No.: 7,502,188

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 Certificate of Correction is approved as scope of claims are not changed.

/HOA T NGUYEN/
Supervisory Patent Examiner, Art Unit 2627

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OBLON, SPIVAK, MCCLELLAND, MAIER &
NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

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MAY 3 1 2006

Technology Center 2100

In re Application of: Hallgrim SAGEN
Application No. 10/949,035
Filed: September 24, 2004
For: METHODS AND SYSTEM FOR IDENTIFICATION

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)

This is a response to the petition filed January 23, 2006, under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

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

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

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

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

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

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

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

The petition filed January 23, 2006 fails to adequately meet requirement (e) of the criteria set forth above. While a detailed discussion of some of the references deemed to be "most closely related" has been provided, it lacks the specificity required under 37 CFR 1.111 (b) and (c), reference is made to the following: Haverty; Senior; Pu et al.; and Ohba,. Further, a general allegation that the claims define a patentable invention without specifically pointing out how ***the language of the claims*** patentably distinguishes them from the references does not comply with the requirements of this section. The petition must specifically point out how ***the claimed subjected matter*** is patentable over the cited references in view of 35 U.S.C. 102 and 35 U.S.C. 103.

In addition, (minimally) petitioner should ensure that the above discussion is directed to how the language of ***each of*** the independent claims is specifically distinguishable and patentable from the references provided in requirement (d) above.

Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

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

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JAN 29 2007

Technology Center 2100

OBLON, SPIVAK, MCCLELLAND, MAIER &
NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

In re Application of: Hallgrim SAGEN
Application No. 10/949,035
Filed: 24 September 2004
For: METHOD AND SYSTEM FOR IDENTIFICATION

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 18 August 2006, under 37 C.F.R. 102(d) and M.P.E.P. § 708.02(VIII) 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.

Note, although a detailed discussion of the references has not been provided with respect to claim 13, i.e. "Independent Claim 13 is similar to Claim 1" (page 13), it appears that all of the limitations identified with respect to independent claim 1 (in the petition) are found in independent claim 13.

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
Workgroup Quality Assurance Specialist
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

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Mary Jo Redman
6387 Caminito Lazaro
San Diego, CA 92111

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MAR 2 3 2005

OFFICE OF PETITIONS

In re Application of :
Edward R. Fyfe :
Application No.: 10/949,059 :
Filed: NO FILING DATE :
Attorney Docket No.: FYPEE-6 :

ON PETITION

This is a decision on the communication filed February 16, 2005, titled "Response to Notice of Incomplete Non-provisional Application" The communication will be treated as a petition filed pursuant to 37 CFR 1.53.

The petition is **dismissed.**

The application was submitted on September 27, 2004. On December 13, 2004, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application indicating that no filing date was accorded the application because drawings were not filed with the application, but were believed to be required to understand the invention claimed. The notice also required a substitute specification be filed. The notice allowed a non-extendable period for reply of two months from its mailing date.

In response, the present petition was filed. Petitioner expressed confusion as to why the subject application was not recognized and a continuation application of a previously filed application. The petition was accompanied by a preliminary amendment, amended specification and claims, and return receipt postcard, among other items. The petition did not address the issue of the outstanding drawings which are believed to be required in order for the application to be accorded a filing date.

The Office of Initial Patent Examination has determined that the subject application is an application that appears to require drawings in order to understand the invention claimed. The application cannot, therefore, be accorded a filing date without the drawings or a successful argument, made via petition, that drawings are not necessary for the understanding of the invention claimed. Petitioner may also wish to consider filing a petition making the argument that the subject application incorporated by reference, in its entirety, a prior application that contained the drawings. See 37 CFR 1.57.

The application is not accorded a filing date at this juncture and will be considered incomplete until remedied by petition or by filing of the drawings with the application being accorded a filing date as of the date the drawings are received.

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

By mail: Commissioner for Patent
Mail Stop Petitions
Box 1460
Alexandria, VA 22313-1460

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

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

Kenya A. McLaughlin
Petition Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mary Jo Redman
6387 Caminito Lazaro
San Diego, CA 92111

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AUG 1 2 2005

OFFICE OF PETITIONS

In re Application of	:	
Edward R. Fyfe	:	
Application No. 10/949,059	:	ON PETITION
Filed: September 23, 2004	:	
Attorney Docket No.: FYFEE-6	:	

This is a decision on the petition filed June 27, 2005.

The petition is **granted.**

The application was submitted on September 27, 2004. On December 13, 2004, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application indicating that no filing date was accorded the application because drawings were not filed with the application, but were believed to be required to understand the invention claimed. The notice also required a substitute specification be filed. The notice allowed a non-extendable period for reply of two months from its mailing date.

In response the instant petition, an amendment, and a copy the drawings as found in the prior-filed application to which the subject application claims priority. An incorporation by reference statement was not included with the original application papers. Applicant seeks to amend the specification to include the incorporation by reference statement pursuant to 37 CFR 1.57(b). Because the application contained a priority claim on filing, amendment of the specification to include the incorporation by reference statement is not necessary as petitioner can rely on the priority claim as the incorporation by reference statement pursuant to 37 CFR 1.57(a).

Effective September 21, 2004, 37 CFR 1.57 allows a priority claim to a prior-filed application to be considered an incorporation by reference statement allowing for the incorporation of the prior filed application as to inadvertently omitted portion of the specification or drawings. When using 37 CFR 1.57, applicant's are required to amend the application to include the inadvertently omitted material, and supply a copy of the prior-filed application and identify where the inadvertently omitted portion of the drawing can be found in the prior-filed application.

It is noted that 37 CFR 1.57(a)(3) indicates that if the application is not otherwise entitled to a filing date under 37 CFR 1.53(b), the amendment must be by way of the petition. This application was determined not to be entitled to a filing date. Accordingly, a petition is required to amend the application pursuant to 37 CFR 1.57. The petition is granted, accordingly.

The application will be accorded a filing date of September 23, 2004. In view of the priority claim that is considered to be an incorporation by reference of the prior application, the drawings are not new matter if the drawings were part of the disclosure of the prior application. The drawings filed with the instant petition will not be processed, but will be retained in the application file.

Applicant should file a preliminary amendment pursuant to 37 CFR 1.57 requesting entry of the drawings prior to the first action on the merits.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of September 23, 2004. The Office of Initial Patent Examination will issue a corrected filing receipt.

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

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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ADVANTEDGE LAW GROUP , LLC
3301 N. UNIVERSITY AVE .
SUITE 200
PROVO UT 84604

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OFFICE OF PETITIONS

In re Application of

WHITEHURST, Todd K. et al.
Application No. 10/949,067
Filed: September 24, 2004
Attorney Docket No. **3013-0122 (05-00652-02**

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 14, 2008.

The request is **NOT APPROVED**.

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

The 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, ownership transfer, 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 is an outstanding Office action mailed February 28, 2008 that requires a reply by the applicant.

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

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PACESETTER, INC.
15900 VALLEY VIEW COURT
SYLMAR CA 91392-9221

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JUL 18 2007

OFFICE OF PETITIONS

In re Application of	:	
Wisit Lim et al.	:	
Application No. 10/949,073	:	DECISION ON PETITION
Filed: September 23, 2004	:	
Attorney Docket No. A04P1076	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 22, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before March 19, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed December 18, 2006. Accordingly, the date of abandonment of this application is 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 payment of the issue fee of $1,400.00, (2) the petition fee of $1,500.00; and (3) a proper statement of unintentional delay.

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

Telephone inquiries concerning this decision should be directed to Christopher Bottorff at (571) 272-6052 or in his absence, the undersigned at (571) 272-7099.

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

David Bucel
Petitions Examiner
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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JAYADEEP R. DESHMUKH
RANBAXY INC.
SUITE 2100
600 COLLEGE ROAD EAST
PRINCETON, NJ 08901

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OCT 2 7 2005

OFFICE OF PETITIONS

In re Application of	:	
Viswajanani J. Sattigeri et al	:	
Application No. 10/949,096	:	ON PETITION
Filed: September 24, 2004	:	
Attorney Docket No. RLL-352US	:	

This is in response to the petition under 37 CFR 1.47(a), filed July 14, 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).

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

As to item (1), it is unclear from the petition whether the inventor failed to respond to a request that he sign the declaration or whether the inventor could not be located to sign the declaration. Unless the inventor was presented with a copy of the application papers, he could not attest that he has "reviewed and understand the application papers" and therefore could not rightfully execute the declaration presented to him. Was the inventor presented with a copy of the application papers? See MPEP 409.03(d). If not, petitioner should demonstrate that a copy of the application papers was sent to the last known address of the nonsigning inventor with a

request that he sign the declaration for the patent application. A forwarding address should be requested, if the papers are returned.

On the other hand, if the inventor could not be located, then petitioner must demonstrate the diligent efforts made to locate the nonsigning inventor. The applicable statute (35 USC 116) requires that a "diligent effort" have been expended in attempting to find or locate the nonsigning inventor. See MPEP 409.03(a). The showing currently fails to demonstrate, with a documented showing, that a diligent effort was made to find or locate the nonsigning inventor, such that the declaration can be accepted under 37 CFR 1.47(a). Where inability to find or locate the named inventor is alleged, 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 to locate the inventor. The statement(s) of fact 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.

On the assumption that the nonsigning inventor could not be located, the petition fails to set forth whether any attempts were made to locate the nonsigning inventor on the Internet. The results of the Internet search should be set forth in any request for reconsideration. Additionally, petitioner should state whether he has access to the nonsigning inventor's personnel records and, if so, what does inspection of the records reveal as to a current address, forwarding address, or an address of the nearest living relative? What does inspection of the phone directories for those address locations reveal?

Therefore, at the very least, petitioner should mail correspondence to the nonsigning inventor's last known address, return receipt and/or forwarding address requested. If a forwarding address is provided, petitioner should then mail a complete copy of the application papers to the nonsigning inventor at the address provided, return receipt requested, along with a cover letter of instructions which includes a deadline or a statement that no response will constitute refusal. This sort of ultimatum lends support to a finding of refusal by conduct. If the papers are returned and all other attempts to locate or reach the inventor, e.g., through personnel records, co-workers, E-mail, the Internet or the telephone, etc., continue to fail, then applicant will have established that the inventor cannot be reached or has refused to join in the application. **The statements of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein and should be accompanied by documentary evidence in support of the statement of facts.**

Where there is an express or oral refusal, that fact, along with the time and place of the refusal, must be stated in an affidavit or declaration by the party to whom the refusal was made. Where there is a written refusal, a copy of the document(s) evidencing that refusal must be made part of the affidavit or declaration.

When it is concluded by the rule 47 applicant 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.

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

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

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

By fax: (571) 273-8300

After this decision is mailed, deposit account No. 50-0912 will be charged $200 petition fee.

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

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

JAYADEEP R. DESHMUKH
RANBAXY INC.
SUITE 2100
600 COLLEGE ROAD EAST
PRINCETON, NJ 08901

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FEB 2 8 2006

OFFICE OF PETITIONS

In re Application of	:
Viswajanani J. Sattigeri et al	:
Application No. 10/949,096	: DECISION NOTING JOINDER OF
Filed: September 24, 2004	: INVENTOR AND PETITION
For: TRIAZINES DERIVATIVES AS	: UNDER 37 CFR 1.47(a) MOOT
CELL ADHESION INHIBITORS	:

This is a decision on the petition filed December 22, 2005, requesting reconsideration of a decision mailed October 27, 2005, which refused to accord 37 CFR 1.47(a) status to the above-identified application. Papers filed on December 22, 2005 included a Declaration signed by the previously nonsigning inventor Ramamurthi Narayanan in compliance with 37 CFR 1.63 and 1.64.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is moot; this application does not have any rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

The second petition fee ($200) is unnecessary and will be credited to petitioner's deposit account in due course.

This matter is being referred to Technology Center AU 1624 for examination in due course.

Inquiries related to this decision may be addressed to Wan Laymon at (571) 272-3220.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 04/21/2010

Applicant	: David Ross Ferguson	: DECISION ON REQUEST FOR
Patent Number	: 7581173	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/949,098	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **117** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

Mail Date: 04/21/2010

Applicant	: Karen A. Gee	: DECISION ON REQUEST FOR
Patent Number	: 7577587	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/949,110	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **624** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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JOSEPH R. SNYDER
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
SAN FRANCISCO,CA 94111-3834

COPY MAILED

APR 1 2 2007

OFFICE OF PETITIONS

In re Application of	:	
Tony Wai-Chiu So et al	:	
Application No. 10/949,116	:	DECISION ON PETITION
Filed: September 10, 2004	:	TO WITHDRAW
Attorney Docket No. 021706-000820US	:	FROM RECORD

This is a decision on the Request to Withdraw as Attorney or Agent of record under 37 CFR 1.36(b) filed February 9, 2007.

The request is **APPROVED.**

A review of the file record indicates that the attorneys associated with Customer Number 20350: (1) do not have power of attorney in this patent application since the record fails to disclose that a power of attorney executed by either the applicants or assignee was ever filed in this case; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, the attorneys associated with Customer Number 20350 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).

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) the intervening assignee of the entire interest. In this regard, the revocation and power of attorney submitted on March 5, 2007 is not accompanied by a statement in compliance with 37 CFR 3.73(b), since the statement fails to set forth the chain of title from the inventors to the current assignee. Accordingly, 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. A courtesy copy of this decision is being mailed to the attorneys noted on the request. If the attorneys noted on the request desire to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted.

The application is presently pending before the Examiner for appropriate action in the normal course of business on the reply received November 30, 2006 to the final Office action of August 4, 2006.

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

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Tony Wai-Chiu So
7 Marsden Crescent
Doncaster East
Victoria 3109 Australia

Nath Law Group PLLC
112 South West Street
Alexandria, VA 22314

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 84-08

TO SPE OF : ART UNIT 3751

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/949131 Patent No.: 7389549

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 check claims / Drawings

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

Ennis Young

Certificates of Correction Branch

703-308-9390 ext. 117

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

GREGORY HUSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

SPE

3751
Art Unit

PTOL-305 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8-4-08

TO SPE OF : ART UNIT 3751

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/949,131 Patent No.: 7389549

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 check claims / Drawings

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

Lewis Young

Certificates of Correction Branch

703-308-9390 ext. 117

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

GREGORY HUSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

SPE

3751
Art Unit

PTOL-305 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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McDermott Will & Emery
600 13th Street, NW
Washington, DC 20005-3096

Mail Date: 04/20/2010

Applicant	: Jason Teckoe	: DECISION ON REQUEST FOR
Patent Number	: 7625622	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/949,136	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **210** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI, OH 45202

Mail Date: 04/21/2010

Applicant	: Frank M. Fago	: DECISION ON REQUEST FOR
Patent Number	: 7632246	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/949,137	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1440** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : **September 18,2007**

TO SPE OF : ART UNIT **3634**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/949,138** Patent No.: **7201207 B1**

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

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within **7** days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

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

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

Thank You For Your Assistance

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

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

Comments: _____

BRIAN E. GLESSNER
SUPERVISORY PATENT EXAMINER

Brian E. Glessner
SPE

3634
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Alexandria, Virginia 22313-1450
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PERKINS COIE LLP/MSFT
P. O. BOX 1247
SEATTLE, WA 98111-1247

Mail Date: 04/20/2010

Applicant	: Robert Eric Anderson	: DECISION ON REQUEST FOR
Patent Number	: 7587479	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/949,148	: 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 **1237** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

01 AUG 2006

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

In re Application of POGUE et al. Application No.: 10/949,153 Filing Date: 24 September 2004 Attorney's Docket No.: 62028(51588) For: METHODS OF ADJUVANT PHOTO DYNAMIC THERAPY TO ENHANCE RADIATION SENSITIZATION	DECISION ON PETITION UNDER 37 CFR 1.181

This is a decision on applicant's 27 January 2005 Request for Corrected Filing Receipt, accompanied by previously filed Petition Under 37 CFR 1.181 to Correct International Filing Date, which was originally filed 29 August 2003. No petition fee is required.

On 25 March 2003, applicant filed international application No. PCT/US03/09368 which claimed a priority date of 25 March 2002.

On 29 August 2003, applicant filed a petition under 37 CFR 1.181 in PCT/US03/09368 in the U.S. Receiving Office (RO/US), requesting correction of the international filing date to 25 March 2003, providing a copy of the Express Mail Customer Copy receipt bearing a date of 25 March 2003.

On 05 September 2003, the U.S. Receiving Office mailed a decision granting applicant's request. A Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) mailed on 18 September 2003 was located in the international application file in the RO/US and indicates a receipt date of the International Application as 25 March 2003.

On 24 September 2004, applicant filed a U.S. utility application continuation-in-part to PCT/US03/09368. On 27 January 2005, applicant filed a Request for Corrected Filing Receipt, accompanied by previously filed Petition Under 37 CFR 1.181. A decision was mailed to applicant on 05 September 2003, granting the petition to correct the international filing date to 25 March 2003. Thus, applicant's petition is MOOT. The filing receipt reflects the international filing date of 25 March 2003.

CONCLUSION

As construed above, applicant's petition under 37 CFR 1.181 was granted on 5 September 2003. The petition in 10/949, 153 is considered **MOOT**. The International application PCT/US03/09368 was filed on 25 March 2003. The filing receipt for 10/949,153 reflects a domestic priority date of 25 March 2003.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: (571) 272-3286

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DEC 13 2004

TESTA, HURWITZ & THIBEAULT, LLP
HIGH STREET TOWER
125 HIGH STREET
BOSTON MA 02110

In re Application of :	:
Liu et al.	:
Serial No.: 10/949,163	: PETITION TO MAKE SPECIAL
Filed: December 24, 2003	:
Attorney Docket No.: LS1-002C1	:

This is in response to applicants' petition filed September 24, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(d), based on applicants who are small entities having applications relating to biotechnology.

Applicants have satisfied the provisions set forth in M.P.E.P. 708.02, XII (A), (B), and (C). The $130.00 petition fee as required by 37 CFR 1.17(h) was received. Therefore, the petition is **GRANTED**.

Should there be any questions with regard to this letter please contact Marianne C. Seidel by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile transmission to the general Office facsimile number.

Marianne C. Seidel

Marianne C. Seidel
Special Program Examiner
Technology Center 1600

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September 2005

ROGER A. MARRS
15233 VENTURA BOULEVARD
SUITE 1220
SHERMAN OAKS, CA 91403

SEP - 8 2005

In re Application of: PETER PETTLER Serial No.: 10/949,168 Filed: 24 August 2004 Docket: VI2004001 Title: METHOD AND APPARATUS FOR CONTROLLING ELECTRICAL LIGHTING INSTALLATIONS	DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. § 1.102(c) [ENERGY]

This is a decision on the petition filed on September 24, 2004, to make the above-identified application special under the accelerated examination procedure set forth in MPEP § 708.02(VI) in accordance with 37 C.F.R. § 1.102(c).

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

In support of the petition, the petition provides a statement explaining how the invention materially contributes to reduction of energy consumption.

For accelerated examination under MPEP § 708.02(VI) in accordance with 37 C.F.R. § 1.102(c), a petition must include a statement explaining how the invention materially contributes to the conservation, discovery, or development of energy resources.

The requirements of MPEP § 708.02(VI) are considered to have been met. The application will be advanced out of turn for examination, and will continue to be treated as special throughout the entire prosecution in the Office according to the procedure set forth in MPEP § 708.02.

The application file is being forwarded to the examiner for expedited prosecution.

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.

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

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

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

LUMENERGI
(C/O) THE LAW OFFICE OF ROBERT A. MCLAUCHLAN
POST OFFICE BOX 26780
AUSTIN TX 78755

MAILED

JUL 12 2010

OFFICE OF PETITIONS

In re Application of	:	
Peter R. Pettler	:	
Application No. 10/949,168	:	DECISION ON PETITION
Filed: September 24, 2004	:	
Attorney Docket No. LUME P010US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 16, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to file a proper and timely reply within the meaning of 37 CFR 1.113 to the final Office action of August 5, 2008. Accordingly, the application became abandoned on November 6, 2008. A Notice of Abandonment was mailed April 13, 2009.

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

With regards to item (1), petitioner has failed to submit a Request for Continued Examination (RCE) and an amendment. Petitioner contends that the RCE Transmittal and fee as well as an amendment were "enclosed herewith". However, that is not the case as verified by the Electronic Acknowledgement Receipt (copy enclosed) clearly indicating the transmission of only the two page petition.

With regards to item (2), an attempt to charge the $810.00 petition fee was declined due to the authorized user and / or company not listed on the account.

Therefore, the rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition to revive an abandoned application for patent based on unintentional delay. The petition in the above-identified application was not accompanied by payment of the required fee. **No consideration on the merits can be given to the petition until the required fee is received.**

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

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

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

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

Attachment: Electronic Acknowledgement Receipt of June 16, 2010

Electronic Acknowledgement Receipt

EFS ID:	7829708
Application Number:	10949168
International Application Number:	
Confirmation Number:	4738
Title of Invention:	Method and apparatus for controlling electrical lighting installations
First Named Inventor/Applicant Name:	Peter R. Pettler
Customer Number:	77690
Filer:	Robert Adalbert McLauchlan III
Filer Authorized By:	
Attorney Docket Number:	LUME P010US
Receipt Date:	16-JUN-2010
Filing Date:	24-SEP-2004
Time Stamp:	17:55:59
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	no

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1	Miscellaneous Incoming Letter	LUMEP010USPETITIONTOREVIVE.pdf	82585 b88285fe7b3bf70265b7fce4f5d4241153e2a343	no	2

Warnings:

Information:

Total Files Size (in bytes):	82585

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

New Applications Under 35 U.S.C. 111
If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371
If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

New International Application Filed with the USPTO as a Receiving Office
If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

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THE ECLIPSE GROUP LLP
10605 BALBOA BLVD., SUITE 300
GRANADA HILLS CA 91344

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JAN 23 2009

OFFICE OF PETITIONS

In re Application of	:	
Kusnoto et al.	:	
Application No. 10/949,171	:	DECISION ON PETITION
Filed: September 24, 2004	:	
Attorney Docket No. BK03001USU	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 7, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely and properly reply to the final Office action mailed April 25, 2008. A three-month extension of time under the provisions of 37 CFR 1.136(a) was timely obtained. Accordingly, this application became abandoned on October 26, 2008. A Notice of Abandonment was mailed December 2, 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 $405.00 and the submission required by 37 CFR 1.114 (previously filed on October 27, 2008); (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

The file is now being forwarded to Technology Center 2436 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition and the Amendment previously filed on October 27, 2008.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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IANDIORIO & TESKA
INTELLECTUAL PROPERTY LAW ATTORNEYS
260 BEAR HILL ROAD
WALTHAM, MA 02451-1018

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DEC 1 6 2005

OFFICE OF PETITIONS

In re Application of	:	
William Andrew Nevin et al	:	
Application No. 10/949,174	:	ON PETITION
Filed: September 24, 2004	:	
Attorney Docket No. AD-295J	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 31, 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 non-final Office action mailed April 8, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 9, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of April 8, 2005 is accepted as having been unintentionally delay.

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

This matter is being referred to Technology Center AU 2823.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions

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

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NOV 1 0 2005

OFFICE OF PETITIONS

In re Application of	:	
Andrew Topham, et. al.	:	
Application No. 10/949,191	:	ON PETITION
Filed: September 27, 2004	:	
Attorney Docket No. 200312480-2	:	

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on October 7, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an executed Oath/Declaration, along with the late filing surcharge of $130; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

The Office also acknowledges receipt of a four (4) month Extension of Time filed October 7, 2005. However, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,590 extension of time fee submitted with the petition on October 7, 2005 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

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SUITE 800
WASHINGTON DC 20037

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AUG 0 6 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of
Shoji Wakatsuki
Application No. 10/949,206
Filed: September 27, 2004
Attorney Docket No: Q83725

This is a decision on the petition to withdraw the holding of abandonment, filed July 23, 2007, which is being treated 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 February 1, 2007, for failure to file a timely response to the Final Office Action mailed November 1, 2006, which set a three (3) month statutory period for reply. Accordingly, a Notice of Abandonment was mailed May 24, 2007. 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 to show that the Office Action mailed November 1, 2006 was not received. Petitioner also explains that after searching the file and docket records, where receipt of the office action would have been indicated if it had been received, 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 November 1, 2006, 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 3676 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 05/04/2010

Applicant	: Ennio Bitto	: DECISION ON REQUEST FOR
Patent Number	: 7610795	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/949,222	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/27/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **11** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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SEP 27 2005

TECHNOLOGY CENTER 3600

SHLESINGER, ARKWRIGHT
& GARVEY LLP
300 SOUTH EADS STREET
ARLINGTON, VA 22202

In re application of
Paul Michael Fennessy SR
Application No. 10/949,234
Filed: September 27, 2004
For: METHOD AND APPARATUS FOR FORMING NEW AND RETROFIT DETECTABLE WARNING SURFACES

DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)

This is a decision on the petition submitted on September 27, 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 **DISMISSED**.

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

The evidence submitted with the petition is a photocopy of Paul Michael Fennessy's passport. However, applicant's date of birth has been obliterated, thus making it impossible to determine applicant's date of birth.

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 outlined above. Applicant should promptly submit a renewed petition to the Commissioner of Patents and Trademarks, P.O. Box 1450, Alexandria, VA 22313-1450. The enveloped 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.

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

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(571) 272-6619
Facsimile No.: (571) 272-8300

RAR/dcg: 9/9/05

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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APR 11 2006
OFFICE OF PETITIONS

In re Application of	:
Hiroki Kinugawa et al	:
Application No. 10/949,251	: DECISION GRANTING PETITION
Filed: September 27, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 60188-923	:

This is a decision on the petition, filed April 10, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 17, 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 2819 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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AUG 31 2006

OFFICE OF PETITIONS

In re Application of	:
Hiroki Kinugawa et al	:
Application No. 10/949,251	: DECISION GRANTING PETITION
Filed: September 27, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 60188-923	:

This is a decision on the petition, filed August 28, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 6, 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 2819 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

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OCT 11 2005

Martin P. Hoffman
Hoffman, Wasson & Gitler, P.C.
2461 South Clark St. Suite 522
Arlington, VA 22202

In re application of	:	**DECISION ON PETITION**
Harris Cohen	:	**TO MAKE SPECIAL**
Application No. 10/949,255	:	**(ACCELERATED**
Filed: September 27, 2004	:	**EXAMINATION)**

For: COMBINED TOOTHPICK AND MINT DISPENSER

This is in response to the petition filed on November 29, 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(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 (E) above. In this regard, item (B) is not met because 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. Item (E) is not met because Applicant does not include a detailed discussion of how

the claimed subject matter is patentable over the most relevant references.

For the above stated reason, 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, 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/js: 06/03/05

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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JAN - 9 2006

HOFFMAN, WASSON & GITLER, P.C.
CRYSTAL CENTER 2
2461 SOUTH CLARK STREET – SUITE 522
ARLINGTON, VA 22202

In re application of Harris Cohen Application No. 10/949,255 Filed: September 27, 2004 For: COMBINED TOOTHPICK AND MINT DISPENSER	: : : : : : :	**DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)**

This is in response to the renewed petition filed on December 12, 2005 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

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

Since all of the requirements for special status under MPEP § 708.02 VIII have 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.**

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

KJD/dew: 12/21/05

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WAGNER, MURABITO & HAO LLP
TWO NORTH MARKET STREET, THIRD FLOOR
SAN JOSE, CA 95113

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APR 18 2007

OFFICE OF PETITIONS

In re Application of	:	
Kazuo Wada	:	
Application No. 10/949,259	:	DECISION ON PETITION
Filed: September 24, 2004	:	
Attorney Docket No. SELV-P001	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 29, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed 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 were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on January 10, 2005. A Notice of Abandonment was mailed on August 22, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of an executed Declaration and Power of Attorney for a Patent Application and a $130 surcharge fee for its late filing, (2) the petition fee of $1,500, and (3) an adequate statement of unintentional delay. Accordingly, the failure to timely reply to the Notice of November 9, 2004 is accepted as being unintentionally delayed.

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

This application is being referred to the Office of Initial Patent Examination for further processing in accordance with this decision.

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

Frances Hicks
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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BAKER & MCKENZIE, LLP
PATENT DEPARTMENT
2001 ROSS AVENUE
SUITE 2300
DALLAS, TX 75201

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OFFICE OF PETITIONS

In re Application of	:	
Juan Antonio Ertze Encinas, et. al.	:	
Application No. 10/949,285	:	ON PETITION
Filed: September 27, 2004	:	
Attorney Docket No. 67203177.001100	:	

This is a decision on the petition under 37 CFR 1.137(b), on June 25, 2007, to revive the above-identified application.

The application became abandoned for failure to timely respond to the Restriction/Election Requirement mailed April 24, 2006. A Notice of Abandonment was mailed on March 26, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) an election; (2) the petition fee of $750; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 2875, for further processing.

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

Andrea Smith
Petitions Examiner
Office of Petitions

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393 DARLING STREET
BALMAIN 2041 AU **AUSTRALIA**

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JUN 03 2008

OFFICE OF PETITIONS

In re Application of	:	
Paul Lapstun, et. al.	:	
Application No. 10/949,288	:	ON PETITION
Filed: September 27, 2004	:	
Attorney Docket No. UP16US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on October 25, 2007, to revive the above-identified application.

The application became abandoned for failure to timely respond to the Notice of Allowability mailed November 16, 2006. A Notice of Abandonment was mailed on September 13, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of eight (8) sheets of replacement drawings containing Figures 6, 14-19 and 31; (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

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OFFICE OF PETITIONS

In re Application of
Simon Robert Walmsley
Application No. 10/949,294
Filed: September 27, 2004
Attorney Docket No. PEC15US

: DECISION DISMISSING 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. § 365(c) for the benefit of a prior-filed international application designating the United States of America (Application No. PCT/AU00/00511, filed May 24, 2000).

The petition under 37 CFR 1.78(a)(3) is **DISMISSED AS MOOT**.

The petition seeks acceptance of a late claim for priority to a prior-filed PCT national stage application. More specifically, the amendment filed with the petition seeks to include an amendment to state that application Serial No. 10/949,294 is "a 371 of PCT/AU00/00511, filed May 24, 2000."

As noted in MPEP 1893.03(c)(III), a national stage application filed under 35 U.S.C. § 371 may not claim benefit of the filing date of the international application of which it is the national stage since its filing date is the date of filing of that international application. *See also* MPEP 1893.03(b). In this regard, since the international application is not an earlier application (it has the same filing date as the national stage), a priority claim in the national stage of the international application is inappropriate. Accordingly, it is not necessary for the applicant to amend the first sentence of the specification to reference the international application number that was used to identify the application during international processing of the application by the international authorities prior to commencement of the national stage under 35 U.S.C. § 371.

Since the petition is unnecessary, for the reasons stated above, the petition fee is likewise unnecessary and will be refunded in due course.

This matter is being referred to Technology Center AU 2853 for appropriate processing of the amendment filed February 27, 2006.

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.

Frances Hicks
Lead Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
Silverbrook et al.
Application No. 10/949,307
Filed: September 27, 2004
Attorney Docket No. NPM016US

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 23, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 09/575,128, filed May 23, 2000.

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 Charlema Grant at (571) 272-3215. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1734 for consideration by the examiner of applicants' entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Christina Tarbra Donnell

Christina T. Donnell
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/949,307	09/27/2004	1734	770	NPM016US	5	1

CONFIRMATION NO. 5445

CORRECTED FILING RECEIPT

OC000000025750933

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

Date Mailed: 09/10/2007

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)

Kia Silverbrook, Balmain, AUSTRALIA;
Tobin Allen King, Balmain, AUSTRALIA;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of 10/322,450 12/19/2002 PAT 6,827,116
which is a CON of 09/575,128 05/23/2000 PAT 6,502,614

Foreign Applications

AUSTRALIA PQ0559 05/25/1999
AUSTRALIA PQ1313 06/30/1999
AUSTRALIA PQ5829 02/24/2000

If Required, Foreign Filing License Granted: 12/15/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/949,307

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Wall mounted printer with binding assembly

Preliminary Class

156

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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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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PATTERSON THUENTE CHRISTENSEN PEDERSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS, MN 55402-2100

Mail Date: 04/21/2010

Applicant	: Frederic Deguillaume	: DECISION ON REQUEST FOR
Patent Number	: 7644281	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/949,318	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/27/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1430** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN NSW 2-041 AU AUSTRALIA

In re Patent No. 7,004,566
Issue Date: February 28, 2006
Application No. 10/949,347
Filed: September 27, 2004
Attorney Docket No. ZG032US

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.78(a)(3) AND
: REQUEST FOR CERTIFICATE OF
: CORRECTION
:

This is a decision on the petition, filed March 22, 2006, which is being treated as a petition under 37 CFR 1.78(a)(3), seeking to add a claim for priority under 35 U.S.C. § 120 to prior-filed nonprovisional applications by way of a certificate of correction.

The petition is **granted**.

A review of the file record fails to disclose that a claim for the benefit of priority to the above-noted, prior-filed nonprovisional application was made within the time period set forth in 37 CFR 1.78(a)(2)(ii) and further failed to include a proper reference to the prior-filed application as required by 37 CFR 1.78(a)(2)(i) and 1.78(a)(2)(iii).

The instant application was filed September 27, 2004. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed nonprovisional application after issuance of the application into a patent. *See* MPEP 1481.

A petition for acceptance of a claim for late priority 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.

As the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

Petitioner is advised that the granting of this petition and the mailing of a corrected Filing Receipt should not be viewed as an indication that a determination has been made that this application is entitled to claim benefit of the prior-filed application. A determination that applicant is entitled to claim benefit of the prior-filed application will be made by the Examiner prior to the mailing of a certificate of correction.

It is noted the patent was issued with the correct domestic and foreign priority data.

Any inquiries concerning this decision may be directed to Charlema Grant at (571) 272-3215.

This application is being referred to the Certificates of Correction Branch.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/949,347	09/27/2004	2853	1070	ZG032US	2	7	1

CONFIRMATION NO. 5219
CORRECTED FILING RECEIPT
OC000000020470807
OC000000020470807

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

Date Mailed: 09/18/2006

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)

Kia Silverbrook, Balmain, AUSTRALIA;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of 10/713,095 11/17/2003 PAT 6,840,600
which is a CON of 10/302,566 11/22/2002 PAT 6,849,411
which is a CON of 10/120,346 04/12/2002 PAT 6,582,059
which is a CIP of 09/112,767 07/10/1998 PAT 6,416,167

Foreign Applications

AUSTRALIA PO2592 03/25/1998
AUSTRALIA PO7991 07/15/1997

If Required, Foreign Filing License Granted: 11/20/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/949,347

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

INKJET PRINTHEAD CHIP THAT INCORPORATES MICRO-MECHANICAL LEVER MECHANISMS

Preliminary Class

347

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.

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

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

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Title 37, Code of Federal Regulations, 5.11 & 5.15

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

under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

Mail Date: 04/23/2010

Applicant	: Seiichi Miyanaga	: DECISION ON REQUEST FOR
Patent Number	: 7655744	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/949,390	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/27/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1387** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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November 2005

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
2101 L STREET NW
WASHINGTON, DC 20037-1526

NOV 15 2005

In re Application of:
NORIHITO YANAGITA ET AL.
Serial No.: 10/949,403
Filed: 27 September 2004
Docket: A8319.0060/P060

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. § 1.102(d) [CANCER]

This is a decision on the petition filed on March 03, 2005, to make the above-identified application special as related to cancer under the procedure set forth in MPEP § 708.02, Section (X) in accordance with 37 C.F.R. § 1.102(d).

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

In support of the petition, the attorney/agent registered to practice before the Office states that use of the invention allows an improved technique for a method of counting gamma rays in a nuclear medicine diagnostic apparatus, wherein one implementation includes diagnosing cancer.

For accelerated examination under MPEP § 708.02, Section (X) in accordance with 37 C.F.R. § 1.102(d), the requirements are: (1) the requisite petition fee; and (2) a satisfactory statement explaining how the invention contributes to the diagnosis, treatment, or prevention of HIV/AIDS or cancer.

Advanced prosecution under Section (X) is a commitment by the Office to devote extra resources to expedite the examination of inventions related to promising technology, and is reserved for inventions that directly contribute to the diagnosis, treatment, or prevention of cancer. Inventions having only a tangential relationship to cancer will not, in order preserve the limited resources of the Office, be treated as special.

Neither the claims nor the specification of the instant application mention the phrase "cancer". Nor is the invention focused on improvements for only those areas. Rather, the invention is directed towards improvements in technology for detecting gamma rays. The invention is not, therefore, considered to be in the specific field of cancer. Although improvements in generic sensing technology may provide a benefit to diagnoses of many diseases, any relation to specific advances in the field of cancer is considered to be a tangential rather than a direct or material result of the invention.

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

Any request for reconsideration of this decision must be submitted within 2 (two) months of the date of this decision in order to be considered timely.

Any 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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OFFICE OF PETITIONS

MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

In re Application of	:	
Vahid Saadat	:	
Application No. 10/949,422	:	DECISION ON PETITION
Filed: September 24, 2004	:	TO WITHDRAW
Attorney Docket No. 5091920O0600	:	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 7, 2006.

The request is **MOOT**.

A review of the file record indicates that the power of attorney to MORRISON & FOERSTER LLP, has been revoked by the assignee of the patent application on July 22, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the correspondence address of record until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4914.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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GROSSMAN, TUCKER, PERREAULT & PFLEGER, PLLC
55 SOUTH COMMERICAL STREET
MANCHESTER NH 03101

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OFFICE OF PETITIONS

In re Application of	:	
Jean Pierre Blin, et al.	:	
Application No. 10/949,440	:	DECISION ON PETITION
Filed: September 24, 2004	:	
Attorney Docket No. LAV003	:	

This is a decision in response to the petition, filed June 9, 2009, under 37 CFR 1.181 (no fee) which is being treated as request to accept the response filed June 5, 2009 as timely.

The petition, as construed, is **GRANTED**.

A review of the written record indicates an irregularity in the mailing of the non-final Office action of July 9, 2008. In this regard, the Office received a Change of Correspondence Address on July 18, 2005, prior to the mailing of the Office action of July 9, 2008. Office records were not updated to reflect this new change of address. Consequently, the non-final Office action of July 9, 2008 was mailed to an incorrect address. On February 5, 2009, the Office action was re-mailed, setting a new shortened statutory period for reply of three (3) months. In response on June 5, 2009, petitioner submitted the present petition, an amendment and an appropriate 1-month extension of time.

The non-final Office action of July 9, 2008, is hereby vacated.

This application is being referred to 2614 for appropriate action in the normal course of business on the reply received June 5, 2009.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

PATENT DEPARTMENT (51851)
KILPATRICK STOCKTON LLP
1001 WEST FOURTH STREET
WINSTON-SALEM, NC 27101

In re Application of	:	
Schena et al.	:	DECISION ON APPLICATION
Application No. 10/949,467	:	FOR PATENT TERM ADJUSTMENT
Filed: September 27, 2004	:	
Atty Docket No. 51851-373832	:	

This is in response to the "Petition Regarding Patent Term Adjustment (PTA) Indicated in the Notice of Allowance" mailed June 1, 2009. Applicants request the initial determination of patent term adjustment be corrected from six hundred ninety-seven (697) days to one thousand four hundred twenty-seven (1,427) days.

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

On March 2, 2009, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. Applicants were advised of a patent term adjustment to date of 697 days. In response, applicants timely filed this application for patent term adjustment with payment of the issue fee.

Applicants request the patent term adjustment be corrected to 1,427 days. Specifically, applicants argue the patent term adjustment should have included additional days for Office delay under 37 C.F.R. § 1.702(e) and 37 C.F.R. § 1.702(b).

The first issue raised by applicants is the extent to which, if any, the patent term adjustment mailed with the Notice of Allowance should have been increased as a result of Office delay under 37 C.F.R. § 1.702(e). Applicants allege the patent term adjustment should have been increased by 90 days under 37 C.F.R. § 1.702(e). However applicants do not identify any decision rendered by the Board of Patent Appeals and Interferences or any paper issued by the Board remanding the matter to the examiner. Rather, applicants erroneously calculate this period based on the date the Board completed review of the appeal brief.

The second issue raised by applicants is the extent to which, if any, the patent term adjustment mailed with the Notice of Allowance should have been increased as a result of Office delay under 37 C.F.R. § 1.702(b). Applicants assert the patent term adjustment should have been increased 642 days under 37 C.F.R. § 1.702(b).

37 C.F.R. § 1.705(b) states, with emphasis added, "An application for patent term adjustment under this section *must* be accompanied by ... [t]he fee set forth in § 1.18(e)." Applicants has not submitted the fee under 37 C.F.R. § 1.18(e). Therefore, the merits of the request for review of the patent term adjustment will not be considered. In other words, the request is dismissed for failure to comply with the requirement of paragraph (b)(1) to submit the fee under §1.18(e).

As a courtesy, the Office notes the instant decision does not preclude applicants from seeking review of the patent term adjustment on the patent as it relates to the Office's failure to issue the patent within 3 years of the filing date.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See 37 C.F.R. § 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. Since the USPTO does not calculate the amount of time earned pursuant to 37 C.F.R. § 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 C.F.R. § 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]

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 C.F.R. § 1.705(d) and must include payment of the required fee under 37 C.F.R. § 1.18(e).

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and any applicant delays under 37 CFR 1.704(c)(10) will also 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.

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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.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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PATENT DEPARTMENT (51851)
KILPATRICK STOCKTON LLP
1001 WEST FOURTH STREET
WINSTON-SALEM, NC 27101

Mail Date: 04/30/2010

Applicant	: Bruce M. Schena	: DECISION ON REQUEST FOR
Patent Number	: 7656388	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/949,467	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/27/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1403** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

Mail Date: 04/21/2010

Applicant	: Jong Woo Kim	: DECISION ON REQUEST FOR
Patent Number	: 7656496	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/949,504	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **191** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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SAP/BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 04/26/2010

Applicant	: Michael Wintergerst	: DECISION ON REQUEST FOR
Patent Number	: 7590803	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/949,541	: 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 **365** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 04/21/2010

Applicant	: Jan Dostert	: DECISION ON REQUEST FOR
Patent Number	: 7624395	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/949,543	: 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 **1431** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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P.O. BOX 37428
RALEIGH NC 27627

In re Application of
Scott C. Holt et al
Application No. 10/949,544
Filed: September 24, 2004
Attorney Docket No. 9400-127CT
(01143)

:DECISION GRANTING FILING
:DATE OF September 24, 2004

This is a decision on the petition under 37 CFR 1.10(c), filed November 22, 2004, requesting that the above-identified application be accorded a filing date of September 24, 2004, rather than the presently accorded date of September 25, 2004.

Petitioner requests the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on September 24, 2004 pursuant to 37 CFR 1.10. In support, petitioner has submitted a copy of the Express Mail Label No. EV 473657540 US showing a stamped date of September 24, 2004. The same Express Mail receipt number appears on the original "Utility Patent Application Transmittal." Additionally, petitioner submitted a copy of the USPS Track and Confirmation which which verifies the acceptance date on September 24, 2004 in Raleigh North Carolina.

In view of the above, it is concluded that the application was deposited as "Express Mail" with the USPS on September 24, 2004.

The petition is **granted**.

The application file is being referred to the Office of Initial Patent Examination for processing with a filing date of **September 24, 2004,** and for the mailing of a corrected Filing Receipt.

Telephone inquiries specific to this decision on petition should be directed to Karen Creasy at (571) 272-3208.

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

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David W. Highet, VP & Chief IP Counsel
Becton, Dickinson and Company
(Morgan, Lewis & Bockius, LLP)
1 Becton Drive, MC 110
Franklin Lakes, NJ 07417-1880

Mail Date: 04/26/2010

Applicant	: Javier Alarcon	: DECISION ON REQUEST FOR
Patent Number	: 7629172	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/949,557	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/27/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1079** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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In re Application of :
Takeshi Ido, et al. :
Application No. 10/949,590 :
Filed: September 21, 2004 :
Attorney Docket No.: 16869P-031710US :
:

ON PETITION

This is a decision on the petition, filed January 11, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 30, 2005, using a Certificate of Mailing or Transmission under 37 CFR 1.8 dated December 20, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 2116 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/949,590	09/23/2004	2116	1446	16869P-031710US	12	27	3

CONFIRMATION NO. 4633

CORRECTED FILING RECEIPT

OC000000017977058

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

Date Mailed: 02/02/2006

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)

Takeshi Ido, Tokyo, JAPAN;
Youichi Gotoh, Tokyo, JAPAN;
Shizuo Yokohata, Tokyo, JAPAN;
Shigeo Honma, Tokyo, JAPAN;
Toshiyuki Yoshino, Tokyo, JAPAN;

Assignment For Published Patent Application

Hitachi, Ltd., Tokyo, JAPAN
Hitachi Software Engeneering Co., Ltd., Yokohama, JAPAN

Power of Attorney:

Robert Colwell--27431
William Shaffer--37234
George Yee--37478
Kim Kanzaki--37652

Domestic Priority data as claimed by applicant

This application is a CON of 09/944,946 08/31/2001 PAT 6,904,469

Foreign Applications

JAPAN 2000-300563 09/28/2000

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 US10/949,590

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

STORAGE CONTROL APPARATUS

Preliminary Class

710

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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SEP 11 2008

In re Application of	:	
Ido et al.	:	
Application No.: 10/949590	:	ON PETITION
Filing or 371(c) Date: 09/23/2004	:	
Title of Invention:	:	
STORAGE CONTROL APPARATUS	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 9, 2008, to revive the above-identified application. Applicant asserts in the petition that he did not receive the Office communication. The petition is properly treated as a Petition To Withdraw Holding of Abandonment Based on Failure To Receive an Office Action under 37 CFR 1.181. See, MPEP 711.03(c).

This Petition under 37 CFR 1.181 is hereby **dismissed**.

The petition under 37 CFR 1.137(b) is **held in abeyance**.

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

Background

This application became abandoned for failure to timely pay the issue and publication fees on or before August 30, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed May 30, 2008. Accordingly, the date of abandonment of this application is August 31, 2006.

Petition under 37 CFR 1.181

Applicant files the instant petition and asserts that he did not receive the Notice of Allowance and Fee(s) Due, mailed May 30, 2006.

Applicable Law, Rules and MPEP

The MPEP 711.03(c)A, Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action, provides

> In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133). To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. **The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.** The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions). (Emphasis supplied)

MPEP 711.03(c)

Analysis

Applicant has failed to demonstrate that the Notice was not received. Applicant must, in addition to stating that the Notice was not received, also state that a search of his file jacket and docket records reveals that the Notice was not received, and provide a copy of the file jacket and docket records to this Office where the non-received Notice would have been entered and docketed had it been received. The petition is dismissed without prejudice. Applicant should file a Request for Reconsideration of Petition and include the necessary statements and copies of docket records and file jacket.

A Decision on the petition to revive the application under 37 CFR 1.137(b) will be held in abeyance until final resolution of the petition under 37 CFR 1.181.

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

By mail:	Director for Patents PO Box 1450 Alexandria, VA 22313-1450
By FAX:	(571) 273-8300 Attn: Office of Petitions
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314

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

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

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TWO EMBARCADERO CENTER
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OCT 16 2008

OFFICE OF PETITIONS

In re Application of	:	
Ido et al.	:	
Application No.: 10/949590	:	ON PETITION
Filing or 371(c) Date: 09/23/2004	:	
Title of Invention:	:	
STORAGE CONTROL APPARATUS	:	

This is a decision in response to the "Petition Under 37 CFR 1.137(a) for Revival of an Application for Patent Abandoned Unavoidably," filed September 16, 2008, and supplemented October 13, 2008.

This Petition under 37 CFR 1.137(a) is hereby **granted**[1].

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due, mailed May 30, 2006. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned on August 31, 2006. A Notice of Abandonment was mailed September 29, 2006.

The petition satisfies the requirements of 37 CFR 1.137(a) in that petitioner has supplied (1) the required reply in the form of the issue and publication fees (previously submitted on December 30, 2005); (2) the petition fee; and (3) a showing to the satisfaction of the Director that the entire delay was unavoidable.

---

[1] In view of the grant of the petition under 37 CFR 1.137(a), the fee for the petition under 37 CFR 1.137(b) (to accept unintentionally delayed payment of the issue and publication fees), $1,540.00, filed July 9, 2008, is unnecessary. The fee for the present petition, $540.00, has been deducted, and the balance, $1000.00, has been refunded to petitioner's deposit account.

Applicant noted in the Petition filed September 16, 2008, that $40.00 additional fees for difference of issue fee payment of $1,700 on 12/25/050 was enclosed, however, Office records fail to indicate receipt of this fee. However, and refund the rest.Applicant submitted a $130.00 petition fee for the present petition. The issue fee increased to $1,510.00 on October 2, 2008. An additional $110.00 has been transferred from the $130.00 for the balance of the present issue fee, and an additional refund of $20.00 has also been refunded. The total amount refunded is $1020.00.

The application will be referred to the Office of Data Management for processing into a patent in the normal course of business.

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

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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In re Application of	:	
Ido et al.	:	
Application No.: 10/949590	:	ON PETITION
Filing or 371(c) Date: 09/23/2004	:	
Title of Invention:	:	
STORAGE CONTROL APPARATUS	:	

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 9, 2008.

This Petition is hereby **dismissed as moot**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due, mailed May 30, 2006. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned on August 31, 2006. A Notice of Abandonment was mailed September 29, 2006.

The present petition under 37 CFR 1.137(b) was treated as a petition under 37 CFR 1.181 and dismissed in a Decision mailed September 11, 2008. A Decision on the present petition under 37 CFR 1.137(b) was held in abeyance pending final resolution of the petition under 37 CFR 1.181. Applicant subsequently filed a petition under 37 CFR 1.137(a), which was granted in a Decision mailed October 16, 2008.

In view of the granting of the petition under 37 CFR 1.137(a), the present petition was rendered moot. With the mailing of this Decision, the present petition under 37 CFR 1.137(b) is finally resolved.

The application has been referred to the Office of Data Management for processing into a patent in the normal course of business.

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

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
100 GALLERIA PARKWAY, NW
STE 1750
ATLANTA GA 30339-5948

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JAN 0 5 2005

OFFICE OF PETITIONS

In re Application of :
Montarou, et al. :
Application No. 10/949,602 :
Filed: September 24, 2004 :
Attorney Docket No. 62020-1760 :

NOTICE

This is a notice regarding your December 20, 2004 (certificate of mailing date December 15, 2004) request for acceptance of a fee deficiency submission under 37 CFR 1.28(c).

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**. Office records have been changed to reflect that you are no longer a small entity.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3230.

This file is being forwarded to Technology Center AU 2877 for examination in due course.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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FROM DIRECTORS OFFICE

DEC 0 3 2004

TECHNOLOGY CENTER 3600

DOROTHY S. MORSE, ESQ.
515 PARK DRIVE, NW
BRADENTON, FL 34209

In re application of	:	**DECISION ON PETITION**
Robert Merlin Poffenbarger et al.	:	**TO MAKE SPECIAL**
Application No. 10/949,606	:	**(APPLICANT'S AGE)**
Filed: September 27, 2004	:	
For: TELESCOPING SUPPORT ARM MANAGEMENT DEVICE FOR AWNINGS AND METHOD		

This is a decision on the petition submitted on September 27, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

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

The evidence submitted with the petition is a signed driver license indicating Mr. Poffenbarger is at least 65 years of age.

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

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

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

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

KJD/slb: 11/18/04

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OFFICE OF PETITIONS

STEPHEN L. KING
4642 OYSTER BAY ROAD NW
OLYMPIA, WA 98502

In re Application of	:	
Edmund J. Kelly	:	
Application No. 10/949,611	:	DECISION ON PETITION
Filed: September 24, 2004	:	TO WITHDRAW
Attorney Docket No. Orion03	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed July 21, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Stephen L. King has been revoked by the assignee of the patent application on December 4, 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 undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: ALBERT S. OENILLA, ESQ.
MARTINE, PENILLA & GENCARELLA, LLP
710 LAKEWAY DRIVE
SUITE 200
SUNNYVALE, CA 94085

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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
10/949,611	09/24/2004	Edmund J. Kelly	Orion03

CONFIRMATION NO. 3266

OC000000023644566

Stephen L. King
4642 Oyster Bay Road NW
Olympia, WA 98502

Date Mailed: 05/02/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/04/2006.

- 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).

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

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STEPHEN A GRATTON
THE LAW OFFICE OF STEVE GRATTON
2764 SOUTH BRAUN WAY
LAKEWOOD, CO 80228

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OFFICE OF PETITIONS

In re Application of	:	
James et al.	:	
Application No. 10/949612	:	
Filing or 371(c) Date: 09/24/2004	:	ON PETITION
Attorney Docket Number:	:	
01-0380.1	:	

This decision is in response to the "Notice of Incorrect Spelling of Co-Inventor's Name, filed September 27, 2006. The petition is properly treated under 37 CFR 1.182. The delay in treating this petition is regretted.

MPEP 201.03, Correction of Inventorship in an Application, provides

(B) Where a typographical or transliteration error in the spelling of an inventor 's name is discovered, the Office should simply be notified of the error. A new oath or declaration is not required. See MPEP § 605.04(g). Reference to the notification will be made on the previously filed oath or declaration.

However, "[e]xcept for correction of a typographical or transliteration error in the spelling of an inventor's name, a request to have the name changed from the typewritten version to the signed version or any other corrections in the name of the inventor(s) will not be entertained, unless accompanied by a petition under 37 CFR 1.182 together with an appropriate petition fee.[1]"

MPEP 605.04(b)

Applicant is further advised that

> Although 37 CFR 1.76 does not change the practice in MPEP § 201.03 and § 605.04(b) regarding correction of a typographical or transliteration error in the spelling of an inventor's name whereby all that is required is notification of the error to the Office, the Office strongly encourages the filing of an application data sheet or a supplemental

[1] This Office assumes that the error in inventorship is a a typographical or transliteration error in the spelling of an inventor 's name. If this assumption is incorrect, Applicant should notify this Office immediately and submit the required petition and fee.

application data sheet to correct a typographical or transliteration error in the spelling of an inventor's name. A supplemental oath or declaration is not required.
If applicant merely files a statement notifying the Office of the typographical or transliteration error in the spelling of an inventor's name without submitting an application data sheet or a supplemental application data sheet, any patent to issue is less likely to reflect the correct spelling since the spelling of the inventor's name is taken from the oath or declaration, or any subsequently filed application data sheet.

MPEP 601.05

The petition is hereby **granted**.

The name of inventor Stephen L. James has been changed to Steven L. James and the name Steven L. James has been entered and made of record in the above-identified application.

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

Derek L. Woods
Attorney
Office of Petitions

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PATENT DEPARTMENT (51851)
KILPATRICK STOCKTON LLP
1001 WEST FOURTH STREET
WINSTON-SALEM NC 27101

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JUN 23 2010

OFFICE OF PETITIONS

In re Application	:
Daniel H. Gomez et al.	:
Application No. 10/949,618	: DECISION ON APPLICATION
Filed: September 24, 2004	: FOR PATENT TERM ADJUSTMENT
Attorney Docket No. IMM212	:

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION filed February 15, 2010. Applicant requests that the determination of patent term adjustment be corrected from 829 to 1542 days, in part 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 three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the patent term adjustment relating to those provisions until the patent has issued.

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

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

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

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within two months after issuance pursuant to 37 CFR 1.705(d).

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

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

Anthony Knight
Director
Office of Petitions

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

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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COATS & BENNETT, PLLC
1400 Crescent Green, Suite 300
Cary, NC 27518

Mail Date: 04/21/2010

Applicant	: Robert Douglas Koren	: DECISION ON REQUEST FOR
Patent Number	: 7575706	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/949,647	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1245** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Weaver Austin Villeneuve & Sampson LLP
P.O. BOX 70250
OAKLAND, CA 94612-0250

Mail Date: 07/30/2010

Applicant	: Guglielmo M. Morandin	: DECISION ON REQUEST FOR
Patent Number	: 7656800	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/949,679	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1232** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

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CANCELLED

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In re Application of :
Cruz et al. :
Application No. 10/949687 :
Filing or 371(c) Date: 09/24/2004 :
Attorney Docket Number: :
ALZ5131USANP : ON PETITION

This is a decision on the "Petition to Withdraw Holding of Abandonment Under 37 CFR 1.181(a)", filed September 30, 2006. The delay in treating this petition is regretted.

This Petition is hereby **dismissed**.

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

The above-identified application became abandoned for failure to timely and properly reply to the Notice to File Missing Parts of Nonprovisional Application ("Notice"), mailed November 8, 2004. The Notice set a two (2) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No response having been received, the application became abandoned January 9, 2005. A Notice of Abandonment was mailed August 17, 2005.

The present petition

Applicant files the instant petition and asserts that a timely reply to the Office action was filed on January 7, 2005. In support of this assertion, Applicant files a copy of the Reply, which includes a Certificate of Mailing under 37 CFR 1.8, executed by Lois E. Miller. No statement from Ms Miller attesting to the transmission has been filed.

Applicant also files a copy of an Auto-Reply Facsimile Transmission Report which putatively evidences that Applicant's response was received in this Office on January 7, 2005. A review of the Auto-Reply Facsimile Transmission Report reveals that the application number listed thereon is that of Application No. 10/949,180. The Auto-Reply Facsimile Transmission Report acknowledges receipt of 11 pages from Applicant in Application No. 10/949,180, on January 7, 2006. A review of the application file for Application No. 10/949,180 reveals that a response to

a Notice to File Missing Parts of Nonprovisional Application, mailed November 8, 2004, was filed in that application on January 7, 2005, and consisted of 11 pages.

Applicable Law, Rules and MPEP

37 CFR 1.8(b), Certificate of mailing or transmission, .The MPEP 711.03(c)A, Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action, explains that

> (b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
> (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.
> (c) The Office may require additional evidence to determine if the correspondence was timely filed. (Emphasis supplied).

37 CFR 1.8(b)

Analysis and conclusion

Applicant has failed to demonstrate that a timely reply to the Notice was filed in the present application. The copy of the Auto-Reply Facsimile Transmission Report submitted as evidence of the timely filed reply, identifies Application No. 10/949,180, and not the present application.

Aplicant has also failed to comply with 37 CFR 1.8(b)(3). In this regard, a statement from Ms. Lois E. Miller, which attests on a personal knowledge basis to the previous timely mailing or transmission, is required. The petition is dismissed without prejudice. Applicant should file a request for reconsideration of petition which includes the necessary copies of documents and statement.

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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OFFICE OF PETITIONS

In re Application of	:	
Cruz et al.	:	
Application No. 10/949687	:	
Filing or 371(c) Date: 09/24/2004	:	
Attorney Docket Number:	:	
ALZ5131USANP	:	ON PETITION

This is a decision on the "Petition to Revive an Unintentionally Abandoned Application Under 37 CFR 1.137(b)", filed May 4, 2007.

This Petition is hereby **granted**.

Background

The above-identified application became abandoned for failure to timely and properly reply to the Notice to File Missing Parts of Nonprovisional Application ("Notice"), mailed November 8, 2004. The Notice set a two (2) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No response having been received, the application became abandoned January 9, 2005. A Notice of Abandonment was mailed August 17, 2005.

Applicant filed a petition to withdraw the holding of abandonment under 37 CFR 1.181, on September 30, 2005, which was dismissed in a Decision mailed March 30, 2007, for failing to meet the requirements of a grantable petition under 37 CFR 1.181.

Applicant filed a petition to withdraw the holding of abandonment on September 9, 2005, which was dismissed in a Decision mailed March 30, 2007, for failing to meet the requirements of a grantable petition under 37 CFR 1.181.

The present petition

Applicant files the present petition and petition fee, and a response to the Notice was filed with the petition to withdraw the holding of abandonment under 37 CFR 1.181, on September 30, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that the petition includes (1) the reply in the form of an Amendment; (2) the petition fee; and (3)

the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

This application is being referred to the Office of Initial Patent Examination ("OIPE") for processing of the Reply to the Notice in due course.

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

Derek L. Woods
Attorney
Office of Petitions

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DORSEY & WHITNEY, LLP
INTELLECTUAL PROPERTY DEPARTMENT
370 SEVENTEENTH STREET
SUITE 4700
DENVER CO 80202-5647

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OFFICE OF PETITIONS

In re Application of	:	
Lenzi et al.	:	
Application No. 10/094689	:	
Filing or 371(c) Date: 03/08/2002	:	
Attorney Docket Number:	:	
11048.00	:	ON PETITION

This is a decision on the "Petition to Withdraw Holding of Abandonment Under [37] CFR § 1.181(a)", filed January 20, 2009.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed June 13, 2008. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No response having been received, the application became abandoned on September 14, 2008. A Notice of Abandonment was mailed December 24, 2008.

Applicant's Assertion

Applicant files the present petition and asserts that a timely reply to the Office action was filed electronically, including a three (3) month extension of time and fee, on December 15, 2008[1]. Applicant includes with the petition a copy of the reply, and a copy of an Electronic Filing System ("EFS") Acknowledgment Receipt[2] acknowledging receipt of the reply by this Office on December 15, 2008.

A review of Office records reveal that the Office received, *inter alia*, an amendment and remarks on December 15, 2008. A review of Office finance records reveals that this Office charged Applicant's deposit account the fee for a three (3) month extension of time on December 15, 2008.

---

[1] Accord 37 CFR 1.6.

[2] An acknowledgment receipt is a legal equivalent of a post card receipt described in the Manual of Patent Examining Procedure (MPEP), Section 503. See, 1315 OG 57; 72 Fed. Reg. 2770 (23 Jan 2007).

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

The application will be referred to Technology Center Art Unit 2824 for processing of the amendment and remarks, 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/
Derek L. Woods
Attorney
Office of Petitions

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FROST BROWN TODD, LLC
2200 PNC CENTER
201 E. FIFTH STREET
CINCINNATI OH 45202

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JUN 12 2007

OFFICE OF PETITIONS

In re Application of	:	
William Matthew Salivar, et al.	:	
Application No. 10/949,701	:	DECISION ON PETITION
Filed: September 24, 2004	:	TO WITHDRAW
Attorney Docket No. 0103079-0528173	:	FROM RECORD
	:	

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

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Frost, Brown Todd, LLC has been revoked by the assignee of the patent application on April 9, 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: DONALD F. KING
9302 LEE HIGHWAY
SUITE 1100
FAIRFAX, VA 22030

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
10/949,701	09/24/2004	William Matthew Salivar	0103079-0528173

CONFIRMATION NO. 5845

OC000000024230346

26874
FROST BROWN TODD, LLC
2200 PNC CENTER
201 E. FIFTH STREET
CINCINNATI, OH 45202

Date Mailed: 06/05/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/09/2007.

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

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

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No.

KILPATRICK STOCKTON LLP
46395
ATTN: CHARLES CALKINS
1001 WEST FOURTH STREET
WINSTON-SALEM NC 27101

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FEB 09 2009

OFFICE OF PETITIONS

In re Application of	:	
Miller et al.	:	
Application No. 10/949,711	:	ON APPLICATION FOR
Filed: September 23, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. 021153-000120US	:	
Title: PROCESS FOR PREPARING	:	
UNSYMMETRICAL BIARYLS AND	:	
ALKYLATED AROMATIC COMPOUNDS	:	
FROM ARYLNITRILES	:	

This is in response to the "Communication Regarding Patent Term Adjustment (PTA) Indicated in Notice of Allowance, filed January 7, 2009. Applicant requests that the determination of patent term adjustment be increased by five hundred fifty-five (555) days to one thousand two hundred twenty-nine (1229) days, if the patent issues on Tuesday, April 14, 2009. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b).

Applicant is given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the

patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Applicant may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

The petition fee of $200.00, set forth in 37 CFR 1.18(e), will be charged to Petitioner's Deposit Account in due course, as authorized in the concurrently filed issue fee transmittal. No additional fees are required.

The application is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of

this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

cc: TransTech Pharma, Inc.
4170 Mendenhall Oaks Parkway
High Point, NC 27265

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No.

KILPATRICK STOCKTON LLP - 46395
ATTN: CHARLES CALKINS
1001 WEST FOURTH STREET
WINSTON-SALEM NC 27101

MAILED

JUN 22 2009

OFFICE OF PETITIONS

In re Patent No. 7,507,830	:	
Joseph A. Miller	:	DECISION ON
Issue Date: March 24, 2009	:	REQUEST FOR
Application No. 10/949,711	:	RECONSIDERATION OF
Filed: September 23, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 021153-000120US	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT (PTA)," filed May 19, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from six hundred seventy-four (674) days to one thousand, two hundred seven (1207) days.

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

On January 7, 2009, Applicants filed a "Communication Regarding Patent Term Adjustment (PTA) Indicated in Notice of Allowance." The Office mailed a decision on February 9, 2009, indicating that the matter would be held in abeyance until after the actual patent date.

On March 24, 2009, the above-identified application matured into US Patent No. 7,507,830 with a patent term adjustment of 674 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 $200.00 fee set forth in 37 CFR 1.18(e) was submitted preveniently with the submission of January 7, 2009.

As a preliminary matter, Patentees have miscalculated the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR §1.703(b): Patentees have asserted that this period of time is 547 days, when it is in fact 548 days.

Moreover, Patentees have omitted the 14 days of Office delay pursuant to 37 CFR § 1.702(a)(2): a response to a non-final Office action was received on May 23, 2008, and a notice of allowance was not mailed until October 7, 2008, which is four months and 14 days after the receipt of the submission.

Consequently, *this petition is being construed to contain an assertion that the period of adjustment due to the Three Year Delay by the Office is 548 days, and that there were an additional 14 days of Office delay attributable to the mailing of the notice of allowance.*

Patentees request recalculation of the patent term adjustment to include a 548-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 548 days and the period of adjustment due to other examination delay, pursuant to 37 CFR §1.702(a), of 674 days (660[1] + 14).

The 548-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 March 24, 2009, which is 3 years and 548 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

---

[1] As Patentees have indicated in this petition, this application was filed on September 23, 2004, and a restriction requirement was not mailed until September 14, 2007, which is fourteen months and 660 days after the filing date. As such, this constitutes 660 days of Office delay, pursuant to 37 CFR § 1.702(a)(1).

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 0 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 (548 days) and the period of Examination Delay (674 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 examination delay. Accordingly, Patentees submit that the total period of adjustment for Office delay is 1222 days, which is the sum of the period of Three Year Delay (548 days) and the period of Examination Delay (674 days), reduced by the period of overlap (0 days).

As such, Patentees assert entitlement to a patent term adjustment of 1222 days (548 + 674 reduced by 0 overlap - 0 (applicant delay)).

The Office agrees that the application was pending 3 years and 548 days after its filing date. The Office agrees that the actions detailed above was not taken within the specified time frames, and thus, the entry of a period of adjustment of 674 days for Office delay is correct. At issue is whether Patentees should accrue 548 days of patent term adjustment for the Office taking in excess of three years to issue the patent (548 days less the 0 days of overlap), as well as 674 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the entire 548-day period overlaps. 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[2]

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[2] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-

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.

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 March 24, 2009. 674 days of patent term adjustment were accorded prior to the issuance of the patent for the Office failing to respond within a specified time frames during the pendency of the application. All of the 548 days for Office delay in issuing the patent overlap with the 674 days of Office delay. During that time, the issuance of the patent was delayed by 674 days, not 674 + 548 days. Other than the periods of Office delays pursuant to 37 C.F.R. §§ 702(a)(1) and (a)(2) which total 674 days, the Office took all actions set forth in 37 C.F.R. § 1.702(a) within the prescribed timeframes.

Nonetheless, given the initial 674 days of Office delay and the 0 days of applicant delay and the time allowed within the time frames for processing and examination, the patent issued three years and 548 days after its filing date. The Office did not delay 674 days and then an additional 548 days. Accordingly, 674 days of patent term adjustment (not 674 and 548 days) was properly entered since the entire period of delay of 548 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 674 days attributable to grounds specified in §§ 1.702(a)(1) and (a)(2). Entry of both periods is not warranted. 674 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 548 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.

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section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

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

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[3] (AIPA) provides that:

> ADJUSTMENT OF PATENT TERM. –
>
> (1) PATENT TERM GUARANTEES. –
>
> (A) GUARANTEE OF PROMPT PATENT AND TRADEMARK OFFICE RESPONSES. – Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the Patent and Trademark Office to –
>
> (i) provide at least one of the notifications under section 132 of this title or a notice of allowance under section 151 of this title not later than 14 months after –
>
> (I) the date on which an application was filed under section 111(a) of this title; or
>
> (II) the date on which an international application fulfilled the requirements of section 371 of this title;
>
> (ii) respond to a reply under section 132, or to an appeal taken under section 134, within 4 months after the date on which the reply was filed or the appeal was taken;
>
> (iii) act on an application within 4 months after the date of a decision by the Board of Patent Appeals and Interferences under section 134 or 135 or a decision by a Federal court under section 141, 145, or 146 in a case in which allowable claims remain in the application; or
>
> (iv) issue a patent within 4 months after the date on which the issue fee was paid under section 151 and all outstanding requirements were satisfied, the term of the patent shall be extended 1 day for each day after the end of the period specified in clause (i), (ii), (iii), or (iv), as the case may be, until the action described in such clause is taken.
>
> (B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY. – Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including –

[3] Public Law 106-113, 113 Stat. 1501, 1501A-557 through 1501A-560 (1999).

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

(ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or

(iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

(C) GUARANTEE OR ADJUSTMENTS FOR DELAYS DUE TO INTERFERENCES, SECRECY ORDERS, AND APPEALS. – Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to –

(i) a proceeding under section 135(a);

(ii) the imposition of an order under section 181; or

(iii) appellate review by the Board of Patent Appeals and Interferences or by a Federal court in a case in which the patent was issued under a decision in the review reversing an adverse determination of patentability, the term of the patent shall be extended 1 day for each day of the pendency of the proceeding, order, or review, as the case may be.

(2) LIMITATIONS. –

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

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

(a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be

adjusted if the issuance of the patent was delayed due to the failure of the Office to:

(1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application;

(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[4]:

In pertinent part, 37 CFR § 1.703 provides for calculation of the periods, as follows:

Period of adjustment of patent term due to examination delay.

(a) The period of adjustment under § 1.702(a) is the sum of the following periods:

(1) The number of days, if any, in the period beginning on the day after the date that is fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first;

(b) The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day

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[4] (1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);

(2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);

(3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;

(4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or

(5) Any delay in the processing of the application by the Office that was requested by the applicant.

> 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[5]:

37 CFR 1.703(f) provides that:

> The adjustment will run from the expiration date of the patent as set forth in 35 U.S.C. 154(a)(2). To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed. The term of a patent entitled to adjustment under § 1.702 and this section shall be adjusted for the sum of the periods calculated under paragraphs (a) through (e) of this section, to the extent that such periods are not overlapping, less the sum of the periods calculated under § 1.704. The date indicated on any certificate of mailing or transmission under § 1.8 shall not be taken into account in this calculation.

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[5] (1) The number of days, if any, in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued;

(2)(i) The number of days, if any, in the period beginning on the date an interference was declared or redeclared to involve the application in the interference and ending on the date that the interference was terminated with respect to the application; and (ii) The number of days, if any, in the period beginning on the date prosecution in the application was suspended by the Office due to interference proceedings under 35 U.S.C. 135(a) not involving the application and ending on the date of the termination of the suspension;

(3)(i) The number of days, if any, the application was maintained in a sealed condition under 35 U.S.C. 181; (ii) The number of days, if any, in the period beginning on the date of mailing of an examiner's answer under § 41.39 of this title in the application under secrecy order and ending on the date the secrecy order was removed; (iii) The number of days, if any, in the period beginning on the date applicant was notified that an interference would be declared but for the secrecy order and ending on the date the secrecy order was removed; and (iv) The number of days, if any, in the period beginning on the date of notification under § 5.3(c) of this chapter and ending on the date of mailing of the notice of allowance under 35 U.S.C. 151; and,

(4) The number of days, if any, in the period beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and § 41.31 of this title and ending on the date of the last decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145, or on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first, if the appeal did not result in a decision by the Board of Patent Appeals and Interferences.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

VERTEX PHARMACEUTICALS INC.
130 WAVERLY STREET
CAMBRIDGE MA 02139-4242

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NOV 19 2008

OFFICE OF PETITIONS

In re Application of :
Binch, et al. :
Application No. 10/949,714 :
Filed: September 23, 2004 :
Attorney Docket No. VPI/03-104 US :
For: COMPOSITIONS USEFUL AS
INHIBITORS OF PROTEIN KINASES

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 24, 2008, to revive the above-identified application.

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

This application became abandoned for failure to timely reply to the Restriction Requirement, mailed October 9, 2007, which set a one month shortened statutory period for reply. No extension of time having been obtained pursuant to 37 CFR 1.136(a) and no reply being received in the Office, this application became abandoned on November 10, 2007. A Notice of Abandonment was mailed on May 22, 2008.

Applicants have submitted a proper reply to the Restriction Requirement in the form of an election, an acceptable statement of the unintentional nature of the delay in responding to the Restriction Requirement, and the petition fee. Accordingly, the petition under 37 CFR 1.137(b) is granted.

After the mailing of this decision, the file will be returned to Technology Center AU 1625 for consideration of the election filed on September 24, 2008.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

10-12-07

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

Patent No. : 7,208,748
Inventor(s) : Alan Sliski, et. al.
Issued : April 24, 2007
For: PROGRAMMABLE PARTICLE SCATIERER FOR RADIATION THERAPY BEAM FORMATION

Re. Request for Certificate of Correction

Consideration has been given your request under the provisions of Rule 1.322.

The alleged error in col. 9 and 10 is a change made in an Examiner's Amendment at time of allowance. Since no error is involved and since applicant filed no objection prior to payment of the base issue fee, the requested change will not be included in the Certificate.

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

Further correspondence concerning this matter, should be directed to:

U.S. Patent and Trademark Office
Washington, DC 20231
Attn: Decisions & Certificates of Correction Branch

Eva James
For Cecelia B. Newman
Decisions & Certificate
of Correction Branch
(703) 308-9390 ext.124 or (703) 305-8309

Alexander Akhiezer
Hamilton, Brook, Smith & Reynolds
530 Virginia Road
P.O. Box 9133
Concord, Mass. 01742-9133

ej

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SUITE 800
WASHINGTON DC 20037

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APR 09 2008

OFFICE OF PETITIONS

In re Application of	:	
Tatsuya Aoyama	:	
Application No. 10/949,745	:	DECISION DISMISSING
Filed: September 27, 2004	:	PETITIONS
Attorney Docket No. Q83873	:	

This is a decision on the petition under 37 CFR 1.181 (no fee) to withdraw the holding of abandonment filed July 23, 2007. This is also a decision on the petition filed July 23, 2007, under 37 CFR 1.137(b), to revive the above-identified application.

The petitions are **DISMISSED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice To File Missing Parts Of Nonprovisional Application (Notice) mailed December 13, 2004 and to the Notice Of Incomplete Reply mailed April 5, 2005.

On December 13, 2004, the Office of Initial Patent Examination mailed the Notice To File Missing Parts Of Nonprovisional Application, notifying applicant that the below required items must be submitted to avoid abandonment:

- Basic Statutory Filing Fee
- The oath or declaration
- English translation of the specification and statement the translation is accurate.
- English translation of the application, the $130 fee unless previously submitted, and a statement that the translation is accurate (37 CFR 1.52(d).
- Replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121.

Total additional fees due:

790 (statutory basic filing fee

$130 Late oath or declaration surcharge

$130 for English translation surcharge

A response to the Notice was received on March 14, 2005 in the USPTO. However, the copy of the executed Declaration and Power of Attorney was not submitted as noted on the postcard receipt of March 14, 2005.

On April 5, 2005, the Office mailed a Notice Of Incomplete Reply to let applicant's know that the oath or declaration was missing from the filing on March 14, 2005, and that the period for reply remains as set forth in the Notice mailed December 13, 2004.

On June 22, 2007, a Notice of Abandonment was mailed.

On July 23, 2007, the above petition was received and included copies of all papers submitted on March 14, 2005. However, a copy of an executed declaration was not provided.

In view of the above, the petition under 37 CFR 1.181(a) is dismissed.

As to the matter under 37 CFR 1.137(b):

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

A careful review of the file record do not show a copy of an executed declaration submitted with the papers on March 14, 2005.

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

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

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

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

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

As to Period (1):

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

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within

the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (over two(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. 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 Sughrue Mion, PLLC was counsel of record at the time of abandonment, Sughrue Mion, PLLC should explain why this application became abandoned while it was under their control and what efforts made to further reply of itself and with whom this matter was discussed outside of Suughrue Mion, PLLC. 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), Sughrue Mion, PLLC and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons then at Sughrue Mion, PLLC, and the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

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

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

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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SUGHRUE, MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

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AUG 26 2008

OFFICE OF PETITIONS

In re Application of :
Tatsuya Aoyama :
Application No. 10/949,745 : DECISION ON PETITION
Filed: September 27, 2004 :
Attorney Docket No. Q83873 :

This is a decision on the paper entitled: "REQUEST FOR RECONSIDERATION OF PETITION FOR WITHDRAWAL OF HOLDING OF ABANDONMENT UNDER 37 C.F.R. § 1.181(a) OR ALTERNATE PETITION UNDER 37 C.F.R. § 1.137(b) FOR REVIVAL OF UNINTENTIONALLY ABANDONED APPLICATION.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Notice To File Missing Parts Of Nonprovisional Application (Notice) mailed December 13, 2004 and to the Notice Of Incomplete Reply mailed April 5, 2005.

Petitioner states that a reply was in fact timely filed. To support this assertion, petitioner has submitted a copy of a return postcard which acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on March 14, 2005 of, *inter alia,* an executed declaration. A copy of the previously submitted reply accompanies the petition.

The copy of the executed declaration acknowledged as having been received in the USPTO on March 14, 2005 is not of record in the application file and has not to date been located. However, MPEP 503 states that "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the executed declaration was timely received in the USPTO but lost after receipt thereof.

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

The copy of the reply supplied with the petition will be accepted in place of the reply shown to have been received by the USPTO on March 14, 2005.

The petition under 37 CFR 1.137(b), is dismissed in view of the granting of the petition under 37 CFR 1.181.

Petitioner may request a refund of the petition fee of $1,500 by writing to the Office of Finance Refund Section. A copy of this decision should accompany the request.

This application 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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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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CHENG-YUAN HUANG
7F., No.213 Civic Boulevard Sec.4
Taipei 105, TW
TAIWAN, ROC

AIRMAIL

MAY 25 2007

In re Application of: CHENG-YUAN HUANG Serial No.: 10/949,759 Filed: September 27, 2004 Attorney Docket No.: **P02655-F001**	: : : : :	DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed January 09, 2006, withdraw the holding of abandonment in the above-identified application under 37 C.F.R. § 1.181. No fee is required.

The petition is **GRANTED.**

The application was held abandoned for failure to timely file a response to the Office action mailed on May 15, 2005. A Notice of Abandonment was mailed on November 29, 2005.

Petitioner asserts that the Office action mailed on May 15, 2005, was not received. To support this assertion, petitioner provided a statement attesting that a search of the file jacket and docket records showed that the Office action was not received. A copy of the file docket where the Office action would have been entered was provided in the supplement to petition.

A review of the written record indicates that the correspondence address to which the Office action was mailed appears to be incomplete. Accordingly, it cannot be presumed that the final Office action reached practitioner. Therefore, the application was not abandoned in fact.

For the above stated reason, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The application file is being forwarded to the Technology Center 2800 support staff for re-mailing the Office action. The shortened statutory period for response set therein will be reset to run from the date the Office action is re-mailed. Extensions of time are available under 37 C.F.R. § 1.136.

Inquiries regarding this decision should be directed to Clayton E. LaBalle at (571) 272-1594.

Richard K. Seidel, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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MOMENTIVE PERFORMANCE MATERIALS INC.-Quartz
c/o DILWORTH & BARRESE, LLP
333 Earle Ovington Blvd.
Uniondale, NY 11553

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DEC 04 2007

OFFICE OF PETITIONS

In re Application of :
David Michael Rusinko, et. al. :
Application No. 10/949,785 :
Filed: September 24, 2004 :
Attorney Docket No. 131820-2 :

ON PETITION

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

The application became abandoned for failure to timely respond to the Notice of Allowance and Fee(s) Due mailed November 13, 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 $1,400 for payment of the issue fee and $300 for payment of the publication fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

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

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SHELL OIL COMPANY
P.O. BOX 2463
HOUSTON, TX 77252-2463

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In re Application of	:	
Brown et al.	:	
Application No. 10/949,790	:	DECISION ON PETITION
Filed: September 24, 2004	:	
Attorney Docket No. TH2290 (US)	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 2, 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 August 2, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 3, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $1,540.00, and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

This application is being referred to Technology Center AU 1797 for appropriate action by the Examiner in the normal course of business on the reply received.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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September 2005

TASER INTERNATIONAL, INC.
17800 N. 85TH STREET
SCOTTSDALE, AZ 85255-9603

SEP - 8 2005

In re Application of:
MAGNE NERHEIM
Serial No.: 10/949,828
Filed: 24 September 2004
Docket: 101.00035
Title: SYSTEMS AND METHODS FOR IMMOBILIZATION USING SELECTED ELECTRODES

DECISION ON PETITION TO MAKE SPECIAL (COUNTERING TERRORISM)

This is a decision on the petition filed on January 5, 2005, to make the above-identified application special under the accelerated examination procedure set forth in MPEP § 708.02(XI) in accordance with 37 CFR § 1.102 (2004).

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

The petition being based upon countering terrorism, the applicable rule is 37 CFR 1.102(c). Under 1.102(c), no fee is required, but a statement explaining how the invention materially contributes to countering terrorism is necessary.

In the USPTO's final rule amending 37 CFR 1.102 to eliminate the fee requirement for petitions to make special, the following standard was set for determining whether a invention qualified as "materially...countering terrorism":

> The materiality standard does not permit an applicant to speculate as to how a hypothetical end-user might specially apply the invention in a manner that could counter terrorism. Nor does such standard permit an applicant to enjoy the benefit of advanced examination merely because some minor aspect of the claimed invention may be directed to countering terrorism...
>
> Applicants are reminded that any identification of a basis for requesting special status and a statement of compliance with the technology specific requirement for special status must be based upon a good faith belief that the invention in fact qualifies for special status. *see* §§ 1.56 and 10.18...

> *Comment 65:* The Office has received internal comments expressing concern that some applicants may view the lack of a petition fee as an inducement to file petitions where the nexus between the invention and the countering of terrorism is "strained."
>
> *Response:* The comment has been adopted in part. The discussion of the rule amendment has focused on the need for applicants to recognize the "material" aspect of the claimed invention's relationship to countering terrorism, which will be further addressed in an MPEP revision. In view of such discussion, 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. 56382, 56511 (Sept. 21, 2004).

Applicant's statement alleged that the invention concerned stopping violent acts, including stopping a terrorist from committing a violent act and communicating to his assistants.

However, the application to countering terrorism is only a small subset of the applications of the claimed invention, which contains no claims specifically directed to terrorism, and is instead directed to the general area of electrical immobilization. It is noted that the first claim requires movement of the target into an electrode, rather than an act by a device user to cause the device to immobilize the target which might be expected in effectively stopping a violent terrorist act through use of the device in the manner set forth in the petition. The main benefit of the invention appears to be directed towards improved electrical immobilization, and not any improvement in the method of countering terrorism.

The counter-terrorism aspect of this invention appears to be tangential rather than material. Classifying this invention as an anti-terrorism device does not rise to the level of materiality intended by the Rules. In order for the Office to concentrate its resources on inventions which will materially counter terrorist activities, inventions not possessing a direct impact on such activities will not be made special.

This application will therefore be taken up by the examiner for action in its regular turn.

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

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

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THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI OH 45202

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OFFICE OF PETITIONS

In re Application of
Erik John Hasenoehrl et al.
Application No. 10/949,833
Filed: September 24, 2004
Attorney Docket No. 9370M

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 21, 2010, to revive the above-identified application.

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Matthew A. Molloy appearing on the petition shall constitute a representation to the United States Patent and trademark Office that petitioner is authorized to represent the particular party on whose behalf he acts. If, Mr. Malloy desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record

The petition is **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 January 8, 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) months extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is July 9, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

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

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

This application is being referred to Technology Center AU 1615 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.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Matthew A. Molloy
Dinsmore & Shohl LLP
Fifth Third Center
One South Main Street
Suite 1300
Dayton, OH 45402

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OFFICE OF PETITIONS

DANIEL S. ORTIZ
120 DEVOE ROAD
CHAPPAQUA NY 10514

In re Application of	:	
JOACHIM H. NEUBAUER	:	
Application No. 10/949,836	:	DECISION ON PETITION
Filed: 09/24/2004	:	
Attorney Docket No. 0401	:	

This is a decision on the petition filed September 10, 2007, which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

On November 12, 2004, the Office mailed a Notice to File Corrected Application Papers, which set a period of two months to reply. Extensions of time were permitted under the provisions of 37 CFR 1.136(a). In the absence of a timely filed reply, the application became abandoned on January 13, 2005. The Office mailed a Notice of Abandonment on July 6, 2007.

Petitioner asserted that he filed a timely reply to the Notice to File Corrected Application Papers. In support of the assertion, petitioner submitted a copy of the response and a date-stamped postcard receipt, acknowledging receipt of "1. Substitute Specification, 2. Replacement Drawings, 3. Copy of Notice to File Corrected Application 10/949,836" on January 14, 2005.

Upon reviewing the record, the reply was not located among the papers in the Image File Wrapper. The date-stamped postcard receipt serves as prima facie evidence of receipt of the reply on January 14, 2005. See MPEP 503. The copy of the reply contained a certificate of mailing dated January 12, 2004. Therefore, petitioner is relying of the certificate of mailing as evidence of the timely filing of the reply.

Pursuant to 37 CFR 1.8(b):

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time

has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

Initially, the Office notes that Mr. Ortiz mistakenly indicated the date on the certificate of mailing as January 12, 2004. However, it is obvious from the facts present in the case that Mr. Ortiz mailed the reply on January 12, 2005, but made a typographical error when completing the certificate of mailing. Accordingly, the petition satisfies the requirements of 37 CFR 1.8(b). The holding of abandonment for failure to file a timely reply to the Notice to File Corrected Application Papers is withdrawn and the application is restored to pending status.

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

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

Conferee: Brian Hearn

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OFFICE OF PETITIONS

GUERIN & RODRIGUEZ, LLP
5 MT. ROYAL AVE.
MARLBORO, MA 01752

In re Application of	:	
Douglas R. Sullivan et al	:	
Application No. 10/949,852	:	ON PETITION
Filed: September 24, 2004	:	
Attorney Docket No. EMC-009 (EMC-04-202)	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 15, 2009, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Office action mailed November 13, 2008, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). Accordingly, the above-identified application became abandoned on December 14, 2008.

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

This matter is being referred to Technology Center AU 2444 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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& RISLEY, L.L.P.
100 GALLERIA PARKWAY, SUITE 1750
ATLANTA, GA 30339

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JAN 07 2005

OFFICE OF PETITIONS

In re Application of :
Carole C. Montarou et al :
Application No. 10/949,855 : NOTICE
Filed: September 24, 2004 :
Attorney Docket No. 62020-1770

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

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

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

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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FEB - 1 2005

In re Application of	:	
Kirk Evans, et al.	:	
Serial No. 10/949,868	:	DECISION ON PETITION
Filed: September 24, 2004	:	TO MAKE SPECIAL
For: POOL CUE SYSTEMS	:	

Applicant's petition, filed September 24, 2004, seeks to have this application made special pursuant to the Accelerated Examination Program. The petition is GRANTED.

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

Applicant is advised that the examiner's search will be restricted to the subject matter encompassed by the claims. In the event that the application receives a first action rejection, applicant is encouraged to arrange for an interview with the examiner, and to provide the examiner with a working copy of any proposed amendment one working day prior to the interview. Any amendment filed in response to a first action rejection which would require broadening of the field of search will be treated as an improper response.

PETITION GRANTED

E.R. Kazenske, Director
Technology Center 3700

Keith L. Jenkins
2222 North McQueen Road, #2069
Chandler, AZ 85225

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FEB 10 2005

In re Application of	:	
Kirk B. Evans et al.	:	
Serial No. 10/949,868	:	DECISION ON PETITION
Filed: September 25, 2004	:	TO MAKE SPECIAL
For: POOL CUE SYSTEMS	:	

Applicant's petition, filed September 25, 2004, seeks to have this application made special pursuant to the Accelerated Examination Program. The petition is GRANTED.

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

Applicant is advised that the examiner's search will be restricted to the subject matter encompassed by the claims. In the event that the application receives a first action rejection, applicant is encouraged to arrange for an interview with the examiner, and to provide the examiner with a working copy of any proposed amendment one working day prior to the interview. Any amendment filed in response to a first action rejection which would require broadening of the field of search will be treated as an improper response.

PETITION GRANTED.

E R Kazenske

E. R. Kazenske, Director
Technology Center 3700

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JUN 13 2006

Keith L. Jenkins
2222 North McQueen Road, #2069
Chandler, AZ 85225

In re Application of: Kirk Evans, et al
Appl. No.: 10/949,868
Filed: September 25, 2004
For: POOL CUE SYSTEMS

: DECISION ON PETITION

This is a decision on the petition filed on July 29, 2005 by which petitioners request that the finality of the rejection dated May 10, 2005 be held to have been premature. In view of the allegedly premature final rejection, petitioners request relief by invoking the Director's supervisory authority to:

1. direct the Examiner to withdraw the Final Office Action as premature and to reopen prosecution;
2. rule that the final element of the Examiner's alleged prima facie cases of anticipation (inherency of the last element of claim 1) is waive as untimely and that, as a result, the Examiner's alleged prima facie cases of anticipation fail;
3. assign a different patent examiner in this case; and
4. assure the applicant with a full and fair opportunity to be heard in rebutting the complete alleged prima facie cases of anticipation.

The petition is considered pursuant to 37 CFR 1.181, and no fee is required for the petition.

The petition is dismissed.

Facts in the Record and Facts Presented by Petitioners

A review of the relevant prosecution history shows that the examiner promulgated a first office action on the merits on April 1, 2005. The first office action contains a rejection of claims 1-6 and 8-10 based on the prior art references to Gibney, Preast, Williams and Holt. Claims 7, 11-20 were withdrawn from consideration as the result of a telephone election. In response to the examiner's first office action, on April 12, 2005 the applicant filed a response to the first office action with appropriate arguments, additional claim 21 and confirmation of election with traversal. On May 10, 2005, the examiner issued a final rejection rejecting claims 1-6 and 8-10 based on the same references applied in the first office action and withdrew non-elected claims 7, 11-21 from further consideration. After receipt of the final rejection, a telephone interview was conducted on May 17, 2005 between the applicant's attorney and the examiner. During the interview the examiner explained that the marks of Gibney and Preast were capable of being used as claimed and therefore inherently met the limitations as to the icon limitations. In

response to the final rejection, on June 5, 2005 the applicant filed an amendment after final under 37 CFR 1.116 and request for withdrawal of finality of the final rejection. The amendment after final added additional new claims 22-32 and with no amendment to finally rejected claims 1-6 and 8-10. Subsequently, the examiner promulgated an advisory action and refused entry of the newly added claims 22-32. On July 29, 2005, 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 May 10, 2005 pursuant to MPEP 706.07(d).

Relevant Disclosed Inventions

A review of the application and of the claims shows that the claimed invention is a pool cue system with at least one graphical icon on the pool cue shaft adapted to be observed with the shooter's peripheral vision while shooting pool. The icons are aligned along the longitudinal axis of the pool cue shaft at predetermined distances indicative of game parameters such as stroke lengths, stroke speed, stroke force, target distance and bridge hand location, etc. The icons are adapted to enable easy peripheral observation of pool cue stick motion while shooting pool with the eyes focused on an object billiard ball. The icons may be decorative. An icon location may be adjustable.

Petitioners' Position

The petitioners are of the opinion that final rejection of 5/10/05 was improper because the examiner failed to clearly explain the pertinence of each reference under 37 CFR 1.104 (c) (2) and answered the applicant's arguments as required by MPEP 707.07(g). Consequently, the applicant was deprived an opportunity to be heard. The Petitioner also stated that the examiner failed to establish a prima facie case of anticipation in the final rejection under 35 USC 102(b).

Analysis of Application Record

37 CFR 41.31(a)(1) states:
Every applicant, any of whose claims has been twice rejected, may appeal from the decision of the examiner to the Board by filing a notice of appeal accompanied by the fee set forth in § 41.20(b)(1) within the time period provided under § 1.134 of this title for reply.

37 CFR 1.181(a)(1) states:
Petition may be taken to the Director: From any action or requirement of any examiner in the ex parte prosecution of an application, or in ex parte or inter partes prosecution of a reexamination preceding which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court.

In the first office action of 4/1/05, the examiner rejected claims 1-3, 5, 6, 9, and 10 under 35 U.S.C. 102(b) as anticipated by the UK patent to Gibney. In essence, Gibney patent shows an icon along the shaft from the ferrule-receiving portion of the shaft and are used for aiming. The examiner also rejected claims 1-6, 9, and 10 under 35 U.S.C. 102(b) as anticipated by the US patent to Preast because the patent shows differently colored laminates forming directional pointers along the cue shaft and may be used for aiming and thus meet the limitations of the claims. Dependent claim 8 was separately rejected under 35 U.S.C. 103(a) over Williams in view of Holt. Particularly, in the rejection the examiner stated "Williams discloses that it is known in

the art for manufacturers to provide a cue with special marks desired by a retailer. It would have been obvious to one of ordinary skill in the art that these marks would have included trademarks as that is what is typically placed on a product it identify its origin. Williams only discusses placing such marks on the butt end but as disclosed by Holt, (Col. 1, lines 12-22) it is known in the art to place marks along the cue. It would have been obvious to one of ordinary skill in the art to have done the same with Williams marks if such a visibility was desired by the user or retailer. Furthermore, such marks would inherently be useful as aiming points".

In response filed on April 12, 2005, the applicant argued that both patents to Gibney and Preast do not disclose "wherein said at least one icon is located at least one predetermined distance axially along the pool cue shaft from the ferrule-receiving portion of said pool cue shaft; and said at least one predetermined distance has a relationship to at least one game parameter". With regard to claim 8 under 35 USC 103 rejection, the applicant argued that the combination of Williams and Holt do not teach or suggest all elements. Particularly, the patents to Williams and Holt do not teach or suggest "said at least one icon is located at least one predetermined distance axially along the pool cue shaft from the ferrule-receiving portion of said pool cue shaft; and said at least one predetermined distance has a relationship to at least one game parameter" and "wherein said at least one icon comprises at least one trademark logo". There was also no suggestion or motivation to combine Williams and Holt.

In the final rejection of 5/10/05, the examiner rejected claims 1-3, 5, 6, 9, and 10 again under the same rejections as stated in the first office action. The examiner responded to the applicant's arguments by stating "Gibney's icons 14 are located at a predetermined distance along the shaft and this distance, as is all of the icon marking, is related to aiming the cue. This is all that is required by the claims". The examiner also responded to the applicant's arguments by pointing that "Preast's colored laminates may be considered icons and are located at a predetermined distance along the shaft and this distance, as is all of the icon marking, may be used to aim the cue. This is all that is required by the claims. How the markings are used is not at issue". With regard to claim 8, the examiner stated that "Williams teaches the use of special marks or "trademarks"" may be located on the cue. These marks are icons, and, as disclosed by Holt, such may be located at predetermined distances along the shaft. This is the teaching Holt is being cited for - not the construction of his particular stick itself. The examiner has not suggested placing icons over Holt's stick at all let alone the lighted portions. The predetermined distances in marking a cue such as taught by Holt, as with all of the icon marking, may be used to aim the cue. This is all that is required by the claims. How the markings are used is not at issue".

In view of the totality of the first office action of 4/1/05 and the applicant's response of 4/12/05, the issue of whether or not the prior art references show such "predetermined distance" was reached as indicated in the final rejection of 5/10/05. It is apparent from the record the examiner has interpreted the claim language regarding "wherein said at least one icon is located at least one predetermined distance axially along the pool cue shaft from the ferrule-receiving portion of said pool cue shaft; and said at least one predetermined distance has a relationship to at least one game parameter" as only an icon along the shaft from the ferrule-receiving portion of the shaft and are used for aiming. The examiner deemed the predetermined distance is always and clearly shown by the drawings of the prior art references and did not dwell on the claimed "predetermined distance" because the claims are anticipated by the prior art patents.

Petitioners also argued that the examiner's position was not clear until the telephone interview of 5/17/05 after issuance of the final rejection. This argument is not convincing. The interview record indicated that the examiner merely explained the marks of Gibney and Preast were capable of being used as claimed and therefore the limitations regarding icon and predetermined distance are inherently met. It should be noted that inherency issue was brought up in the first office action. The examiner's comments in the interview record were consistent with the first and final office actions. Again in view of the totality of the first office action and the applicant's response on 4/12/05, the issue regarding the predetermined distance in the prior art references to Gibney, Preast or Williams has a relationship to at least one game parameter was clear when the final rejection was issued.

Applying the plain language of 37 CFR 1.181(a)(1), it is clear that petitioners' arguments will not support the requested relief, because the relief requested is simply not the type of relief that can be obtained by petition. The issue presented by petitioners, are clearly directed to the propriety of the examiner's interpretation of the language of the claims and prior art references, and whether the examiner's final rejection of the claims is legally proper in view of the law governing claim interpretation. The question of whether the prior art defeats patentability of claims, or fails to do so when the claim is properly interpreted, or fails to establish prima facie case is clearly an appealable issue. Petitioners' attempt to characterize the examiner's legal position regarding the patentability of claims into procedural error of promulgating a premature final rejection because the examiner has refused to agree with petitioners' position regarding the proper interpretation of the claimed limitation "said at least one predetermined distance 312 has a relationship to at least one game parameter" in light of the general game parameter in shooting pool, fails, because the record shows that petitioners and the examiner have arrived at a clear issue. That issue is whether or not the predetermined distance in the prior art references to Gibney, Preast or Williams inherently has a relationship to at least one game parameter. The question of whether the examiner is right (and if so, whether one or more claims are unpatentable), or wrong (and the claims are patentable), is a matter for appeal, not for petition.

Conclusion

For the foregoing reasons, the relief requested by petitioners will not be granted. Specifically, the examiner's final rejection was not premature because a clear issue on the interpretation of claim language has been reached between the petitioners and the examiner. There is no basis for withdrawing the finality of the 5/10/05 Office action, or reopening the examination of the claims. With regard to the prima facie cases of anticipation, this is an appealable issue as discussed, supra. Since the examiner did not abuse his discretion, or act in an arbitrary or capricious manner, in making the May 10, 2005 Office action final, then, there is no basis to re-assign the case to another examiner. It is noted that the appeal brief was filed on 8/25/05, a full and fair opportunity to be heard will be accorded by the Board of Appeals and Interferences.

The application is being forwarded to the Supervisory Patent Examiner of Art Unit 3711 for further processing. Petitioners 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. Petitioners are reminded that the mere filing of the instant petition or the filing of renewed

petition will not stay and period for reply that may be running against the application, nor act as a stay of other proceedings. See 37 CFR 1.181(f).

PETITION DISMISSED

Karen M. Young

Karen Young, Director
Technology Center 3700

HY

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KEITH L. JENKINS
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JUN 04 2007

In re Application of:
Evans, Kirk Boyd, et al.
Serial No. 10/949,868
Filed: September 25, 2004
Docket: EV04004
Title: POOL CUE SYSTEMS

DECISION ON PETITION

This is a decision on the petition filed on August 11, 2006. It is construed as a petition filed under 37 CFR § 1.181. No fee is required.

The petition is denied.

Background

Petitioner is requesting reconsideration of the dismissed petition (hereinafter, referred to as the "earlier decision") mailed June 13, 2006 from an earlier petition filed July 29, 2005. Based on a telephonic interview after final rejection that was held with the examiner on May 17, 2005, the earlier petition requested, *inter alia*, reopening of the prosecution due to the examiner raising an inherency issue not previously set forth in the rejection. The petition was dismissed. Petitioner is requesting reconsideration of that decision based on eight points of contention. Summarized, they are:

1.) The examiner raised a new issue during the interview and the undersigned failed to address this in the earlier decision as raised in the earlier petition.

2.) There is no basis for reference to an obvious rejection with different applied prior art for establishing inherency in the anticipation rejections as discussed in the earlier petition.

3.) Inherency was not raised in the first Office action as asserted in the earlier decision, and the examiner's comments in the Interview Summary are not consistent with the first and final Office actions as asserted in the earlier decision; the examiner's comments in the Interview Summary indicate the examiner knew he erred.

4.) Inherency arguments are not identified in the Office actions, and based on the Interview Summary not all grounds of rejection have been listed by the examiner thereby defining a procedural error by issuing a premature final rejection.

5.) The patent to Gibney does not anticipate the claims.

6.) The Preast and Gibney references fail to meet elements of the claims they respectively reject.

7.) It is alleged that the earlier petition is not comprehended by the undersigned and that the petition is proper for raising procedural error by the examiner in not following 37 CFR and the M.P.E.P.

8.) The undersigned's conclusion in the earlier decision is unsupportable, as inherency has not been established.

Discussion and Analysis

M.P.E.P. 713.09 authorizes interviews after final rejection if the examiner is convinced that disposal or clarification for appeal may be accomplished with only nominal further consideration. A review of the examiner's record of the Interview Summary in question (mailed May 19, 2005) indicates that the examiner was clarifying the record for the applicants and not changing the rejection. The examiner stated that the Gibney and Preast references "were capable of being used as claimed and therefore inherently met the limitations as to the icon limitations." This is not seen as an admission of error by the examiner. Moreover, since the paragraph bridging pages 4 and 5 in the Gibney reference states "It will be appreciated that each of the unrelieved portions (14A, B, C) represents a convergent shape which, when viewed by the user as for position 14B of Figure 1, has a "training" effect for a straight direction of cue movement by way of the user concentrating upon that portion as a pointer for the intended cueing direction. It appears from this disclosure that the examiner's statement is right on point of what the reference teaches. It appears the examiner is not intending a new ground of rejection but merely deducing what the reference is teaching and stating it in another manner for clarity.

The examiner states in both the first and final Office actions that the Preast reference has "differently colored laminates which form directional pointers along the shaft [sic, which] may be used for aiming and thus meet the limitations of the claims." How could this statement be seen as conflicting with the Interview Summary? Again, the examiner's statements are seen as clarifying in nature and not introducing a new ground of rejection.

The statement with respect to the obvious rejection in the earlier decision was intended to show that the examiner within the Office actions already had considered marks on a cue stick for the claimed purpose. The statement by the examiner in the Interview Summary was, therefore, not a new observation with respect to markings on a cue stick. Any relationship between the rejections is not being advocated and is solely derived from petitioner's point of view.

As noted previously in the earlier decision, petitioner's attempt to characterize the examiner's legal position regarding the patentability of the claims into the procedural error of promulgating a premature final rejection because the examiner has attempted to clarify what is intended in an interview fails. This is because the examiner has maintained the original aspect of the rejections. The relief sought is with respect to whether the prior art meets the claim limitations and this will not be addressed. The proper forum for appealing finally rejected claims is to the Board of Appeals and not to the Technology Center Director. Applicants are already pursuing this avenue. Procedurally and technically, consideration of the present petition and said earlier petition ended with the filing of the appeal. See 37 CFR § 1.181(a)(1). However, insofar, as the Interview Summary by the examiner may have impacted on the

consistency of the record, the petitions have been addressed on the merits. No inconsistency is seen in the record.

Conclusion

The issues raised have not shown or established that new grounds of rejection have been set forth or that applicant was unfairly treated by the examiner's Interview Summary and subsequent denial of the amendment after final to be entered due to new limitations requiring new search and/or consideration promulgated by applicants' assertions that new grounds of rejection were created by the Interview Summary. The issues raised have been responded to by the undersigned. The petition is unconvincing.

PETITION DENIED.

Any inquiry regarding this decision should be directed to Allan N. Shoap, Special Programs Examiner, at (571) 272-4514.

Karen M. Young

Karen M. Young, Director
Technology Center 3700

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MINNEAPOLIS MN 55415-1002

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DEC 19 2007

OFFICE OF PETITIONS

In re Application of	:	
Wainwright et al.	:	
Application No. 10/949879	:	DECISION
Filing or 371(c) Date: 09/23/2004	:	ON PETITION
Patent No.: 7061766	:	
Issue Date: 06/13/2006	:	
Attorney Docket Number: 3592	:	

This is a decision on the correspondence entitled "Petition to Correct Assignee Under 37 CFR 1.183," filed October 11, 2007, 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 properly treated as a petition under 37 CFR 3.81(b)[1].

The Petition is **dismissed**.

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

Applicant files the instant petition and requests correction of the assignee name.

Applicable Law, Rules and MPEP

37 CFR 3.81(b) provides:

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

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

Analysis and conclusion

A review of the assignment recorded at reel/frame 016083/0592 for this application before issuance of the patent, on December 17, 2004, reveals that the name of the assignee as it appears on the assignment document is Hamilton Sunstrand Corporation.

As such, the patent issued with the name of the assignee as it appeared on the assignment document. The petition thus seeks to change the name of the assignee as it appears on the assignment document submitted for recordation as set forth in § 3.11 before issuance of the patent. The petition is dismissed.

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

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

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

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

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

Derek L. Woods
Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of

Schreuder, et al.

Application No. 10/949,880

Filed: September 24, 2004

Attorney Docket No. 2183-3809.2US

DECISION ON PETITION

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

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee of $700.00 and publication fee of $300.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed May 16, 2006. 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 August 17, 2006. A Notice of Abandonment was mailed February 2, 2006

The issue fee and publication fee were received on August 24, 2006.

Form PTOL-85B, filed August 24, 2006, 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

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FROST BROWN TODD, LLC
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OFFICE OF PETITIONS

In re Application of

PROVINSAL, et al.
Application No. 10/949,885
Filed: September 24, 2004
Attorney Docket No. **0103079-0528171**

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 3, 2007.

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

A review of the file record indicates that the power of attorney to **FROST BROWN TODD LLC** has been revoked by the assignee of the patent application on April 11, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **KENYON & KENYON LLP**
1500 K STREET NW, SUITE 700
WASHINGTON, DC 20005

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

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OFFICE OF PETITIONS

In re Application of	:	
Mark A. Reiley	:	
Application No. 10/949,887	:	DECISION ON PETITION
Filed: September 23, 2004	:	TO WITHDRAW
Attorney Docket No. 29914-701.414	:	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 8, 2006.

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

A review of the file record indicates that the power of attorney to Wilson Sonsini Goodrich & Rosati has been revoked by the assignee of the patent application on January 5, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Shay Law Group LLP**
2755 Campus Drive
Suite 210
San Mateo, CA 94403

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OFFICE OF PETITIONS

LERNER GREENBERG STEMER LLP
P O BOX 2480
HOLLYWOOD FL 33022-2480

In re Application of
GRUNDLER
Application No. 10/949,914
Filed: September 24, 2004
Attorney Docket No. F-8518

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 3, 2006.

The request is **APPROVED**.

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

The request was signed by Laurence Greenberg on behalf of all attorneys of record who are associated with customer No. 24131. All attorneys/agents associated with the Customer Number 24131 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the sole named inventor Helmut Grundler at the address indicated below. There is an outstanding Office action mailed June 6, 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: **HELMUT GRUNDLER**
A1A DOCK PRODUCTS
5745 PLUNKETT STREET
HOLLYWOOD, FL 33023

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BAINWOOD HUANG & ASSOCIATES LLC
2 CONNECTOR ROAD
WESTBOROUGH, MA 01581

Mail Date: 04/23/2010

Applicant	: Guy C. Fedorkow	: DECISION ON REQUEST FOR
Patent Number	: 7606158	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/949,916	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1350** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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BAINWOOD HUANG & ASSOCIATES LLC
2 CONNECTOR ROAD
WESTBOROUGH, MA 01581

Mail Date: 05/18/2010

Applicant	: Guy C. Fedorkow	: NOTICE CONCERNING IMPROPER
Patent Number	: 7606158	: CALCULATION OF PATENT TERM
Issue Date	: 10/20/2009	: ADJUSTMENT BASED UPON USPTO
Application No	: 10/949,916	: IMPROPERLY MEASURING REDUCTION
Filed	: 09/24/2004	: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **1370** 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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SAP/BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 04/21/2010

Applicant	: Norbert Kuck	: DECISION ON REQUEST FOR
Patent Number	: 7614045	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/949,936	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **996** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Mail Date: 05/18/2010

Applicant : Norbert Kuck
Patent Number : 7614045
Issue Date : 11/03/2009
Application No : 10/949,936
Filed : 09/24/2004

: 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 **1038** 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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SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

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AUG 3 1 2006

OFFICE OF PETITIONS

In re Application of :
Rajesh Balay et al. :
Application No. 10/949,943 :
Filed: September 24, 2004 :
Attorney Docket Number: 1384.038US1 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b),[1] filed April 3, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned January 19, 2005, for failure to timely reply to the Notice to File Missing Parts mailed on November 18, 2004, which set a two (2) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained prior to the abandonment. Accordingly, a Notice of Abandonment was mailed August 17, 2005.

Receipt of the oath or declaration in compliance with 37 CFR 1.63 as well as filing and late fees is acknowledged.

The record reveals that a five month extension of time was filed with the instant petition,

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

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

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

however, pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $2160.00 extension of time fee submitted with the petition on April 3, 2006, was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to counsel's deposit account no. 19-0743. Accordingly, the request for refund filed April 25, 2006 is GRANTED.

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Schwegman, Lundberg, Woessner & Kluth, P.A.
P.O. Box 2938
Minneapolis, MN 55402

In re Application of	:	
Kathryn E. Uhrich et al.	:	
Application No. 10/949,955	:	DECISION ON PETITION
Filed: September 23, 2004	:	TO WITHDRAW
Attorney Docket No. 1435.031US2	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 24, 2006.

The request is **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, **discontinuation of attorney/client relationship**, do not meet any the conditions set forth in 37 CFR 10.40.

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

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

David Bucci
Petitions Examiner
Office of Petitions

cc: Viksnins, Harris & Padys PLLP
Suite 870
7900 International Drive
Bloomington, MN 55425

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OFFICE OF PETITIONS

Schwegman, Lundberg, Woessner & Kluth, P.A.
P.O. Box 2938
Minneapolis, MN 55402

In re Application of

Kathryn E. Uhrich et al.
Application No. 10/949,955
Filed: September 24, 2004
Attorney Docket No. 1435-031US2

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 1, 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 Bradley A. Forrest on behalf of all attorneys of record who are associated with Customer No. 21186.

All attorneys/agents associated with the Customer No. 21186 have been withdrawn.

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

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

There is no outstanding Office action at this time.

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

T. Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **Kathryn E. Uhrich**
Rutgers, The State of New Jersey
610 Taylor Road
Piscataway, NJ 08854-8087

cc: **Viksinins, Harris & Padys PLLP**
Suite 870
7900 International Drive
Bloomington, MN 55425

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/949,955	09/24/2004	Kathryn E. Uhrich	1435.031US2

CONFIRMATION NO. 4132

OC000000021668665

OC000000021668665

21186
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Date Mailed: 12/19/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

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

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

Terri S. Williams

TERRI S WILLIAMS
OP (571) 272-2991

FORMER ATTORNEY/AGENT COPY

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

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OFFICE OF PETITIONS

In re Application of
Kathryn E. UHRICH et al.
Application No10/949,955
Filed: September 24, 2004
Attorney Docket No. **1435.031US2**

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 18, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed June 02, 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 July 03, 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 June 02, 2008 is accepted as having been unintentionally delayed.

The power of attorney filed by the assignee with the petition on February 18, 2009 has been accepted and made of record.

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 1618 for appropriate action on the concurrently filed election.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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Stolowitz Ford Cowger LLP
621 SW Morrison St
Suite 600
Portland, OR 97205

Mail Date: 04/21/2010

Applicant	: Randy Langer	: DECISION ON REQUEST FOR
Patent Number	: 7590840	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/949,963	: OF WYETH
Filed	: 09/24/2004	:
		:

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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BELASCO, JACOBS & TOWNSLEY LLP
HOWARD HUGHES CENTER
6100 CENTER DRIVE
SUITE 630
LOS ANGELES CA 90045

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OFFICE OF PETITIONS

In re Application of	:	
Su et al.	:	
Application No. 10/949,973	:	ON PETITION
Filed: September 24, 2004	:	
Attorney Docket No. 04-247-JB	:	

This is a decision on the 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 reply in a timely manner to the non-final Office action mailed October 19, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 20, 2008. A Notice of Abandonment was mailed May 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 an Amendment, (2) the petition fee of $1,620.00, and (3) an adequate statement of unintentional delay.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

Petitioner's request for change of power of attorney is not accepted as petitioner has not fully complied with 37 CFR 3.73(b). 37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment submitted for recording) or by specifying (*e.g.*, reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office. As to item (2) listed above, petitioner has failed to include the proper Reel and Frame information.

While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

This application is being referred to Technology Center AU 3782 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: Steven R. Olsen
Law Office of Steven R. Olsen, PLLC
P.O. Box 2092
Inverness, FL 34451-2092

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Chapin Intellectual Property Law, LLC
Westborough Office Park
1700 W. Park Drive, Suite 280
Westborough MA 01581

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OFFICE OF PETITIONS

In re Application of
Roth, et al.
Application No. 10/949,974
Filed: September 24, 2004
Attorney Docket No. NUA08-09(VST01-CIP-F)

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 15, 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 May 26, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed February 26, 2009. Accordingly, the date of abandonment of this application is May 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 $1,510.00 and the publication fee of $300.00, (2) the petition fee of $1,620.00; and (3) an acceptable statement of unintentional delay.

The statement of unintentional delay was signed by a person who may not have been in a position of knowing that the delay in filing a timely response was unintentional. In the event that practitioner has no knowledge that the delay was in fact unintentional, practitioner should make a reasonable inquiry to ascertain that, in fact, the delay was unintentional. If practitioner discovers that the delay was intentional, practitioner must so notify the Office.

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

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

Shirene Willis Brantley

Shirene Willis 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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Chapin Intellectual Property Law, LLC
Westborough Office Park
1700 W. Park Drive, Suite 280
Westborough, MA 01581

Mail Date: 04/30/2010

Applicant	: Daniel L. Roth	: DECISION ON REQUEST FOR
Patent Number	: 7634403	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/949,974	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1370** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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SEP 17 2009

OFFICE OF PETITIONS

DATE: September 16, 2009
TO: Certificates of Correction Branch
FROM: Anthony Knight
SPE, Art Unit 2121
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 7,207,963 as specified on the attached Certificate. The petition under rule 37 CFR 1.48 was originally filed April 11, 2006.

Anthony Knight, SPE
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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CERTIFICATE

SEP 17 2009

OFFICE OF PETITIONS

Patent No. 7,207,963
Patented: April 24, 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:

Warren HARDING
David ZIMMERMAN
Bruce KANIA

Anthony Knight
Supervisory 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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JAN 31 2005

In re Application of SELVAMANICKAM. Serial Number: 10/949,996 Filed: September 24, 2004 For: METHODS FOR FORMING SUPERCONDUCTING CONDUCTORS	:	PETITION UNDER M.P.E.P.708.02 IX

This is in response to the petition filed January 3, 2005, 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 have been met.

The petition is **GRANTED.**

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

Toler & Larson & Abel L.L.P.
5000 Plaza On The Lake
STE 265
Austin, TX 78746

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OFFICE OF PETITIONS

MORRISON & FOERSTER LLP
425 MARKET STREET
SAN FRANCISCO CA 94105-2482

In re Application of	:	
Dominique P. Bridon, et al.	:	
Application No. 10/950,010	:	DECISION ON PETITION
Filed: September 24, 2004	:	TO WITHDRAW
Attorney Docket No. 500862001501	:	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 21, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster, LLP has been revoked by the assignee of the patent application on February 13, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/950,010	09/24/2004	Dominique P. Bridon	500862001501

CONFIRMATION NO. 4546

OC000000023542143

OC000000023542143

20872
MORRISON & FOERSTER LLP
425 MARKET STREET
SAN FRANCISCO, CA 94105-2482

Date Mailed: 04/25/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/13/2007.

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

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

LANDO & ANASTASI, LLP
ONE MAIN STREET, SUITE 1100
CAMBRIDGE MA 02142

In re Patent of Bridon et al.	:	DECISION ON REQUEST
Patent No. 7,608,271	:	FOR RECONSIDERATION OF
Issue Date: October 27, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/950,010	:	AND NOTICE OF INTENT TO
Filing Date: September 24, 2004	:	ISSUE CERTIFICATE OF
Attorney Docket No. C2077-700020	:	CORRECTION

This is a decision on the petition filed on December 18, 2009, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting the patent term adjustment indicated on the patent be corrected to indicate the term of the patent is extended or adjusted by six hundred ninety-seven (697) days.

The petition to correct the patent term adjustment indicated on the patent to indicate the term of the patent is extended or adjusted by six hundred ninety-seven (697) days is **GRANTED**.

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

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the patent is extended or adjusted by **six hundred ninety-seven (697)** days.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.	:	7,608,271 B2
APPLICATION NO.	:	10/950,010
DATED	:	October 27, 2009
INVENTOR(S)	:	Dominique P. Bridon et al.

DRAFT

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

On the Title page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 320 days.

Delete the phrase "by 320 days" and insert -- by 697 days--

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

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

Mail Date: 04/26/2010

Applicant	: Mark L. Adams	: DECISION ON REQUEST FOR
Patent Number	: 7628775	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/950,026	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **749** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 05-17-10

TO SPE OF : ART UNIT 3763

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/950026 Patent No.: 7628775

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Angela Green 703-756-1541
Certificates of Correction Branch
703-756-1814

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: Approved

/Nicholas D. Lucchesi/ — **SPE**

3763 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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SOCAL IP LAW GROUP LLP
310 N. WESTLAKE BLVD., STE. 120
WESTLAKE VILLAGE CA 91362

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DEC 06 2006

OFFICE OF PETITIONS

In re Application of	:	
Hsien-Wei Chou	:	
Application No. 10/950,040	:	DECISION GRANTING PETITION
Filed: September 24, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 123-20-001	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 13, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The 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 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 March 6, 2006, is accepted as having been unintentionally delayed.

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

This matter is being referred to Patent Publication.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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THOMAS, KAYDEN, HORSTEMEYER & RISLEY
100 GALLERIA PARKWAY, N.W.
SUITE 1750
ATLANTA GA 30339-5948

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JAN 1 1 2005

OFFICE OF PETITIONS

In re Application of :
Montarou et al :
Application No. 10/950,048 :
Filed: September 24, 2004 :
Attorney Docket No. 62020-1740 :

NOTICE

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

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

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

This application no longer qualifies for small entity status. Accordingly, all future fees must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3208.

Karen Creasy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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SEP 28 2006

OFFICE OF PETITIONS

ORUM & ROTH
53 W. JACKSON BLVD.
CHICAGO IL 60604

In re Application of

Matthew Thomas Adams et al.
Application No. 10/950,055
Filed: September 24, 2004
Attorney Docket No. 13978

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 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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LAW OFFICE OF DAVID H. JUDSON
15950 DALLAS PARKWAY
SUITE 225
DALLAS TX 75248

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FEB 0 2 2009

OFFICE OF PETITIONS

In re Application of	:	
Moghe et al.	:	
Application No. 10/950,069	:	DECISION ON PETITION
Filed: September 24, 2004	:	
Attorney Docket No. Tizor - 002	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 13, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 28, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 29, 2008. A Notice of Abandonment was mailed December 8, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $810.00, and (3) an adequate statement of unintentional delay.

Petitioner's request for a change of correspondence address has been accepted.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

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.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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MAR 31 2008

OFFICE OF PETITIONS

ROBERT A. KENT
P.O. BOX 1431
DUNCAN OK 73536

In re Application of Philip D. Nguyen et al. Application No. 10/950,072 Filed: September 24, 2004 Attorney Docket No.: 2003-IP-012245U1 Title: METHODS AND COMPOSITIONS FOR INDUCING TIP SCREENOUTS IN FRAC-PACKING OPERATIONS	DECISION ON PETITION PURSUANT TO 37 C.F.R. § 1.137(B)

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b)[1], filed February 4, 2008, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

On June 28, 2007, a Pre-Appeal Brief Request for Review was filed along with a Notice of Appeal and the associated fee. On July 23, 2007, a Notice of Panel Decision from Pre-Appeal Brief Review was mailed, indicating that the application remained under appeal. The notice indicated that a response was due by August 28, 2007, and that extensions of time were available. No

1 A grantable petition pursuant to 37 C.F.R § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R § 1.20(d)) required pursuant to paragraph (d) of this section.

response was received, and no extension of time was requested. As such, this application went abandoned on August 29, 2007.

37 C.F.R. § 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 C.F.R. § 1.137(b) was unintentional. Since the statement contained in this petition varies from the language required by 37 C.F.R. § 1.137(b)(3), the statement contained in this petition is being construed as the statement required by 37 C.F.R. § 1.137(b)(3) and Petitioner must notify the Office if this is not a correct interpretation of the statement contained in this petition.

With this petition, Petitioner has submitted the petition fee, a statement that is being construed as the proper statement of unintentional delay, a Request for Continued Examination (RCE), the fee that is associated with the filing of the same, and an amendment. A terminal disclaimer is not required.

As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement is not applicable.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts

and circumstances of such delay[2]. In the event that such an inquiry has not been made, Petitioner must make such an inquiry. If such inquiry results in the discovery that the delay was intentional, Petitioner must notify the Office.

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 submission under 37 C.F.R. § 1.114 - the amendment filed on February 4, 2008 - can be processed.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[3]. 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

cc: Elizabeth L. Durham
Baker Botts L.L.P.
One Shell Plaza
910 Louisiana
Houston, TX 77002

---

2 See 37 C.F.R. § 10.18(b); cf. Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).
3 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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Alexandria, VA 22313-1450
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EDWARD W. PORTER
PORTER & ASSOCIATES
24 STRING BRIDGE S12
EXETER, NH 03833

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JAN 06 2009

OFFICE OF PETITIONS

In re Application of	:	
Daniel L. Roth et al.	:	
Application No. 10/950,074	:	DECISION ON PETITION
Filed: September 24, 2004	:	
Attorney Docket No. VST01-1CIP-E	:	

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before November 29, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed August 29, 2007. Accordingly, the date of abandonment of this application is November 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 payment of the issue fee of $1510 the publication fee of $300, a Request for Continued Examination (RCE), the fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2626 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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CHAPIN INTELLECTUAL PROPERTY LAW, LLC
WESTBOROUGH OFFICE PARK
1700 W. PARK DRIVE, SUITE 280
WESTBOROUGH MA 01581

MAILED

APR 09 2010

OFFICE OF PETITIONS

In re Application of	:	
Roth et al.	:	
Application No. 10/950,074	:	DECISION ON PETITION
Filed: September 24, 2004	:	
Attorney Docket No. NUA08-08	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 4, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to timely submit the PTLO-85 form on or before June 19, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed March 19, 2009, which set a statutory period of reply of three (3) months. Accordingly, the application became abandoned on June 20, 2009. A Notice of Abandonment was mailed July 15, 2009.

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.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in

filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (1).

With respect to item (1) petitioner has failed to submit the proper PTOL-85 form mailed March 19, 2009. A copy of the form is enclosed.

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

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

By hand: U. S. Patent and Trademark Office
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) 272-7751.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

Enclosure: PTOL-85

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)

42306 7590 03/19/2009

EDWARD W. PORTER
PORTER & ASSOCIATES
24 STRING BRIDGE S12
EXETER, NH 03833

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.
10/950,074	09/24/2004	Daniel L. Roth	VST01-1CIP-E	5378

TITLE OF INVENTION: WORD RECOGNITION USING CHOICE LISTS

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	$1510	$0	$1510	$1510	06/19/2009

EXAMINER	ART UNIT	CLASS-SUBCLASS
ALBERTALLI, BRIAN LOUIS	2626	704-251000

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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CHAPIN INTELLECTUAL PROPERTY LAW, LLC
WESTBOROUGH OFFICE PARK
1700 W. PARK DRIVE, SUITE 280
WESTBOROUGH MA 01581

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JUN 2 1 2010

OFFICE OF PETITIONS

In re Application of	:	
Roth et al.	:	
Application No. 10/950,074	:	DECISION ON PETITION
Filed: September 24, 2004	:	
Attorney Docket No. NUA08-08	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed June 8, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to timely submit the PTLO-85 form on or before June 19, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed March 19, 2009, which set a statutory period of reply of three (3) months. Accordingly, the application became abandoned on June 20, 2009. A Notice of Abandonment was mailed July 15, 2009.

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

With respect to item (1) petitioner has failed to submit the proper PTOL-85 form mailed March 19, 2009. Petitioner has instead re-submitted the PTOL-85 form mailed August 29, 2007. As explained in the March 3, 2009 PTOL-85 form "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." Therefore, once again a copy of the March 19, 2009 PTOL-85 form is enclosed.

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

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

By hand: U. S. Patent and Trademark Office
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) 272-7751.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

Enclosure: PTOL-85

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NOTICE OF ALLOWANCE AND FEE(S) DUE

42306 7590 03/19/2009

EDWARD W. PORTER
PORTER & ASSOCIATES
24 STRING BRIDGE S12
EXETER, NH 03833

EXAMINER	
ALBERTALLI, BRIAN LOUIS	
ART UNIT	PAPER NUMBER
2626	

DATE MAILED: 03/19/2009

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/950,074	09/24/2004	Daniel L. Roth	VST01-1CIP-E	5378

TITLE OF INVENTION: WORD RECOGNITION USING CHOICE LISTS

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	$1510	$0	$1510	$1510	06/19/2009

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. 08/07) Approved for use through 08/31/2010.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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STEPHEN L. KING
4642 OYSTER BAY ROAD NW
OLYMPIA, WA 98502

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OFFICE OF PETITIONS

In re Application of	:	
Edmund J. Kelly	:	
Application No. 10/950,096	:	DECISION ON PETITION
Filed: September 24, 2004	:	TO WITHDRAW
Attorney Docket No. Orion04	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 21, 2006.

The request is **NOT APPROVED**.

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

The 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, "requested by assignee of the invention", does not meet any the conditions set forth in 37 CFR 10.40.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being

submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

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

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

April M. Wise
Petitions Examiner
Office of Petitions

CC: ALBERT S. PENILLA, ESQ.
MARTINE PENILLA & GENCARELLA, LLP
710 LAKEWAY DRIVE
SUITE 200
SUNNYVALE, CA 94085

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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SNELL & WILMER L.L.P. (Main)
400 EAST VAN BUREN
ONE ARIZONA CENTER
PHOENIX AZ 85004-2202

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OFFICE OF PETITIONS

In re Patent No. 7,530,958	:	
Issue Date: May 12, 2009	:	
Application No. 10/950,112	:	ON PETITION
Filed: September 24, 2004	:	
Attorney Docket No. 26703.1900	:	

This is a decision on the petition filed September 21, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

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

Chris Bottorff
Petitions Examiner
Office of Petitions

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

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UNITED STATES DEPARTMENT OF COMMERCE
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PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND, OH 44114-3108

Mail Date: 04/21/2010

Applicant	: Gian Carlo Franchini	: DECISION ON REQUEST FOR
Patent Number	: 7611110	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/950,123	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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

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

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

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

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Brinks Hofer Gilson & Lione/Elevance
P.O. Box 10395
Chicago, IL 60611

Mail Date: 04/21/2010

Applicant	: Timothy A. Murphy	: DECISION ON REQUEST FOR
Patent Number	: 7637968	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/950,127	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1269** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ATTN: PATENT INTAKE CUSTOMER NO. 30623
ONE FINANCIAL CENTER
BOSTON MA 02111

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APR 29 2008

OFFICE OF PETITIONS

In re Application of	:	
Eckhard **Podack**	:	
Application No. 10/950,157	:	DECISION ON PETITION
Filed: September 24, 2004	:	
Attorney Docket No. 34359-501	:	

This is a decision on the petition filed November 06, 2007 under 37 CFR 1.137(b) to revive the above-identified application.

The petitions are **DISMISSED**.

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

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts mailed June 03, 2005, which set a shortened statutory period for reply of two (2) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on August 04, 2005.

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

The showing of record raises questions as to whether the abandonment of this application was unintentional within the meaning of 35 USC 41 (a)(7) and CFR 1.137(b).

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 Commissioner 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 inordinate delay (29 months) in resuming prosecution, there is a question whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on August 4, 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). The responsible person(s) should explain why this application became abandoned while under it was under their control and what efforts were made to further reply and with whom this matter was discussed. Also, no mention of the Notice of Abandonment mailed August 04, 2005 was made. Was the Notice of Abandonment received in the application file? When did the responsible person(s) become aware of the abandonment of this application? They must explain the circumstances surrounding the discovery of the abandonment of this application more than 2 years after mailing of the Notice of Abandonment.

Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from the responsible person(s) and whoever else was involved with this application at the time of abandonment. Statements are required from the

responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. See Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC Emich 2005); Filed Hybrids, LLC v. Toyota Motor 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 appropriate 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 37 CFR 1.137(b) is 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), 1230 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here over 24 months) 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 USPTP 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) at 21-23. Statements are required from Elrifi and the responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival. Furthermore as the record shows that petitioner took some action (obtaining a file copy) with respect to this even then long abandoned application, an explanation from the petitioner as to when and the manner in which petitioner became aware of the abandonment of this case, and why the long delay in seeking revival should be excused, independently of delay in replying which caused abandonment in the first instance.

Any renewed petition 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
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to Thuy Pardo at (571) 272-6052 or in her absence, the undersigned at (571)272-7099.

for David A. 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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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ATTN: PATENT INTAKE CUSTOMER NO. 30623
ONE FINANCIAL CENTER
BOSTON MA 02111

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OFFICE OF PETITIONS

In re Application of
Eckhard R. **PODACK**
Application No. 10/950,157
Filed: September 24, 2004
Attorney Docket No. **34359-501**

ON PETITION

This is a decision on the renewed petition under the provisions of 37 CFR 1.137(b), filed June 2, 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 Notice to File Missing Parts mailed June 3, 2005, which set a shortened statutory period for reply of two (2) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on August 4, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that the 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.

Telephone inquiries concerning this decision should be directed to Lori Baker Amerson at (571) 272-6052.

The application file is being referred to Technology Center AU 1623 for appropriate action by the Examiner.

for David Bucci
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

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

In re Application of	:	
Mark A. Reiley	:	
Application No. 10/950,169	:	DECISION ON PETITION
Filed: September 23, 2004	:	TO WITHDRAW
Attorney Docket No. 29914-701-415	:	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 8, 2006.

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

A review of the file record indicates that the power of attorney to Wilson Sonsini Goodrich & Rosati has been revoked by the assignee of the patent application on January 5, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2291.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Shay Law Group LLP**
2755 Campus Drive
Suite 210
San Mateo, CA 94403

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WEAVER AUSTIN VILLENEUVE SAMPSON LLP - KLA TENCOR
KLA TENCOR
P.O. BOX 70250
OAKLAND, CA 94612

Mail Date: 04/20/2010

Applicant	: Mark Ghinovker	: DECISION ON REQUEST FOR
Patent Number	: 7608468	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/950,172	: 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 **137** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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MAY 03 2007

OFFICE OF PETITIONS

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

In re Application of	:	
Mark A. Reiley	:	
Application No. 10/950,181	:	DECISION ON PETITION
Filed: September 23, 2004	:	TO WITHDRAW
Attorney Docket No. 29914-701.413	:	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 8, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Wilson, Sonsini, Goodrich & Rosati has been revoked by the assignee of the patent application on January 5, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: SHAY LAW GROUP
2755 CAMPUS DRIVE
SUITE 210
SAN MATEO, CA 94403

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
10/950,181	09/23/2004	Mark A. Reiley	29914-701-413

CONFIRMATION NO. 3848

OC000000023654097

21971
WILSON SONSINI GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO, CA 94304-1050

Date Mailed: 05/03/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/05/2007.

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

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

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LARSON NEWMAN ABEL
POLANSKY & WHITE, LLP
5914 WEST COURTYARD DRIVE
SUITE 200
AUSTIN TX 78730

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JUL 1 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Xie et al.	:	
Application No. 10/950,189	:	ON PETITION
Filed: September 24, 2004	:	
Attorney Docket No. 1014-SP233	:	

This is a decision on the petition under 37 CFR 1.102(c), filed on January 3, 2005, to make the above-identified application special based on superconductivity technologies as set forth in M.P.E.P. § 708.02, Section IX.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c) and MPEP § 708.02, Section IX: Special Status for Patent Applications Relating to Superconductivity, must be accompanied by a statement that the invention involves superconductive materials. Examples of such inventions would include those directed to superconductive materials themselves as well as to their manufacture and application. No fee is required.

The instant petition includes the statement, "The above-identified application contains inventions involving superconductive materials." Accordingly, the above-identified application has been accorded "special" status.

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

This matter is being referred to the Technology Center Art Unit 2858 for action on the merits commensurate with this decision.

David Buccel
Petitions Examiner
Office of Petitions

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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
5 PALO ALTO SQUARE - 6TH FLOOR
3000 EL CAMINO REAL
PALO ALTO CA 94306-2155

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SEP 0 2 2009

OFFICE OF PETITIONS

In re Application of	:	
Richard BRAMLEY et al.	:	
Application No. 10/950,199	:	DECISION ON PETITION
Filed: September 24, 2004	:	
Attorney Docket No. **03-1009**	:	

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**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, June 18, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 19, 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 $1620, and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of June 18, 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 $1110 extension of time fee submitted with the petition on July 14, 2009 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The power of attorney filed with the petition is accepted and has been made of record.

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 Tredelle Jackson at (571) 272-2783.

This application is being referred to Technology Center AU 2113 for appropriate action on the concurrently filed amendment.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09-26-08

TO SPE OF : ART UNIT 1638

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/950233 Patent No.: 7408054

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: All changes apply

SPE **Art Unit** 1638

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.

Tarek N. Fahmi
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1200 Wilshire Boulevarad
Seventh Floor
Los Angeles, CA 90025-1030

MAIL

AUG 0 3 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Prabhuram Mohan
Application No. 10/950,239
Filed: September 24, 2004
For: METHOD AND SYSTEM TO PROVIDE MESSAGE COMMUNICATION BETWEEN DIFFERENT APPLICATION CLIENTS RUNNING ON A DESKTOP

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed May 16, 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 signer of the petition, Tarek N. Fahmi is not appointed as an attorney or agent of record. Therefor he is not authorized to act on behalf of the attorneys or record, nor can he effect a change of address.

The combined Declaration and Power of Attorney by Assignee of Entire Interest dated February 11, 2005 has been entered and accepted in this file.

For the above stated reasons, the request is **DISMISSED AS MOOT**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the Power of Attorney dated February 11, 2005.

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
1600 TCF Tower
121 South Eighth Street
Minneapolis, MN 55402

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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OFFICE OF PETITIONS

Schwegman, Lundberg, Woessner & Kluth, P.A.
P.O. Box 2938
Minneapolis, MN 55402

In re Application of
Prabhuram Mohan et al.
Application No. 10/950,239
Filed: September 24, 2004
Attorney Docket No. 2046.015US2

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 7, 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 Andre L. Marals and all attorneys/agents of record has been revoked by the assignee of the patent application on May 2, 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: Husch Blackwell Sanders, LLP
Husch Blackwell Sanders, LLP Welsh & Katz
120 S. Riverside Plaza
22nd Floor
Chicago, IL 60606

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Date : May 22, 2007

Patent No. : 7199633 B2
Inventor(s) : Gerding, et al.
Issued : Apr. 3, 2007
Title : **ELECTRIC PULSE GENERATOR AND METHOD FOR GENERATING SHORT ELECTRIC PULSES**
Docket No. :

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

By mail: Mail Stop PETITIONS

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

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

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

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

Elisha Evans
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110

CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON MA 02210

CBN/eme

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CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON MA 02210

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OFFICE OF PETITIONS

ON PETITION

In re Patent No. 7,199,633	:	
Issue Date: April 3, 2007	:	
Application No. 10/950,243	:	
Filed: September 24, 2004	:	
Attorney Docket No. 15804-0124	:	

This is a decision on the petition filed July 2, 2007, which is being treated as a petition under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a certificate of correction.

The petition is **DISMISSED**.

Petitioner requests issuance of a certificate of correction in the name of "Krohne Messtechnik GmbH & Co. KG. (DE)."

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

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 **before issuance of the patent**, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter [emphasis added]. *See also* MPEP 1481.01.

U.S. Patent and Trademark Office assignment records disclose that an assignment from KROHNE A.G. to KROHNE MESSTECHNIK GMBH & CO. KG. was recorded on May 3, 2007, **after the date of issuance of this patent**. Accordingly, since the assignment was not

submitted for recordation until after issuance of this patent, issuance of a certificate of correction would not be proper.

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

Karen Creasy
Petitions Examiner
Office of Petitions

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ST. ONGE STEWARD JOHNSTON & REENS, LLC
986 BEDFORD STREET
STAMFORD, CT 06905-5619

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OFFICE OF PETITIONS

In re Application of	:	
Eun Ji Kim	:	
Application No. 10/950,254	:	ON PETITION
Filed: September 27, 2004	:	
Attorney Docket No. 03947-P0020A	:	

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

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee in a timely manner in reply to the Notice of Allowance mailed January 12, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on April 13, 2006.

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

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

This matter is being referred to the Publishing Division for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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EDWARDS LIFESCIENCES CORPORATION
ONE EDWARDS WAY
IRVINE, CA 92614

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OCT 0 2 2007

OFFICE OF PETITIONS

In re Application of	:	
Dawood Parker et al	:	
Application No. 10/950,257	:	DECISION ON PETITIONS
Filed: September 24, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. ECC-5797	:	AND 37 CFR 1.55(c)

This is a decision on the petition treated under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c), filed August 21, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(a)-(d) for the benefit of priority to the prior-filed nonprovisional and foreign applications set forth in the concurrently filed Application Data Sheet (ADS).

As to the benefit claim under 37 CFR 1.78(a)(3):

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

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) 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 requirements being met, the petition to accept an unintentionally delayed claim for benefit of priority to the prior-filed nonprovisional application under 35 U.S.C. § 120 is **GRANTED.**

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application

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

As to the benefit claim under 37 CFR 1.55(c):

This pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) the nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, **and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);**
(3) the surcharge as set forth in 37 CFR 1.17(t);
(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Director may require additional information where there is a question whether the delay was unintentional); and
(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

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

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.55(c) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 119(a)-(d) and 37 CFR 1.55(a)(1) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-

filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

The rules at 37 CFR §§ 1.78(a)(3) and 1.55(c) require a statement that the entire delay between the date the claim was due under 37 CFR § 1.78(a)(2)(ii) and 1.55(a)(1)(i) and the date the claim was filed was unintentional. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR §1.78(a)(3) and 1.55(c). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

The amendment to the specification to include the claim for benefit of priority to the prior-filed applications is not acceptable as drafted since it improperly **incorporates by reference** the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim after the filing date of the application, the amendment would not be proper. When a benefit claim is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b). However, the claim for benefit of priority to the prior-filed applications properly appears on the ADS and will be used for purposes of amending the application to claim benefit of priority to the applications noted thereon.

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

This application is being forwarded to Technology Center Art Unit 3768 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 119(a)-(d) to the prior-filed 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
www.uspto.gov

APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/950,257	09/24/2004	3768	1302	ECC-5779CIP	28	6

CONFIRMATION NO. 4942

CORRECTED FILING RECEIPT

OC000000026095316

30452
EDWARDS LIFESCIENCES CORPORATION
LEGAL DEPARTMENT
ONE EDWARDS WAY
IRVINE, CA 92614

Date Mailed: 10/01/2007

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)

Dawood Parker, Whitland, UNITED KINGDOM;
Michael J. Higgins, Huntington Beach, CA;

Power of Attorney: The patent practitioners associated with Customer Number **30452**.

Domestic Priority data as claimed by applicant

This application is a CIP of 09/743,206 03/15/2002 PAT 6,990,365
which is a 371 of PCT/GB99/02127 07/02/1999
This application 10/950,257
is a CIP of 09/762,923 04/16/2001 PAT 6,842,635
which is a 371 of PCT/GB99/02510 07/30/1999

Foreign Applications

UNITED KINGDOM 9814464.5 07/04/1998
UNITED KINGDOM 9824899.0 11/13/1998
UNITED KINGDOM 9825243.0 11/19/1998
UNITED KINGDOM 9817552.4 08/13/1998
UNITED KINGDOM 9904232.7 02/25/1999

If Required, Foreign Filing License Granted: 12/13/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/950,257

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Measurement of blood oxygen saturation

Preliminary Class

600

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

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

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

NOT GRANTED

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

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EDWARDS LIFESCIENCES CORPORATION
LEGAL DEPARTMENT
ONE EDWARDS WAY
IRVINE CA 92614

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FEB 20 2008

OFFICE OF PETITIONS

In re Application of	:	
Dawood Parker et al.	:	
Application No. 10/950,257	:	DECISION GRANTING PETITION
Filed: September 24, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. ECC-5779CIP	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 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 15, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 3768 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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CYPRESS SEMICONDUCTOR CORPORATION
198 CHAMPION COURT
SAN JOSE, CA 95134-1709

Mail Date: 04/21/2010

Applicant	: Julian Jenkins	: DECISION ON REQUEST FOR
Patent Number	: 7620101	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/950,274	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1284** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

Control Number: 10/950,304
39

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Paper No. 7212005

Thomas Basso
Bell, Boyd, & Lloyd, LLC
P. O. Box 113
Chicago, Il 60690-1135

JUL 27 2005

In re Application of:
Takaaki Suzuki
Serial No.: 10/950,304
Filed: September 23, 2004
Attorney Docket No.: 0113197-042

SUA SPONTE
DECISION WITHDRAWING HOLDING OF ABANDONMENT

This is a decision, *sua sponte*, withdrawing the holding of abandonment of the above-identified application.

The application was held abandoned for failure to timely file the Office action mailed on January 19, 2005. A Notice of Abandonment was mailed on July 7, 2005.

As the statutory period for response does not expire until July 19, 2005, the abandonment of the application was premature and therefore, the application was not abandonment in fact.

For the above stated reason, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

Inquiries related to this decision should be directed to T. C. Patel at (571) 272-2098.

Richard Seidel, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

18 FEB 2005

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GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK CA 94025

In re Application of	:	
KLEFENZ et al.	:	
Application No.: 10/950,309	:	DECISION
Attorney Docket No.: SCHO0185	:	
For: APPARATUS AND METHOD FOR CHARACTERIZING	:	
AN INFORMATION SIGNAL	:	

This decision is in response to applicants' "PETITION TO CONVERT" filed on 26 October 2004 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 25 February 2003, applicants filed international application PCT/EP03/01916 which designated the US and claimed a priority date of 19 July 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 29 January 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 19 January 2005.

On 23 September 2004, applicants filed a UTILITY PATENT APPLICATION TRANSMITTAL *(Only for new nonprovisional applications under 37 CFR 1.53(b))* (Form PTO/SB/05) along with, *inter alia*, a specification, claims, abstract and drawings. The first sentence of the specification states that the "application is a continuation of co-pending International Application No. PCT/EP03/01916, filed February 25, 2003".

On 26 October 2004, applicants filed the instant "PETITION TO CONVERT", which requests that the application be converted from an application filed under 35 U.S.C. 371 to an application filed under 35 U.S.C. 111(a).

DISCUSSION

The application papers filed 23 September 2004 contain no indication that the application was filed under 35 U.S.C. 371 and two indications that the application was filed under 35 U.S.C. 111(a) (the Form PTO/SB/05 and the first sentence of the specification). Accordingly, the application papers will be treated as having been filed under 35 U.S.C. 111(a).

CONCLUSION

For the reasons set forth above, the petition to convert is **DISMISSED** as **MOOT**.

This application will be forwarded to the Office of Initial Patent Examining for processing as an application under 35 U.S.C. 111(a) having a filing date of **23 September 2004**.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

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: 11/05/09

Patent No. : 7602863 B2
Ser. No. : 10/950,312
Inventor(s) : KOVINTAVEWAT, PIYA
Issued : 10/13/09
Title : **METHOD AND APPARATUS FOR PROVIDING ITERATIVE TIMING RECOVERY**
Docket No. : **S01.12-1046/STL 11718.00**

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

By mail: Mail Stop PETITIONS

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

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

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

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

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

John D. Veldhuis-Kroeze
Westman, Champlin & Kelly
Suite 1600
900 Second Avenue South
Minneapolis MN 55402-3319

LMN

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DAVID K. LUCENTE; SEAGATE TECHNOLOGY LLC
INTELLECTUAL PROPERTY DEPT. - COL2LGL
389 DISC DRIVE
LONGMONT, CO 80503

Mail Date: 04/21/2010

Applicant	: Piya Kovintavewat	: DECISION ON REQUEST FOR
Patent Number	: 7602863	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/950,312	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1073** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09-03-08

TO SPE OF : ART UNIT 1633

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/950321 Patent No.: 7173121

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

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 document information does not match the application information. The application and patent numbers are not the same as on the Certificate of Correction. The C of C documents appear to belong in application 10957569.

/ Christopher S. F. Low /
Supervisory Patent Examiner, Art Unit 1636

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:

DATE : **28 Jul 2009**

TO SPE OF : **ART UNIT 1636**

SUBJECT : Request for Certificate of Correction on Patent No.: **7173121**

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

Angela Green
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:

See the attached sheets

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Comments:

1. The Reqyest for correction cites patent 7,7713,171/ THere is no patent with this number. A correct request needs to be made. See the attached.

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

Page 1 of 1

PATENT NO. : 7,7173,121 B2

APPLICATION NO. : 10/950,321

ISSUE DATE : Feb. 6, 2007

INVENTOR(S) : Yiwen FANG et al.

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

On the front face of the patent:

The line reading "Provisional application No. 60/583,691, filed on Jun. 30, 2004." should read -- Provisional application No. 60/583,691, filed on Jun. 30, 2004; Non-provisional application No. 10/957,569 filed on Sep. 30, 2004; Non-provisional application No. 11/598,118 filed on Nov. 10, 2006; Non-provisional application No. 11/600,953 filed on Nov. 14, 2006; and Non-provisional application No. 11/414,142 filed on Apr. 28, 2006.--

2. The above also refers to application 11/598/116 fuked 10 Nov 2006 which is filed after the actual filing date of the current application 10950321 filed 23 Sep 2004. Priority applications should have an earlier filing date than the current application/patent. This same issue arieses with application 11212142,
3. Based on items 1 and 2, the certificate of correction document (LET document dated 28 Jul 2009)is **not apporved for entry**

/ Christopher S. F. Low /
Supervisory Patent Examiner, Art Unit 1636

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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Date Mailed : September 28, 2009

Patent No. : 7173121
Inventor :Yiwen Fang et al.
Patent Issued : February 6, 2007
Title : PROMOTER, PROMOTER CONTROL ELEMENTS,AND COMBINATIONS, AND
: USES THEREOF

Re: Request for Certificate of Correction

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

Inspection of the application for the patent reveals that in connection with the alleged error pertaining to the title page, item (60) the requested change as presented in applicants request refers also to application 11/598116 filed Nov. 10, 2006 which is filed after the actual filing date of the current application 10/950321 filed Sept. 23, 2004. Priority applications should have an earlier filing date than the current application /patent. This same issue arises with application 11/212142. Accordingly, it has been determined that the Letters Patent with regard to applicants request is printed in accordance with the records within the Patent and Trademark Office.

In view of the foregoing applicants request in this matter is hereby denied for the above stated reason, in addition to the incorrect patent number provided as the subject for review. Any 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- 154

Leonard R. Svensson
Birch, Stewart, Kolasch & Birch, LLP
12770 High Bluff Drive
Ste 260
San Diego, CA 92130

/arg

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No 13 Oct 2009.:

DATE :12 Oct 2009

TO SPE OF : ART UNIT 1636

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

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

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

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

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

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

Note your decision on the appropriated box.

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

Comments:

/ Christopher S. F. Low /
Supervisory Patent Examiner, Art Unit 1636

UNITED STATES PATENT AND TRADEMARK OFFICE

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GOODWIN PROCTER LLP
PATENT ADMINISTRATOR
53 STATE STREET
EXCHANGE PLACE
BOSTON MA 02109-2881

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OFFICE OF PETITIONS

In re Application of	:	
David R. Liu et al.	:	
Application No. 10/950,367	:	DECISION ON PETITION
Filed: September 24, 2004	:	TO WITHDRAW
Attorney Docket No. LS5-001C1	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed June 9, 2006.

The request is **NOT APPROVED**.

A review of the file record indicates that Brenda Jarell does not have power of attorney in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Brenda Jarell
Choate, Hall & Stewart/Harvard University
Two International Place
Boston, MA 39223

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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John C. McMahon
PO Box 30069
Kansas City, MO 64112

Mail Date: 04/21/2010

Applicant	: Roger P. Jackson	: DECISION ON REQUEST FOR
Patent Number	: 7651502	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/950,377	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1425** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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FROM DIRECTOR'S OFFICE

OCT 29 2007

TECHNOLOGY CENTER 3600

POSZ LAW GROUP, PLC
12040 SOUTH LAKES DRIVE
SUITE 101
RESTON VA 20191

In re Application of:	:	DECISION ON REQUEST TO
Kazuyoshi ISAJI et al.	:	PARTICIPATE IN PATENT
Application No.: 10/950,383	:	PROSECUTION HIGHWAY PILOT
Filed: September 28, 2004	:	PROGRAM AND PETITION TO
Attorney Docket No.: 01-691	:	MAKE SPECIAL UNDER 37 CFR
For: COLLISION POSSIBILITY	:	1.102(d)
DETERMINING DEVICE	:	

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed August 2, 2007, to make the above-identified application special.

The request and petition are **GRANTED**.

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

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

Although examination has begun on the U.S. application and resulted in an Office action mailed October 1, 2007, examination proceeded without the benefit of applicant's preliminary amendment filed concurrently with this petition. This, considered with the submission of August 2, 2007, are seen to meet the above criteria for grant.

The application is being forwarded to the examiner for action on the merits commensurate with this decision, including consideration of the preliminary amendment.

Telephone inquires concerning this decision should be directed to Robert Weinhardt at 571-272-6633.

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

Robert Weinhardt
TC3600
Business Practice Specialist

RW 10/27/07

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Mattingly, Stanger, Malur & Brundidge, P.C.
1800 Diagonal Road
Suite 370
Alexandria, VA 22314

AUG 30 2007

In re Application of:
Mitsushi Abe et al.
Serial No.: 10/950,392
Filed: September 28, 2004
Attorney Docket No.: NIT-439

DECISION ON PETITION

This is a decision on the "Petition to Request Remailing of Office Action" filed on January 26, 2006. The petition requests that the Office action mailed on February 10, 2005 be remailed to the Applicant's representative at the address associated with customer number 24956

The petition is DENIED.

Petitioner asserts that the Office action of February 10, 2005 was mailed to an incorrect address (former address of Applicant's representative). To support this assertion, petitioner points to the transmittal sheet which lists Customer No. 24956 near the top of the sheet.

A review of the record indicates that the Office action of February 10, 2005 was mailed to the correct address, i.e., the correspondence address clearly identified by applicant. The declaration filed with the application clearly stated to send correspondence to Mattingly, Stanger & Malur, P.C., 104 East Hume Avenue, Alexandria, Virginia 22301. The Customer Number provided at the top of the transmittal sheet was not accompanied by any instructions as to what to do with that Customer Number. Accordingly, there was no inconsistency or question as to the correspondence address.

MPEP 403 provides that "any inconsistencies between the correspondence address resulting from a Customer Number being provided in an application for the correspondence address and any other correspondence address provided in that application will generally be resolved in favor of the address of the Customer Number." However, the mere listing of a Customer Number at the top of a transmittal sheet, is insufficient to create an inconsistency. 37 C.F.R. § 1.33 states that "(w)hen filing an application, a correspondence address must be set forth in either an application data sheet (§ 1.76), or elsewhere, in a clearly identifiable manner, in any paper submitted with an application filing."

As stated above, the declaration filed with the application clearly identified the correspondence

address, while the listing of the Customer Number at the top of the transmittal sheet was not accompanied by any indication whatsoever that applicant wanted the address associated with that Customer Number to be the correspondence address. Therefore, no inconsistency or question to the correspondence address was created. As also provided in MPEP 403, a Customer Number may be used to designate the address associated with Customer Number, and may also be used to submit a power of attorney in the application. Given the multiple uses of a Customer Number, the mere listing of a Customer Number on one of the application papers is not sufficient to create an inconsistency with or overcome a clearly identified correspondence address or power of attorney.

The petition points out that the PAIR system shows that the Office action of February 10, 2005 was returned to the Patent Office and that the Post Office informed the Patent Office of the correspondence address at 1800 Diagonal Road. Petitioner asserts that "(i)n accordance with MPEP 707.13, the Patent Office should have checked to ensure that the correct correspondence address was printed on the Office action and then remailed the Office action."

The record indicates that the Office action of February 10, 2005 was not remailed after being returned to the United States Patent and Trademark Office (hereinafter the Office) on February 23, 2005. Instead, it indicates that sometime after February 23, 2005, the Office mailed a Notice of Publication to the same correspondence address as that of the Office action and the Notice of Publication was returned to the Office on April 11, 2005. However, in each case there is no indication that procedure set forth in MPEP 707.13 was not followed.

MPEP 707.13 does state that upon receipt of a returned Office action, "the Technology Center (TC) technical support staff will check the application file record to ensure that the Office action was mailed to the correct correspondence address." It further states that "(i)f the Office action was mailed to the correct correspondence address and it was addressed to an attorney or agent, a letter ***may be*** (emphasis added) written to the inventor or assignee informing him or her of the returned action."

As stated above, based upon the original application papers, the Office properly used the correspondence address clearly identified in the declaration. When the Office action was returned, a review of the file record would have indicated that the Office action was mailed to the correct correspondence address. While the Office did not mail a letter to the inventor or assignee informing him or her of the returned action, it was not required to do so. Instead, it was applicant's responsibility to notify the Office as to the change of correspondence address when applicant's representative moved to a new address.

For the above reasons, the petition is denied. The examiner will be notified to mail a Notice of Abandonment in connection with the application based upon applicant's failure to timely respond to the Office action of February 10, 2005.

While a copy of the Office action of February 10, 2005 is being mailed as an attachment to this decision, this will **not** be a remailing of the Office action and the period for response to the Office action will **not** be reset to run from the date of this decision. The Office action is being

mailed with this decision solely so that applicant may file a response to the Office action if applicant wishes to file a petition to revive under 37 C.F.R. § 1.137.

The correspondence address of this application has now been changed as to be associated with Customer Number 24956. While petitioner did not specifically request that the correspondence address be associated with the given Customer Number, he did request that the present application be associated with the given Customer Number. Since the petition indicates that the correct correspondence address is the 1800 Diagonal Road address and since applicant has not filed a new power of attorney, this request is being treated as a request to associate the correspondence address as well as the power of attorney with Customer Number 24956. If applicant does not wish to associate the power of attorney with Customer Number 24956, applicant should so notify the Office.

Any inquiries regarding this decision should be directed to Edward Westin at (571) 272-1638.

Richard K. Seidel, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

ATTACHMENT

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/950,392	09/28/2004	Mitsushi Abe	NIT-439	7260

24956 7590 06/18/2009
MATTINGLY & MALUR, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

EXAMINER
BARRERA, RAMON M

ART UNIT	PAPER NUMBER
2832	

MAIL DATE	DELIVERY MODE
06/18/2009	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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1800 Diagonal Road
Suite 370
Alexandria, VA 22314

In re Application of: MITSUSHI ABE *et al.* Serial No.: 10/950,392 Filed: September 28, 2004 Title: SUPERCONDUCTING MAGNET APPARATUS	: : : : : :	DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed September 14, 2007, requesting reconsideration of the decision mailed August 30, 2007, and withdrawal of the holding of abandonment of the above-identified application.

The petition to withdraw the holding of abandonment is GRANTED.

This application was held abandoned for failure to timely file a reply to the Non-Final Office action of February 10, 2005 within the shortened statutory period of three months from the mailing date of the Office action. A Notice of Abandonment was mailed September 10, 2007. A petition to remail the Office action was filed on January 26, 2006. A decision denying the petition to re-mail the Office action was issued August 30, 2007.

A review of the application file record reveals that a Non-Final Office action was mailed on February 10, 2005. The Office action was returned undelivered by the US Postal Service on February 23, 2005. A petition requesting remailing of the Office action due to non-receipt thereof was filed on January 26, 2006 and was denied in a decision mailed August 30, 2007. The instant petition was filed on September 14, 2007, requesting reconsideration of the first decision.

Pursuant to M.P.E.P. § 707.17 (Rev. 2, May 2004) in effect at the time the Office action was mailed and returned,

> "Office actions are sometimes returned to the Office because the United States Postal Service has not been able to deliver them. The examiner should use every reasonable means to ascertain the correct address and forward the action again, after stamping it "remailed" with the date thereof and redirecting it if there is any reason to believe that the action would reach applicant at such new address. If the Office action was addressed to

> an attorney, a letter may be written to the inventor or assignee informing him or her of the returned action. The period running against the application begins with the date of remailing..."

The file record does not indicate that the Office action was remailed based on the above-indicated Office procedure. Accordingly, applicant was not properly notified that a reply was due.

For the above-stated reason, the petition is granted. The holding of abandonment is hereby withdrawn and the notice of abandonment mailed September 10, 2007 is vacated.

It is noted that current Office procedure no longer requires remailing of a returned Office communication unless the communication was not mailed to a correct correspondence address of record.

Applicant is reminded of the obligation to promptly notify the Office when there is a change of address of record as outlined in M.P.E.P. § 601.03. Also, section § 711.03(c) II. C. of the MPEP discusses situations dealing with the abandonment of an application and timely notification of a change of correspondence address.

> "See In re Egbers, 6 USPQ2d 1869, 1872 (Comm'r Pat. 1988), rev'd on other grounds sub nom., Theodor Groz & Sohne & Ernst Bechert Nadelfabrik KG v. Quigg, 10 USPQ2d 1787 (D.D.C. 1988); In re Katrapat, 6 USPQ2d 1863, 1867-68 (Comm'r Pat. 1988). For example, where an application becomes abandoned as a consequence of a change of correspondence address (the Office action being mailed to the old, uncorrected address and failing to reach the applicant in sufficient time to permit a timely reply) an adequate showing of "unavoidable" delay will require a showing that due care was taken to adhere to the requirement for prompt notification in each concerned application of the change of address (see MPEP § 601.03), and must include an adequate showing that a timely notification of the change of address was filed in the application concerned, and in a manner reasonably calculated to call attention to the fact that it was a notification of a change of address. The following do not constitute proper notification of a change in correspondence address:
>
> (A) the mere inclusion, in a paper filed in an application for another purpose, of an address differing from the previously provided correspondence address, without mention of the fact that an address change was being made;
> (B) the notification on a paper listing plural applications as being affected (except as provided for under the Customer Number practice - see MPEP § 403); or
> (C) the lack of notification, or belated notification, to the U.S. Patent and Trademark Office of the change in correspondence address.
>
> Delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP, however, does not constitute "unavoidable" delay..." M.P.E.P. § 711.03(c) II. C.

Since a copy of the Office action was provided to the applicant with the mailing of the petition decision of August 30, 2007, the Office action will not be remailed.

The shortened statutory period for reply to the Office action of February 10, 2005 is hereby reset to run 3 (three) months from the mailing date of this decision. Extensions of this time period are governed by 37 CFR 1.136(a).

Inquiries regarding this decision should be directed to Hien H. Phan at (571) 272-1606

Richard K. Seidel, Director
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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30 ROCKEFELLER PLAZA
NEW YORK NY 10112

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APR 16 2008

In re Application of	:	
Atsuhiko Masuyama, et al.	:	
Application No.: 10/950,422	:	ON PETITION
Filed: September 28, 2004	:	
Attorney Docket No.: 01272.020546.1	:	

This is a decision on the petition, filed April 15, 2008, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 29, 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 2853 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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AUG 16 2007

TECHNOLOGY CENTER 3600

SHLESINGER, ARKWRIGHT & GARVEY LLP
1420 KING STREET
SUITE 600
ALEXANDRIA, VA 22314

In re Application of
Britta Daume
Appl. No. 10/950,503
Filed: September 28, 2004
For: A Device for Contacting in Particular Elongated, Illustratively Substantially Cylindrical Bodies such as Cables or Pipes/Tubes

DECISION ON PETITION UNDER 37 CFR 1.181

This is a decision on the petition under 37 CFR 1.181, filed May 22, 2006 requesting that the reliance on the Stack reference in the Examiner's Answer be considered a new grounds of rejection and that the examiner be required to provide a corrected Examiner's Answer or take such other action as permitted under the rules. There is no fee required for this petition.

The petition is **GRANTED**.

After review of the above file, the file history shows that the examiner issued a non-final rejection on February 1, 2005 rejecting claims 1-19 under 35 USC 103(a) in view of EP Patent 0 744 788 A1 and Patent No. 4,997,148, and claim 11 was rejected under 35 USC 103(a) in view of '788 and '148 and further in view of Patent No. 2,310,622. In response to the non-final rejection, the applicant filed a response on May 2, 2005. In response to the May 2, 2005 response, the examiner issued a final rejection on July 21, 2005 once again rejecting the claims in the same manner as the non-final rejection. After receiving the final rejection, the applicant then filed a Notice of Appeal on October 19, 2005 and an Appeal Brief on January 19, 2006. The examiner then issued an Examiner's Answer on March 20, 2006. In response to the Examiner's Answer, the applicant then filed a Reply Brief on May 22, 2006 along with the current petition. The examiner finally noted the Reply Brief on July 24, 2006. First, it would like to be pointed out that the examiner should have indicated that claims 1-10 and 13-19 are rejected under 35 USC 103(a) in view of EP Patent 0 744 788 A1 and Patent 4,997,148 and claims 11 and 12 are rejected under 35 USC 103(a) in view of EP Patent 0 744 788 A1, Patent 4,997,148 and further in view of 2,310,622 because the '622 patent was relied on to reject claim 11. Therefore, since claim 12 depends from claim 11, it should also be rejected further in view of the '622 patent.

After reviewing the applicant's petition and the rejections and arguments presented by the examiner, it has been determined that the examiner appears to be relying on the Stack reference as evidence to support his position that the use of a thermoplastic material is an obvious engineering expedient in the present application. This appears to be so because the examiner has included the Stack '483 patent in section (8) Evidence Relied Upon of the Examiner's Answer. This is contradictory to the final rejection where, as pointed out by applicant, the examiner specifically pointed out that the Stack '483 patent was not being relied upon, see page 3 of the final rejection. Although the reference to the evidence of Stack is located in the remarks section of the Examiner's Answer and not in the body of the rejection, it is still being considered to be part of the rejection due to the fact that the examiner has now specifically set forth that the Stack patent is evidence being relied upon. Therefore, the examiner should have indicated that this reference to the evidence of Stack was a new ground of rejection in the Examiner's Answer. Thus, the application will be forwarded back to the examiner who will then issue a new non-final Office action.

SUMMARY: The petition is **GRANTED.**

Any questions regarding this decision should be directed to Supervisory Patent Examiner Brian Glessner at 571-272-6843.

Wynn Coggins
Director
Patent Technology Center 3600
571-272-5350

BG/KD 8/8/2007

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480 - THE STATION
601 WEST CORDOVA STREET
VANCOUVER BC V6B 1G1 CA CANADA

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OFFICE OF PETITIONS

In re Application of	:	
Douglas H. Offerhaus	:	
Application No. 10/950,567	:	DECISION GRANTING PETITION
Filed: September 28, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. C732 0001/BRW	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 8, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 30, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 3654 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Frances M. Hicks
Petitions Examiner
Office of Petitions

---

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

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1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-3873

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JAN 10 2006

Technology Center 2100

In re Application of MARUYAMA et al	:	
Application No.: 10/950,577	:	DECISION ON PETITION
Filing Date: September 28, 2004	:	FOR ACCELERATED
For: STORAGE REMOTE COPY SYSTEM	:	EXAMINATION UNDER
	:	M.P.E.P. §708.02(VIII)
	:	

This is a decision on the petition filed December 9, 2005 under 37 CFR §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **DISMISSED**.

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

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status. The election may be made by applicant at the time of filing the petition for special status. Should applicant fail to include an election with the original papers or petition and the Office determines that a requirement should be made, the established telephone restriction practice will be followed. If otherwise proper, examination on the merits will proceed on claims drawn to the elected invention. If applicant refuses to make an election without traverse, the application will not be further examined at that time. The petition will be denied on the ground that the claims are not directed to a single invention, and the application will await action in its regular turn. Divisional applications directed to the nonelected inventions will not automatically be given special status based on papers filed with the petition in the parent application. Each such application must meet on its own all requirements for the new special status;

(C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. >The pre-examination search must be directed to the invention as claimed in the application for which special status is requested.< A search made by a foreign patent office satisfies this requirement >if the claims in the corresponding foreign application are of the same or similar scope to the claims in the U.S. application for which special status is requested<;

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

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

With respect to requirement (E), the petition does not contain a detailed discussion of the references to the extent required by 37 CFR 1.111(b) and (c). Note that the discussion must point out how the claimed subject matter is patentable over the references. In the present case, the petition provides a sufficient distinction between independent claims 1 and 5 and the cited prior art. However, with regard to independent claim 9, the specific recited distinctions together with the general statement that none of the references "teach or suggest the claimed third and fourth storage systems defined in claim 9 with the specific data copying and data deletion operations defined in these claims. . . " is essentially a statement that all of the limitations in claim 9 are not taught or suggested. However, a statement that the entirety of an independent claim is not disclosed by the prior art does not provide a sufficient distinction between the claimed invention and each of the cited references.

Because the petition fails to satisfy all of the criteria set forth above, the petition to make special is **DISMISSED**.

Any request for reconsideration must be filed within TWO (2) MONTHS from the mailing date of this decision.

The application will remain in the status of a new application awaiting action in its regular turn.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
571-272-3599

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Technology Center 2100

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

In re Application of: MARUYAMA, et al.
Application No. 10/950,577
Filed: 28 September 2004
For: STORAGE REMOTE COPY SYSTEM

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a decision on the renewed petition filed 25 January 2006, under 37 C.F.R. 102(d) and M.P.E.P. § 708.02(VIII) to make the above-identified application special.

The Petition is **GRANTED**.

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

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

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

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

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

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

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

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

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

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

GO

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OFFICE OF PETITIONS

In re Application of Maruyama et al.	:	
Application No. 10/950,577	:	Decision on Petition
Filing Date: September 28, 2004	:	Under 37 CFR 1.55(c)
Attorney Docket No. 1368.44308X00	:	

This is a decision on the petition under 37 CFR 1.55(c), filed October 20, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of priority to the filing date of foreign Application No. JP 2004-270672 filed September 17, 2004.

The petition is **DISMISSED**.

This application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, **and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6))**;
(3) the surcharge as set forth in 37 CFR 1.17(t);
(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional (the Director may require additional information where there is a question whether the delay was unintentional); and
(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The petition fails to comply with item (2) above. In this regard, a review of the file record fails to disclose that the priority information was included in an oath or declaration or in an Application Data Sheet (ADS) in accordance with 37 CFR 1.76(b)(6). Unless provided in an ADS, 37 CFR 1.63(c)(2) requires that the oath or declaration must identify the foreign application for patent (or inventor's certificate) for which priority is claimed under 37 CFR 1.55, and any foreign application having a filing date before that of the application on which priority is claimed, by specifying the application number, country, day, month, and year of its filing. *Note* MPEP 201.14.

In view of the above, compliance with 37 CFR 1.63(c)(2) or 37 CFR 1.76(b)(6) must be satisfied if applicant desires to claim priority to the foreign application noted in the petition. Any future petition should include a cover letter and be entitled "Renewed Petition under 37 CFR 1.55(c)."

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

By mail: Mail Stop 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

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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AUG 27 2007
OFFICE OF PETITIONS

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-3873

In re Application of Maruyama et al.	:	
Patent No. 7,200,725	:	
Issue Date: April 3, 2007	:	Decision on Petition
Application No. 10/950,577	:	Under 37 CFR 1.55(c)
Filing Date: September 28, 2004	:	
Attorney Docket No. 1368.44308X00	:	

This is a decision on the petition under 37 CFR 1.55(c), filed March 30, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of priority to the filing date of foreign Application No. JP 2004-270672 filed September 17, 2004.

The petition is **granted**.

This pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, **and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6))**;

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional (the Director may require additional information where there is a question whether the delay was unintentional); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

This application was filed on September 28, 2004, which is after November 29, 2000 and within 12 months of September 17, 2004 (the filing date of the foreign application to which benefit is now being claimed). On March 30, 2007, an executed oath/declaration was received which identifies the foreign application for which priority is claimed by application number, country and filing date. The required petition fee was received with the petition filed October 20, 2006. Lastly, petitioner has provided an adequate statement of unintentional delay.

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

Prior to a decision being rendered on the instant decision, the application issued as a patent. Petitioner requested a Certificate of Correction showing the foreign priority claim on April 13, 2007. The Office approved the Certificate of Correction on May 22, 2007. A copy of the issued Certificate of Correction accompanies this decision on petition.

Any inquiries directly pertaining to this matter may be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,200,725 B2
APPLICATION NO. : 10/950577
DATED : April 3, 2007
INVENTOR(S) : T. Maruyama 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 Title page, under the heading Item [56] "Foreign Application Priority Data", add:

--Sept. 17, 2004 (JP) - - - - - - - 2004-270672--

Signed and Sealed this

Twenty-second Day of May, 2007

JON W. DUDAS
Director of the United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

COPY MAILED
DEC 03 2008

In re Application of	:	
Daxing Ren, et al.	:	
Application No. 10/950,656	:	DECISION GRANTING PETITION
Filed: September 28, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 015290-906	:	

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 14, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2814 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

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POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

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DEC 03 2008

In re Application of	:	
Daxing Ren, et al.	:	
Application No. 10/950,656	:	DECISION GRANTING PETITION
Filed: September 28, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 015290-906	:	

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 14, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2814 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

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Alexandria, VA 22313-1450
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JUN 09 2008

MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20004

In re Application of	:	
Tomihisa KATO	:	
Application No. 10/950,683	:	DECISION ON PETITION
Filed: September 28, 2004	:	
Attorney Docket No. 049400-5030	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 11, 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 13, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed December 13, 2007, which set a statutory period for reply of three (3) months. Accordingly, the date of abandonment of this application is March 14, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,440.00 and the publication fee of $300.00, (2) the petition fee of $1,540.00; and (3) a proper statement of unintentional delay. Accordingly, the failure to timely pay the issue and publication fees as required by the Notice of Allowance is accepted as being unintentionally delayed.

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

This application is being referred to Office of Data Management.

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
www.uspto.gov

Caven & Aghevli LLC
c/o CPA Global
P.O. BOX 52050
MINNEAPOLIS, MN 55402

Mail Date: 04/21/2010

Applicant	: Satish Narayanasamy	: DECISION ON REQUEST FOR
Patent Number	: 7603546	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/950,693	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/28/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1047** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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www.uspto.gov

Caven & Aghevli LLC
c/o CPA Global
P.O. BOX 52050
MINNEAPOLIS, MN 55402

Mail Date: 05/18/2010

Applicant : Satish Narayanasamy
Patent Number : 7603546
Issue Date : 10/13/2009
Application No : 10/950,693
Filed : 09/28/2004

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **1075** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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www.uspto.gov

Pearl Cohen Zedek Latzer, LLP
1500 Broadway
12th Floor
New York, NY 10036

Mail Date: 04/21/2010

Applicant	: Arkady Glukhovsky	: DECISION ON REQUEST FOR
Patent Number	: 7604589	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/950,694	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/28/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **965** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Alexandria, Virginia 22313-1450
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Pearl Cohen Zedek Latzer, LLP
1500 Broadway
12th Floor
New York, NY 10036

Mail Date: 05/18/2010

Applicant : Arkady Glukhovsky
Patent Number : 7604589
Issue Date : 10/20/2009
Application No : 10/950,694
Filed : 09/28/2004

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **1026** 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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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

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JUN 0 2 2008

OFFICE OF PETITIONS

In re Application of	:	
Erkfeldt et al.	:	
Application No. 10/950697	:	
Filing or 371(c) Date: 09/28/2004	:	ON PETITION
Attorney Docket Number:	:	
4127-16	:	

This decision is in response to the petition under 37 CFR 1.182 to correct inventor's name, filed June 21, 2007. The delay in treating this petition is regretted.

The MPEP 605.04(c), Inventor Changes Name, provides

> In cases where an inventor's name has been changed after the application has been filed and the inventor desires to change his or her name on the application, he or she must submit a petition under 37 CFR 1.182. Applicants are also strongly encouraged to submit an application data sheet (37 CFR 1.76) showing the new name. The petition should be directed to the attention of the Office of Petitions. The petition must include an appropriate petition fee and a statement signed by the inventor setting forth both names and the procedure whereby the change of name was effected, or a copy of the court order.

The petition is hereby granted.

The name of inventor Patrick BRODD has been changed to Patrick Per-Olof Erkfeldt and the name Patrick Per-Olof Erkfeldt has been entered and made of record in the above-identified application.

Applicant is advised that the supplemental ADS filed with the present petition is improper because it is not signed. 37 CFR 1.33(b) requires that amendments and other papers, except for written assertions pursuant to 37 CFR 1.27(c)(2)(ii), filed in the application must be signed by an appropriate party. Therefore, a supplemental ADS filed after the filing of an application must be signed in accordance with 37 CFR 1.33(b).

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

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/950,697	09/28/2004	2121	1880	4127-16	27	2

CONFIRMATION NO. 6520

CORRECTED FILING RECEIPT

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

OC000000030239828

Date Mailed: 06/02/2008

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)

Patrik Per-Olof Erkfeldt, Hovas, SWEDEN;
Jessica Rusten, Goteborg, SWEDEN;

Assignment For Published Patent Application

Telefonaktiebolaget L M Ericsson (publ), Stockholm, SWEDEN

Power of Attorney: The patent practitioners associated with Customer Number 23117

Domestic Priority data as claimed by applicant

This application is a CON of PCT/SE02/00627 03/28/2002

Foreign Applications

If Required, Foreign Filing License Granted: 11/18/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/950,697**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Arrangement and a method for supporting process/application control

Preliminary Class

700

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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2075 WEST BIG BEAVER ROAD, SUITE 600
TROY, MI 48084

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FEB 12 2009

OFFICE OF PETITIONS

In re Application of	:	
Mladen HUMER, et al.	:	
Application No. 10/950,713	:	DECISION GRANTING PETITION
Filed: September 27, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **05560 (3883.00058)**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 11, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 17, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 3636 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

---

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

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

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MAR 23 2009

OFFICE OF PETITIONS

In re Application of	:	
NADER NASR	:	LETTER REGARDING PATENT
Application No. 10/950,718	:	TERM ADJUSTMENT
Filed: 09/27/2004	:	
Attorney Docket No. 061300-0644	:	

This letter is in response to the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT," filed April 28, 2008. Pursuant to applicant's duty of good faith and candor to the Office, applicant requests that the determination of patent term adjustment under 35 U.S.C. 154(b) be reviewed for accuracy.

The request for review of the initial Determination of Patent Term Adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance is **567 days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On February 1, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 832 days. On April 28, 2008, applicant submitted the instant comment.

Applicant asserts that the 832 days of patent term adjustment indicated in the notice of allowance differs from applicant's calculation of patent term adjustment.

The application history has been reviewed and it has been determined that the period of adjustment of 265 days for Office delay was entered in error. The record does not show that the Office failed to take action within the four-month required period. Accordingly, the period of adjustment of 265 days is not warranted and will be removed.

In view thereof, the correct patent term adjustment at the time of the mailing of the notice of allowance is **567 days** (567 days of Office delay - 0 days of applicant delay).

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

Applicant is reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified in the Issue Notification letter that is mailed to applicant approximately three weeks prior to issuance.

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

Telephone inquiries regarding this matter should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

Kery A. Fries

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

Enclosure: Copy of updated PAIR screen

PALM INTRANET

Day : Monday
Date: 3/9/2009
Time: 12:01:04

PTA Calculations for Application: 10/950718

Application Filing Date:	09/27/2004	PTO Delay (PTO):	832
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	567
PTO Delay Adjustment:	-265		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
67	03/09/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		265	
54	02/01/2008	MAIL NOTICE OF ALLOWANCE	265		37
53	02/01/2008	MAIL EXAMINER'S AMENDMENT			
52	01/31/2008	ISSUE REVISION COMPLETED			
51	01/31/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
50	01/10/2008	AMENDMENT CROSSED IN MAIL			
49	01/23/2008	DOCUMENT VERIFICATION			
48	01/22/2008	EXAMINER'S AMENDMENT COMMUNICATION			
47	01/22/2008	NOTICE OF ALLOWABILITY			
46	11/27/2007	MAIL PANEL REMAND TO THE EXAMINER BY BPAI			
45	11/27/2007	PANEL REMAND TO THE EXAMINER BY BPAI	567		26
43	04/11/2007	DOCKETING NOTICE MAILED TO APPELLANT			
42	04/11/2007	ASSIGNMENT OF APPEAL NUMBER			
41	03/12/2007	APPEAL AWAITING BPAI DOCKETING			
40	03/01/2007	MAIL REPLY BRIEF NOTED BY EXAMINER			
39	02/28/2007	REPLY BRIEF NOTED BY EXAMINER			
38	01/22/2007	DATE FORWARDED TO EXAMINER			
37	01/12/2007	REPLY BRIEF FILED			
36	12/14/2006	EXAM. ANS. REVIEW COMPLETE			
35	11/13/2006	MAIL EXAMINER'S ANSWER			
34	11/09/2006	EXAMINER'S ANSWER TO APPEAL BRIEF			
33	09/20/2006	APPEAL BRIEF REVIEW COMPLETE			
32	09/20/2006	DATE FORWARDED TO EXAMINER			
31	09/08/2006	APPEAL BRIEF FILED			
30	08/08/2006	NOTICE -- DEFECTIVE APPEAL BRIEF			

29	08/07/2006	APPEAL BRIEF REVIEW COMPLETE			
28	08/07/2006	DATE FORWARDED TO EXAMINER			
27.1	07/10/2006	DEFECTIVE / INCOMPLETE APPEAL BRIEF FILED			
27	07/10/2006	APPEAL BRIEF FILED			
26	05/10/2006	NOTICE OF APPEAL FILED			
25	04/25/2006	MAIL ADVISORY ACTION (PTOL - 303)			
24	04/21/2006	ADVISORY ACTION (PTOL-303)			
23	04/18/2006	DATE FORWARDED TO EXAMINER			
22	04/10/2006	AMENDMENT AFTER FINAL REJECTION			
21	02/10/2006	MAIL FINAL REJECTION (PTOL - 326)			
20	02/06/2006	FINAL REJECTION			
19	01/04/2006	DATE FORWARDED TO EXAMINER			
18	12/13/2005	RESPONSE AFTER NON-FINAL ACTION			
17	09/13/2005	MAIL NON-FINAL REJECTION			
16	09/09/2005	NON-FINAL REJECTION			
15	01/26/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
14	01/26/2005	CASE DOCKETED TO EXAMINER IN GAU			
13	01/20/2005	TRANSFER INQUIRY TO GAU			
12	11/17/2004	APPLICATION RETURN FROM OIPE			
11	11/18/2004	APPLICATION IS NOW COMPLETE			
10	11/17/2004	APPLICATION RETURN TO OIPE			
9	11/17/2004	APPLICATION RETURN FROM OIPE			
8	11/17/2004	APPLICATION RETURN TO OIPE			
7	11/17/2004	APPLICATION DISPATCHED FROM OIPE			
6	11/17/2004	APPLICATION IS NOW COMPLETE			
5	11/10/2004	CLEARED BY L&R (LARS)			
4	10/29/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	10/29/2004	CASE CLASSIFIED BY OIPE			
2	10/25/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	09/27/2004	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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and select Refresh.
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HAYNES AND BOONE, LLP
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OFFICE OF PETITIONS

In re Application of

COOK, Robert L. et al.
Application No. 10/950,749
Filed: September 27, 2004
Attorney Docket No. **25791.334**

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 02, 2007.

The request is **NOT APPROVED**.

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

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **TODD MATTINGLY**
KING & SPALDING, L.L.P.
1100 LOUISIANA
SUITE 4000
HOUSTON, TX 77002

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SUITE 300
AKRON, OH 44311-1076

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MAR 2 8 2006

OFFICE OF PETITIONS

In re Application of :
John Andrew Fish et al :
Application No. 10/950,773 : ON PETITION
Filed: September 27, 2004 :
Attorney Docket No. 201143.00037 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 6, 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 May 11, 2005 which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 12, 2005.

The instant 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 unintentionally delay have been received. Accordingly, the reply to the non-final Office action of May 11, 2005 is accepted as having been unintentionally delayed.

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

This matter will be referred to Technology Center AU 1725.

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

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions

cc: ARLAND T. STEIN
HAHN LOESER & PARKS
65 EAST STATE STREET
SUITE 1400
COLUMBUS, OH 43215

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WINSTON & STRAWN LLP
PATENT DEPARTMENT
1700 K STREET, N.W.
WASHINGTON DC 20006

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AUG 06 2008

OFFICE OF PETITIONS

In re Application of	:	
Shamay Izhar	:	
Application No. 10/950,792	:	ON PETITION
Filed: September 28, 2004	:	
Attorney Docket No. 85189-4399	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 12, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of May 1, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A two (2) month extension of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is October 2, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $770; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 1638 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Chris Bottorff

Chris Bottorff
Petitions Examiner
Office of Petitions

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Shamay IZHAR

Application No.: 10/950,792

Filing Date: September 28, 2004

For: METHOD OF PRODUCING A MALE STERILE PLANT BY EXOGENIC ALLELISM

Confirmation No.: 6188

Group Art Unit: 1638

Examiner: A. R. Kubelik

Attorney Docket No.: 85189-4399

PETITION FOR REVIVAL OF AN APPLICATION
FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

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

Sir:

The above-identified application became abandoned for failure to file a proper and timely reply to the Advisory Action that was mailed September 27, 2007. The date of abandonment is November 2, 2007. Such abandonment was unintentional.

Applicant hereby petitions for revival of this application and encloses in support thereof a request for continued examination of this application with fee authorization. The entire delay from the due date of the required reply until the date of a grantable petition under 37 CFR 1.137(b) was unintentional

The fee for the filing of this petition is estimated to be $770.00 (small entity status). Please charge the required fee to Winston & Strawn LLP Deposit Account No. 50-1814.

Respectfully submitted,

Date: 12/11/07

Allan A. Fanucci (Reg. No. 30,256)

WINSTON & STRAWN LLP
Customer Number 28765
(212) 294-3311

08/06/2008 CKHLOK 00000003 501814 10950792
01 FC:2453 770.00 DA

NY:1134284.2

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LAW OFFICE OF BRENDA POMERANCE
260 WEST 52 STREET SUITE 27B
NEW YORK NY 10019

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OFFICE OF PETITIONS

In re Application of	:	
Toshio Hosogai	:	DECISION ON PETITION
Application No. 10/950,799	:	
Filed: 27 September, 2004	:	
Atty Docket No. 0815-4007	:	

This is a decision on the petition, filed on 9 January, 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 26 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.

A Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing, which sets forth the projected publication date of 15 June, 2006, is enclosed herewith.

The application is being referred to Technology Center Art Unit 3675 for further processing.

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

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UNITED STATES DEPARTMENT OF COMMERCE
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Stolowitz Ford Cowger LLP
621 SW Morrison St
Suite 600
Portland, OR 97205

Mail Date: 04/21/2010

Applicant	: David L. Huelsman	: DECISION ON REQUEST FOR
Patent Number	: 7587380	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/950,809	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/28/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **523** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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JJGJR.: 06-05

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SUITE 212
WHITE BEAR LAKE MN 55110-3205

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OFFICE OF PETITIONS

In re Application of	:	
Dexter, et al.	:	
Application No. 10/950,838	:	ON PETITION
Filed: 27 September, 2004	:	
Attorney Docket No. SOY002USPTO01	:	

This is a decision on the petition under ¶(a) of 37 C.F.R. §1.47, filed on 17 March, 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 instant application was filed on 27 September, 2004, without, *inter alia*, a fully executed oath/declaration;
- on 15 November, 2004, the Office mailed a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration was required within two months;
- on 17 March, 2005, Petitioner Michael S. Sherrill (Reg. No. 32,302) filed, *inter alia*, the instant petition, along with an oath/declaration containing the signatures of named co-inventors Peterson, Wanasundara, Douce and Stevenson, but without the signature of named co-inventor Lee Dexter (Ms. Dexter), a narration regarding events, and an averment that the oath or declaration was presented to Ms. Dexter–however, no transmittal letter is in evidence demonstrating that the entire application (description, claims, abstract, drawings) was presented to the non-signing inventor Ms. Dexter along with the oath or declaration.

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–but also a reasonable effort must be made to ascertain a current or last known address, and 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

The record as it stands appears to be in conflict as to whether the entire application was presented to Ms. Dexter. A copy of a transmittal letter setting forth the contents transmitted does not appear to have been part of the documentation supporting the instant petition. In this case, a copy of the transmittal letter evidencing that the entire application (description, claims, abstract and drawings) should be submitted with any renewed petition.

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

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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.

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

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

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.: 11-05

Paper No: __

SHERRILL LAW OFFICES
4756 BANNING AVE
SUITE 212
WHITE BEAR LAKE MN 55110-3205

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DEC 0 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Dexter, et al.	:	
Application No. 10/950,838	:	ON PETITION
Filed: 27 September, 2004	:	
Attorney Docket No. SOY002USPTO01	:	

This is a decision on the petition under ¶(a) of 37 C.F.R. §1.47, filed on 24 August, 2005, and supplemented on 2 November, 2005.

The petition is **DISMISSED as moot**.

BACKGROUND

The record indicates:

- the instant application was filed on 27 September, 2004, without, *inter alia*, a fully executed oath/declaration;
- on 15 November, 2004, the Office mailed a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration was required within two months;

- on 17 March, 2005, Petitioner Michael S. Sherrill (Reg. No. 32,302) filed, *inter alia*, the original petition, along with an oath/declaration containing the signatures of named co-inventors Peterson, Wanasundara, Douce and Stevenson, but without the signature of named co-inventor Lee Dexter (Ms. Dexter), a narration regarding events, and an averment that the oath or declaration was presented to Ms. Dexter–however, because, *inter alia*, no transmittal letter was in evidence demonstrating that the entire application (description, claims, abstract, drawings) was presented to the non-signing inventor Ms. Dexter along with the oath or declaration, the petition was dismissed on 28 June, 2005;

- the instant petition was filed on 28 August, 2005, seeking to correct the above-referenced deficiency(ies), however, on 2 November, 2005, Petitioner submitted (via FAX) a copy of the oath/declaration apparently now including the signature of the previously non-signing inventor Ms. Dexter;

- thus, it now appears that the oath/declaration has been signed by all inventors.

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 returned to substantive 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

LACKENBACH SIEGEL
ONE CHASE ROAD
SCARSDALE, NY 10583

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MAR 0 1 2007
OFFICE OF PETITIONS

In re Application of	:	
Luk et al.	:	
Application No. 10/950,843	:	ON PETITION
Filed: September 27, 2004	:	
Attorney Docket No. P-29 CIP	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 26, 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) 272-3282.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ALLAN L HARMS
2750 FIRST AVENUE NE, SUITE 420
CEDAR RAPIDS IA 52402

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OFFICE OF PETITIONS

In re Application of	:	
Michael et al.	:	DECISION ON PETITION
Application No. 10/950,846	:	TO WITHDRAW
Filed: September 27, 2004	:	FROM RECORD
Attorney Docket No. P07503US00	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 23, 2006.

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

A review of the file record indicates that the power of attorney to the attorneys associated with Customer Number 23882 has been revoked by the assignee of the entire interest of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

David Bucci
Petitions Examiner
Office of Petitions

cc:

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

DARYL A. MICHAEL
1169 S. 52ND AVENUE EAST
NEWTON, IA 60208

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

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

Mail Date: 04/20/2010

Applicant	: Daryl A. Michael	: DECISION ON REQUEST FOR
Patent Number	: 7596899	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/950,846	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/27/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BENESCH, FRIEDLANDER, COPLAN & ARONOFF LLP
ATTN: IP DEPARTMENT DOCKET CLERK
2300 BP TOWER
200 PUBLIC SQUARE
CLEVELAND OH 44114

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AUG 2 4 2007

OFFICE OF PETITIONS

In re Application of	:	
David W. Sokol et al	:	
Application No. 10/950,865	:	DECISION ON PETITION
Filed: September 27, 2004	:	
Attorney Docket No. LB1-01	:	

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

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, July 6, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on October 7, 2006. A Notice of Abandonment was mailed on February 7, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of an amendment/reply, (2) the petition fee of $750, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the non-final Office action of July 6, 2006 is accepted as being unintentionally delayed.

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

inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S, 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $510 extension of time fee submitted with the petition on July 26, 2007 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.

This application is being referred to Technology Center AU 2856 for appropriate action in the normal course of business on the reply received July 26, 2007.

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

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Benjamen E. Kern
41 South High Street
Suite 2600
Columbus, OH 43215

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

COATS & BENNETT, PLLC
1400 Crescent Green, Suite 300
Cary, NC 27518

Mail Date: 04/21/2010

Applicant	: Abdulrauf Hafeez	: DECISION ON REQUEST FOR
Patent Number	: 7643548	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/950,868	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/27/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1472** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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HAYNES AND BOONE, LLP
901 MAIN STREET, SUITE 3100
DALLAS TX 75202

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JUN 18 2007

OFFICE OF PETITIONS

In re Application of	:	
COOK, Robert L. et al.	:	
Application No. 10/950,869	:	DECISION ON PETITION
Filed: September 27, 2004	:	TO WITHDRAW
Attorney Docket No. **25791.335**	:	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 02, 2007 and re-submitted on April 19, 2007.

The request is **NOT APPROVED**.

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

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **TODD MATTINGLY**
KING & SPALDING, L.L.P.
1100 LOUISIANA
SUITE 4000
HOUSTON, TX 77002

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WYATT, TARRANT & COMBS, LLP
1715 AARON BRENNER DRIVE
SUITE 800
MEMPHIS TN 38120-4367

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OFFICE OF PETITIONS

In re Application of	:	
Wolter et al.	:	
Application No. 10/950,878	:	DECISION ON PETITION
Filed: September 27, 2004	:	
Attorney Docket No. A310636.3US	:	

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before March 19, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed December 19, 2006. Accordingly, the date of abandonment of this application is 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 payment of the issue fee of $700.00, (2) the petition fee of $750.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Christopher Bottorff at (571) 272-6052 or in his absence, the undersigned at (571) 272-7099.

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

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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QUARLES & BRADY LLP
411 E. WISCONSIN AVENUE
SUITE 2040
MILWAUKEE, WI 53202-4497

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MAR 1 4 2008

OFFICE OF PETITIONS

In re Application of Lipsky, et al. Application No. 10/950,882 Filed: September 27, 2004 Attorney Docket No. 310265.00028	: : : : :	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 December 12, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED.**

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

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

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

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

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

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

Any inquiries concerning this decision may be directed to Kenya A. McLaughlin at (571) 272-3222. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 3626 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

Anthony Knight
Supervisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/950,882	09/27/2004	3626	1382	310265.00028	54	3

CONFIRMATION NO. 6376

CORRECTED FILING RECEIPT

OC000000028633000

26710
QUARLES & BRADY LLP
411 E. WISCONSIN AVENUE
SUITE 2040
MILWAUKEE, WI 53202-4497

Date Mailed: 03/04/2008

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

Applicant(s)

Mark Robert Lipsky, Waunakee, WI;
Alexandre Sena Keresztes, Madison, WI;
Dazhi Li, Madison, WI;
Biao Shou, Madison, WI;
Herman Harjono, Fitchburg, WI;
Jagdeesh Shukla, Madison, WI;
Brandon Jon Baldock, Madison, WI;
Ting-Sheng Fu, Madison, WI;
Tin-Hang Andrew Ma, Fitchburg, WI;
Nishant Upadhyaya, Verona, WI;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/548,804 02/27/2004

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 10/950,882**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Universal charge routing system for medical billing

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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100102

DATE : January 02, 2010

TO SPE OF : ART UNIT 2826

SUBJECT : Request for Certificate of Correction on Patent No.: 7138652

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

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

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

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

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

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

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

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

Comments:

/SUE PURVIS/
Supervisory Patent Examiner.Art Unit 2826

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DOWELL BAKER, P.C.
201 MAIN STREET
SUITE 710
LAFAYETTE IN 47901

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NOV 13 2007

OFFICE OF PETITIONS

In re Application of :
WESTENDORF et al. : DECISION ON PETITION
Application No. 10/950,905 :
Filed: 09/27/2004 :
Attorney Docket No. D0035-0001 :

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

The above-identified application became abandoned for failure to file a timely response to the Notice of Non-Compliant Amendment, mailed November 22, 2006, which set an extendable period of one month, or thirty days, whichever was longer, to reply. The above-identified application became abandoned on December 23, 2006. On June 28, 2007, the Office mailed a Notice of Abandonment.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of replacement drawings, paid the petition fee, and made the proper statement of unintentional delay. Accordingly, the petition is **granted.**

This application is being referred to Technology Center AU 3671.

Telephone inquiries specific to this decision may be directed to the undersigned at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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STANLEY H. KREMEN
4 LENAPE LANE
EAST BRUNSWICK NJ 08816

In re Application of	:	
Richard Joe Petrocy	:	
Application No. 10/950,942	:	DECISION ON PETITION
Filed: September 27, 2004	:	
Attorney Docket No. 51900-PETROCY-002	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 30, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 18, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained.

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 $770; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2121 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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Juan Carlos A. Marquez
REED SMITH LLP
3110 Fairview Park Drive
Suite 1400
Falls Church, VA 22042

MAILED

NOV 2 8 2005

Technology Center 2100

In re Application of: Takashi Amano
Application No. 10/950,945
Filed: September 28, 2004
For: METHODS AND APPARATUS FOR STORAGE POOLING AND PROVISIONING FOR JOURNAL BASED STORAGE AND RECOVERY

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. §1.102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, filed on June 17, 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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MICHAEL BEST & FRIEDRICH, LLP
100 E WISCONSIN AVENUE
MILWAUKEE, WI 53202

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MAR 17 2005

OFFICE OF PETITIONS

In re Application of
Marchand, Tamburrino, McAlpine
Application No.: 10/950,959
Filed: September 27, 2004
Attorney Docket No: 047177-9170-01
For: REFRIGERATION SYSTEM WITH REVERSE FLOW DEFROST

: DECISION ACCORDING
: RULE 47(a) STATUS

This is in response to the petition under 37 CFR 1.47(a), filed February 17, 2005 (certificate of mailing dated February 14, 2005.)

The petition is **GRANTED**.

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

The above-cited application was filed on September 27, 2004, without a properly executed declaration. On November 15, 2004, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application requiring a properly executed oath or declaration, surcharge for the late filing of the same, and the payment of the filing fee. On February 17, 2004, the instant petition was filed with a request for an extension of time within the first month and evidentiary documents and statements.

Petitioner has shown that inventor Tamburrino has refused to join the prosecution of the above-identified application after having been presented with the application papers. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

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

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

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

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Sara M. Current
Legal Department
M-495
PO Box 1926
Spartanburg SC 29304

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OFFICE OF PETITIONS

In re Application of :
LI et al. :
Application No. 10/950,974 : DECISION ON PETITION
Filed: September 27, 2004 :
Attorney Docket No. 5036B :

This is a decision on the petition under 37 CFR 1.181(a), filed September 28, 2005, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely (see 37 CFR 1.181(f)). No extensions of time pursuant to the provisions of 37 CFR 1.136 are permitted.

This application was held abandoned for failure to timely respond to the Notice To File Missing Parts of Nonprovisional Application (Notice) of November 15, 2004, which set a two (2) month shortened statutory period for reply. Accordingly, a reply was due on or before January 15, 2005.

Petitioner states that a timely reply was mailed via certificate of mailing on February 16, 2005, which included the following papers: a declaration with a late declaration surcharge fee, the statutory basic filing fee and a petition for extension of time with an extension of time fee. Petitioner has submitted a copy of the previously mailed correspondences, which appear to bear certificates of mailing of February 16, 2005.

The file record does not include the originally submitted papers. Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), reproduced below:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition does not satisfy the above requirement (3). Charlotte C. Wilson has filed the instant petition, whereas the February 16, 2005 response was filed by Sara M. Current and certified with a certificate of mailing by Heidi M. Lewis. A statement attesting on a personal knowledge basis to the previous timely mailing of the declaration and its late surcharge fee, the payment of the basic filing fee, and the petition for and payment of the extension of time on February 16, 2005 must be submitted.

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

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

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

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

Telephone inquiries concerning this matter may be directed to Denise Pothier at (571) 272-4787.

Frances Hicks
Petitions Examiner
Office of Petitions

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Sara M. Current
Legal Department
M-495
PO Box 1926
Spartanburg SC 29304

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FEB 21 2007

OFFICE OF PETITIONS

In re Application of :
LI et al. :
Application No. 10/950,974 : DECISION ON PETITION
Filed: September 27, 2004 :
Attorney Docket No. 5036B :

This is a decision on a renewed petition under 37 CFR 1.181(a), filed January 16, 2007, which is being treated as a renewed petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely (see 37 CFR 1.181(f)). No extensions of time pursuant to the provisions of 37 CFR 1.136 are permitted.

This application was held abandoned for failure to timely respond to the Notice To File Missing Parts of Nonprovisional Application (Notice) of November 15, 2004, which set a two (2) month shortened statutory period for reply. A one-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on February 16, 2005.

Petitioner states that a timely reply was mailed via certificate of mailing on February 16, 2005, which included the following papers: a declaration with a late declaration surcharge fee, the statutory basic filing fee and a petition for extension of time with an extension of time fee. Petitioner has submitted a copy of the previously mailed correspondences, which appear to bear certificates of mailing of February 16, 2005.

However, petitioner has not provided evidence that the February 16, 2005 reply included an abstract as required by the November 15, 2004 Notice. Regretfully, the previous decision mailed November 22, 2006 failed to note the missing abstract. Based on the evidence of record, the above-identified application properly went abandoned on March 16, 2005 because applicant failed to completely respond to the November 15, 2004 Notice.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or

in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $1500 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 facsimile: (571) 273-8300
Attn: Office of Petitions

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

Telephone inquiries concerning this matter may be directed to Denise Pothier at (571) 272-4787.

Frances Hicks
Petitions Examiner
Office of Petitions

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Legal Department
M-495
PO Box 1926
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JUN 29 2007

OFFICE OF PETITIONS

In re Application of	:	
LI et al.	:	DECISION
Application No. 10/950,974	:	ON PETITION
Filed: September 27, 2004	:	
Attorney Docket No. 5036B	:	

This is a decision on a renewed petition under 37 CFR 1.181(a), filed April 2, 2007, which is being treated as a renewed petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application, or, in the alternative, a petition to revive the application under 37 CFR 1.137(b).

The petition under 37 CFR 1.8(b) is **GRANTED**. The holding of abandonment is vacated, and this application restored to pending status.

The petition under 37 CFR 1.137(b) is **DISMISSED as moot**.

This application was held abandoned for failure to timely respond to the Notice To File Missing Parts of Nonprovisional Application (Notice) of November 15, 2004, which set a two (2) month shortened statutory period for reply. A one-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application purportedly became abandoned on February 16, 2005.

In support of the petition, petitioner states that a timely reply was mailed via certificate of mailing on February 16, 2005, which included the following papers: a declaration with a late declaration surcharge fee, the statutory basic filing fee and a petition for extension of time with an extension of time fee. Petitioner has submitted a copy of the previously mailed correspondences, which appear to bear certificates of mailing of February 16, 2005. Additionally, petitioner argues that the abstract requirement in the November 15, 2004 Notice was sent in error, because an abstract was submitted with the originally filed application. As evidence, the petitioner provides a copy of the abstract filed on September 27, 2004 (Appendix C) and a copy of a stamped postcard receipt itemizing the abstract (Appendix B) and bearing the September 27, 2004 date. The original transmittal letter, having a September 27, 2004 entry, also supports this conclusion. The letter itemizes sixty-nine pages of specification, including the claim(s) and abstract, which matches with the sixty-seven pages of specification, the one page of claims and one page of abstract itemized on the postcard receipt.

The response submitted with the certificate of mailing of February 16, 2005 lacked any discussion of the abstract requirement or request for reconsideration. The Office will excuse the absence of the discussion in the response to the Notice in this case. However, in the future, the Office will require applicant to address *all* requirements found in the Notice.

Also, a response with a one-month extension of time to the Notice was due by February 15, 2005. Because the response was submitted on February 16, 2005, a two-month extension of time was due. The difference ($330) between a one-month ($120) and a two-month ($450) extension of time will be charged to Deposit Account No. 04-0500 as authorized.

Because the petition under 37 CFR 1.8(b) is granted, consideration of the petition under 37 CFR 1.137(b) is unnecessary.

While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the above address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to Denise Pothier at (571) 272-4787.

The application matter is being forwarded to Office of Initial Patent Examination for further processing.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: John E. Vick
MILLIKEN AND COMPANY
920 Milliken Road, M-495
Spartanburg SC 29303

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Joseph A. Fuchs
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233 S. WACKER DRIVE
SUITE 1450, SEARS TOWER
CHICAGO, IL 60606-6306

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OFFICE OF PETITIONS

In re Application of	:	
Nikolai Strelchenko, et al.	:	
Application No. 10/951,015	:	DECISION ON PETITION
Filed: September 27, 2004	:	TO WITHDRAW
Attorney Docket No. 53036-7006	:	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 March 11, 2009.

The request is **NOT APPROVED**.

A review of the file record indicates that the attorneys of record associated with customer number 73743 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.

Note: The attorneys of record were appointed by customer number 23424. Resubmit a withdrawal of attorney withdrawing the attorneys associated with customer number 23424.

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

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Dr. Yuri Verlinsky**
2825 North Halsted
Chicago, IL 60657

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INTEL CORPORATION
C/O INTELLEVATE, LLC
P.O. BOX 52050
MINNEAPOLIS MN 55402

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APR 30 2008

OFFICE OF PETITIONS

In re Application of
ROCKFORD, et al.
Application No. 10/951,017
Filed: September 27, 2004
Attorney Docket No. **P19931**

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 4, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the Notice to Notice of Non-Compliant Amendment, mailed January 17, 2006. The Notice set a period for reply of two (1) month 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 February 18, 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 $1500; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center 2818 for processing of the amendment.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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JAN 25 2006

OFFICE OF PETITIONS

In re Application of	:	ON PETITION
Cengiz A. Palanduz	:	
Application No. 10/951,054	:	
Filed: September 27, 2004	:	
Attorney Docket No. 42P20277	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 25, 2005, 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 July 6, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on October 7, 2005.

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

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

This matter is being referred to the Publishing Division for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MINNEAPOLIS MN 55440-1022

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MAR 29 2010

OFFICE OF PETITIONS

In re Patent No. 7,563,765	:	
Olsson et al.	:	DECISION ON
Issue Date: 07/21/2009	:	APPLICATION FOR
Application No. 10/951059	:	PATENT TERM ADJUSTMENT
Filed: 09/27/2004	:	and
Attorney Docket No.	:	NOTICE OF INTENT TO ISSUE
15665-003002	:	CERTIFICAE OF CORRECTION

This is a decision on the petition filed on September 21, 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-one (591) 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 ninety-one (591) 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 28, 2007 and ends on June 16, 2008, the day before the RCE was filed, and is 263 days not 264) days. See, 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 590, not 591 days.

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

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **five hundred ninety (590)** days.

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods, at (571) 272-3232.

Anthony J. Ko for
Alesia Brown
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,563,765 B2

DATED : **July 21, 2009**

INVENTOR(S) : Olsson 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 327 days.

Delete the phrase "by 327 days" and insert – by 590 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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DKW LAW GROUP, P.C.
58TH FLOOR - USX TOWER
600 GRANT STREET
PITTSBURGH, PA 15219

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JUL 1 2 2005

OFFICE OF PETITIONS

In re Application of :
Anthony J. Lammers, et al. :
Application No. 10/951,069 : ON PETITION
Filed: September 27, 2004 :
Attorney Docket No. INNODE/P009A1 :

This is a decision on the petition, filed July 11, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 20, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 3721 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/951,076	09/27/2004	Eldon Roth	317.1040001	7741

35236 7590 08/25/2008
THE CULBERTSON GROUP, P.C.
1114 LOST CREEK BLVD.
SUITE 420
AUSTIN, TX 78746

EXAMINER
CORBIN, ARTHUR L

ART UNIT	PAPER NUMBER
1794	

MAIL DATE	DELIVERY MODE
08/25/2008	PAPER

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

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

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: 8/22/08

In re application of	:	
Eldon Roth	:	DECISION ON
Serial No. 10/951,076	:	PETITION
Filed: September 27, 2004	:	
For: Method For Producing A Ph Enhanced Meat Product	:	

This is a sua sponte response to withdraw the abandonment of this application and is being considered as a PETITION UNDER RULE 37 C.F.R. 1.181(a) TO WITHDRAW NOTICE OF ABANDONMENT. A review of the record indicates that applicant has filed a request for rehearing on June 27, 2008. A review of the circumstances dictates that the application should not have been abandoned.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee).

The Petition is **GRANTED**.

The application is returned to pending status and forwarded to the Board of Appeal.

William Krynski, Quality Assurance Specialist
Technology Center 1700
Chemical and Materials Engineering

THE CULBERTSON GROUP, P.C.
1114 LOST CREEK BLVD.
SUITE 420
AUSTIN TX 78746

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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FUESS & DAVIDENAS
Suite II-G
10951 Sorrento Valley Road
San Diego CA 92121-1613

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MAR 3 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Diamond, et al.	:	
Application No. 10/951,085	:	DECISION ON PETITION
Filed: September 26, 2004	:	
Attorney Docket No. PS 0007P	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 1, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned February 4, 2007 for failure to timely submit a proper reply to the non-final Office action mailed January 3, 2007. The non-final Office action set a one day (or 30 day, whichever is longer) shortened statutory period of period of time for reply. Notice of Abandonment was mailed August 10, 2007.

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

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

This application is being referred to Technology Center AU 1634 for appropriate action by the Examiner in the normal course of business on the reply received herewith.

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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NIKOLAI & MERSEREAU, P.A.
900 SECOND AVENUE SOUTH
SUITE 820
MINNEAPOLIS, MN 55402

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JUN 0 2 2005

OFFICE OF PETITIONS

In re Application of :
Youn-Fu You et al :
Application No. 10/951,096 : ON PETITION
Filed: September 27, 2004 :
Attorney Docket No. 20040779.ORI :

This is a decision on the petition filed December 3, 2004, requesting that a "Notice of Omitted Item(s) in a Nonprovisional Application (Notice)" mailed November 23, 2004, be withdrawn.

The application was filed on September 27, 2004. On November 23, 2004, the Office of Initial Patent Examination mailed a "Notice" stating that the application has been accorded a filing date of September 27, 2004, but that Figure 3 described in the specification appeared to have been omitted from the filed application.

In response, on December 3, 2004, the petition contends that the allegedly omitted drawing was filed with other application papers on September 27, 2004. In support, the petition is accompanied by a copy of a postcard receipt, indicating receipt in the USPTO for this application on September 27, 2004 of, *inter alia*, "one copy of 6 sheets of formal patent drawings." The petition also encloses a copy of drawing (Figure 3) purportedly filed on September 27, 2004.

In view of the evidence presented, the Office concludes that the drawing of Figure 3 was filed on September 27, 2004, but was later misplaced. Accordingly, the petition is granted.

The "Notice" mailed on November 23, 2004 is vacated.

The $130.00 petition fee is being credited to Deposit Account No. 08-1265 as authorized.

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

This matter is being referred to the Office of Initial Patent Examination for further processing with a filing date of September 27, 2004, using the application papers filed on that date, and the copy of drawing Figure 3 supplied with the present petition, and for indicating in the USPTO record that 6 sheets of drawings were present on filing.

Brian Hearn
Senior 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
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NIKOLAI & MERSEREAU, P.A. Address: 900 SECOND AVENUE SOUTH
SUITE 820
MINNEAPOLIS MN 55402

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MAR 28 2007

OFFICE OF PETITIONS

In re Patent No. 7,128,367	:	
Issued: October 31, 2006	:	
Application No. 10/951,096	:	ON PETITION
Filed: September 27, 2004	:	
Attorney Docket No: 20040779.ORI	:	

This is a decision regarding your request for acceptance of a fee deficiency submission and loss of small entity status filed November 16, 2006, and is treated 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.33d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

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

Your fee deficiency submission under 37 CFR 1.28 is hereby accepted and the petition is **GRANTED**. Status as a small entity has also been removed.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3282.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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PATZIK, FRANK & SAMOTNY LTD.
150 SOUTH WACKER DRIVE
SUITE 1500
CHICAGO IL 60606

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In re Application of	:	
SUZUKI et al.	:	DECISION ON PETITION
Application No. 10/951,105	:	
Filed: 09/27/2004	:	
Attorney Docket No. 3807-002	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 8, 2008, to revive the above-identified application.

This application became abandoned for failure to pay the issue fee and publication fee as required by the Notice of Allowance and Fee(s) Due mailed on November 28, 2007, which set a three (3) month statutory period for reply. Accordingly, the application became abandoned on February 29, 2008. A Notice of Abandonment was mailed on March 25, 2008.

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

This matter is being forwarded to the Office of Data Management for issuance of a patent.

Telephone inquiries concerning the issuance of the application into a patent should be directed to the Office of Data Management, Customer Service at (571) 272-4200.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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DALLAS, TX 75202

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APR 2 8 2005

OFFICE OF PETITIONS

In re Application of	:	
Emanuel	:	
Application No. 10/951,109	:	Decision on Petition
Filed: January 4, 2005	:	
Attorney Docket No. KSY 02829 P1US	:	

This is a decision on the petition filed January 4, 2005, which is being treated as a petition underj 37 CFR 1.182 to accord the above-identified application a filing date of January 4, 2005.

On September 27, 2004, the application was filed.

On December 15, 2004, the Office of Initial Patent Examination mailed a Notice stating that Figure 6 was missing, that a filing date had been accorded and that, unless a petition was filed, the application would be examined as filed.

In response, the present petition supplies the omitted items and requests that the date that the omitted items are being supplied be the filing date of the application.

In view of the above, the petition is **granted**. The copy of Figure 6 submitted with the petition will be used for examination purposes.

The fee for a petition under 37 CFR 1.182 is $400. Therefore, an additional $270 will be charged to petitioner's deposit account.[1]

The Office of Initial Patent Examination will process the application with a filing date of January 4, 2005, using the application papers filed on September 27, 2004, and the copy of the drawing sheet containing Figure 6 filed on January 4, 2005.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

[1] See Revision of Patent Fees for Fiscal Year 2005, 69 Fed. Reg. 52604 (Aug. 27, 2004) and Changes to Support Implementation of the United States Patent and Trademark Office 21st Century Strategic Plan, 1287 Off. Gaz. Pat. Office 67 (Oct. 12, 2004).

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WOMBLE CARLYLE SANDRIDGE & RICE, PLLC
P.O. BOX 7037
ATLANTA GA 30357-0037

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OFFICE OF PETITIONS

In re Application of	:	
Timmer et al.	:	
Application No. 10/951,120	:	DECISION GRANTING PETITION
Filed: 27 September, 2004	:	
Atty Docket No. R18631 1063.1	:	

This is a decision on the petition under 37 CFR 1.182, filed on 27 June, 2005, to change the ninth named inventor's name.

The petition is **GRANTED**.

The name of the ninth inventor will be changed from "Bhatlapenumarthy Sesha Sridevi" to -**Sesha Sridevi Alluri**--.

Petitioners have presented an affidavit, signed with both names, setting forth that the name change occurred as a result of the ninth named inventor's marriage.

Receipt of the court order reflecting the inventor's current name is acknowledged. The inventor's name has been corrected in Office records. A corrected Filing Receipt is enclosed for petitioner's records.

The application is being referred to Technology Center Art Unit 1624 for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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Patrick S. Yoder
FLETCHER YODER
P.O. Box 692289
Houston, TX 77269-2289

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OFFICE OF PETITIONS

In re Application of

Price, et al. :

Application No. 10/951,132

: DECISION ON PETITION

Filed: September 27, 2004

:

Attorney Docket No. 155827-1/YOD

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

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 6, 2005, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on March 7, 2006.

The amendment filed July 10, 2006, is noted.

The application is being forwarded to Technology Center 2800, GAU 2882 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3-12-09

TO SPE OF : ART UNIT 1644

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/951140 Patent No.: 7332163

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

Should these sequences be entered? E. Ames

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: _____

Eileen B. O'Hara — **SPE**

1644 — **Art Unit**

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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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CHARLES J. RUPNICK
P.O. BOX 46752
SEATTLE, WA 98146

3/16/6

In re Application of	:	
Roy Studebaker	:	
Application No. 10/951,146	:	DECISION ON PETITION
Filed: September 27, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. RS-002	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 31, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **DISMISSED**.

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

The instant petition does not include a statement by the applicant and no other evidence, as indicated in MPEP § 708.02, Section IV above, was provided to support the petition.

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

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

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

By FAX: (571) 273-8300

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

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3745 for action in its regular turn.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CHARLES J. RUPNICK
P.O. BOX 46752
SEATTLE, WA 98146

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OFFICE OF PETITIONS

In re Application of	:	
Roy Studebaker	:	
Application No. 10/951,146	:	DECISION ON PETITION
Filed: September 27, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. RS-003	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed April 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 instant petition includes a copy of Inventor Roy Studebaker's birth certificate showing that he 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 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 3745 for action on the merits commensurate with this decision.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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CHARLES J RUPNICK
PO BOX 46752
SEATTLE WA 98146

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OFFICE OF PETITIONS

In re Application of	:	
Studebaker, Roy	:	DECISION ON PETITION
Application No. 10/951,147	:	TO MAKE SPECIAL
Filed: September 27, 2004	:	37 CFR 1.102(D)
Attorney Docket No. RS-002	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 31, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age, must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition does not include any documentary evidence showing the applicant's age, i.e. a birth certificate or a driver's license. Petitioner may also submit a statement signed by the applicant.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3206.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 3745 for action in its regular turn.

Liana Chase
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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CHARLES J RUPNICK
PO BOX 46752
SEATTLE WA 98146

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In re Application of	:	
Studebaker, Roy	:	
Application No. 10/951,147	:	ON PETITION
Filed: September 27, 2004	:	
Attorney Docket No. RS-002	:	

This is a decision on the renewed petition under 37 CFR 1.102(c)(1), filed April 3, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes a copy of the applicant's birth certificate. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3206.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 3745 for action on the merits commensurate with this decision.

Liana Chase
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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JOHN D. PIRNOT
ADVANCED ENERGY INDUSTRIES, INC.
1625 SHARP POINT DRIVE
FORT COLLINS, CO 80525

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FEB 05 2007

OFFICE OF PETITIONS

In re Application of	:	
Gregory A. Roche	:	
Application No. 10/951,162	:	DECISION GRANTING PETITION
Filed: September 27, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. AE2002-003CON	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 29, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before October 21, 2005, as required by the Notice of Allowance and Fee(s) Due mailed July 21, 2005. A Notice of Abandonment was mailed on May 3, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the issue and publication fees ($700 and $300, respectively); (2) the $750 petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue and publication fees are accepted as having been unintentionally delayed.

The revocation and power of attorney filed on December 4, 2006 is not acceptable since compliance with 37 CFR 3.73(b) has not been satisfied. In this regard, the statement under 37 CFR 3.73(b) fails to provide the reel and frame number of where the assignment(s) is recorded in the assignment records of the U.S. Patent and Trademark Office. Additionally, the statement is incomplete since it fails to set forth the chain of title from the inventors to the current assignee. Accordingly, the revocation and power of attorney filed on December 4, 2006 will not be entered. In view of the nonacceptance of the power of attorney, a courtesy copy of this decision is being mailed to petitioner herein, who is listed under the Customer Number in the power.

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

cc:

Larry Williams
3645 Montgomery Drive
Santa Rosa, CA 95405

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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SEAN R. O'DOWD
COOLEY GODWARD LLP
THE BOWEN BUILDING
875 15TH STREET, SUITE 800
WASHINGTON, DC 2005-2221

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FEB 14 2007

OFFICE OF PETITIONS

In re Application of	
Gregory A. Roche et al	
Application No. 10/951,162	DECISION ON PETITION
Filed: September 27, 2004	TO WITHDRAW
Attorney Docket No. AE1002-003CON	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed June 27, 2006, which is being treated as a request to withdraw from employment in a proceeding before the Office under 37 C.F.R. § 10.40.

The request is **APPROVED**.

A review of the file record indicates that Sean R. O'Dowd, signing on behalf of the attorneys associated with Customer Numbers 22,903 and 58,249: (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. Accordingly, the attorneys associated with Customer Numbers 22,903 and 58,249 may not act in a representative capacity under 37 C.F.R. § 1.34 unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

The request to change the correspondence address is not acceptable as the requested correspondence address is not that of: (1) the first named inventor, or (2) the assignee of the entire interest. Further, as there was an acceptable power of attorney by the applicants filed on June 7, 2005, all future communications from the Office will be directed to John D. Pirnot at the address of record and noted below.

In view of the nonacceptance of the power of attorney filed on December 4, 2006, as noted in a separately mailed communication, a courtesy copy of this decision is being mailed to Mr. Larry Williams. However, until an acceptable power of attorney is submitted, all future correspondence will be directed to Mr. John D. Pirnot.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

John D. Pirnot
Advanced Energy Industries, Inc.
1625 Sharp Point Drive
Fort Collins, CO 80525

Larry Williams
3645 Montgomery Drive
Santa Rosa, CA 95405

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Tyco Healthcare Group LP
d/b/a Covidien
15 Hampshire Street
Mansfield, MA 02048

Mail Date: 04/21/2010

Applicant	: James A. Walls	: DECISION ON REQUEST FOR
Patent Number	: 7655000	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/951,178	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/27/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **240** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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National Starch LLC
10 Finderne Avenue, P.O. Box 5932
Bridgewater NJ 08807-0500

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OFFICE OF PETITIONS

In re Application of	:	
Chai-Yen Kao et al.	:	
Application No. 10/951,182	:	DECISION ON PETITION
Filed: September 27, 2004	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 3050.FDI	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed December 2, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to a prior-filed provisional application.

The petition is **DISMISSED.**

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

This pending nonprovisional application was filed on September 27, 2004, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/506,528, which was filed on September 26, 2003, and for which priority is claimed. It is noted the filing date of the nonprovisional application is one day after the twelve month filing date of the provisional, however, September 26, 2004 fell on a Sunday. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. An incorporation by reference statement added after an

application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 119(e) after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 119(e) is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a renewed petition under 37 CFR 1.78(a)(6) and either an Application Data Sheet or a substitute amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)) deleting the incorporation by reference statement, are required.

As authorized, the $1,410 fee required by 37 CFR 1.78(a)(6)(ii) will be charged to petitioner's Deposit Account No. 11-0600 as authorized by James P. Demers.

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 PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Carl Friedman at (571) 272-6842.

David Bucci
Petitions Examiner
Office of Petitions

Cc: Kenyon & Kenyon LLP
One Broadway
New York, New York 10004

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National Starch LLC
Patent Dept.
10 Finderne Avenue
Attn: Karen Kaiser
Bridgewater NJ 08807-0500

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JUL 13 2009

OFFICE OF PETITIONS

In re Application of	:	
Chai-Yen Kao et al.	:	
Application No. 10/951,182	:	DECISION ON PETITION
Filed: September 27,2004	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 3050.FDI	:	

This is a decision on the renewed petition under 37 CFR § 1.78(a)(6), filed May 28, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for benefit of priority to the prior-filed provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED AS MOOT.**

The petition is accompanied by an amendment to the first sentence of the specification following the title to include a reference to the prior-filed provisional applications. While a reference to the prior-filed provisional applications was not included in an Application Data Sheet (ADS) or in the first sentence of the specification following the title as required by the rules, a reference, nevertheless, was made in the transmittal letter filed with the application.

Where a claim for priority under 37 CFR § 1.78(a)(6) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR § 1.78(a)(5)(ii). On the other hand, if the USPTO does not note the claim for priority to the prior-filed applications set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR § 1.78(a)(6).[1] In the present case, the Office noted

[1] *Note* MPEP 201.11 (III)(D) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

the claim for priority to the prior-filed provisional applications in the transmittal letter filed with the application, as shown by their inclusion on the filing receipt.

In view of the above, the $1,410 petition fee submitted on December 2, 2008 and resubmitted on May 28, 2009 is unnecessary and will be refunded to petitioner's deposit account in due course.

Any questions concerning this decision on petition may be directed to Carl Friedman at (571) 272-6842. 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 AU 1794 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 119(e) to the prior-filed applications.

David Bucci
Petitions Examiner
Office of Petitions

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ATLANTA, GA 30328

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OFFICE OF PETITIONS

In re Application of	:	
Dale H. Nichols, Sr.	:	
Application No. 10/951,191	:	DECISION ON PETITION
Filed: September 27, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 2825322-000010	:	

This is a decision on the petition, filed July 11, 2006, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on April 14, 2005. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of May 10, 2007 accompanies this decision on petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204.

This application is being referred to Technology Center Art Unit 2612 for further prosecution.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/951,191	09/27/2004	Dale Hunt Nichols SR.	2825322-000010

CONFIRMATION NO. 6805

49840
BAKER, DONELSON, BEARMAN, CALDWELL & BERKOWITZ
SUITE 3100 SIX CONCOURSE PARKWAY
ATLANTA, GA 30328

Date Mailed: 02/01/2007

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 05/10/2007.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

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OFFICE OF PETITIONS

In re Application of :
Allan Hing Chuen Kwong et al :
Application No. 10/951,195 :
Filed: September 27, 2004 :
Attorney Docket No. 2170687-28 :

ON PETITION

This is a decision on the petition, filed September 25, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 5, 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 2875 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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KIRKPATRICK & LOCKHART NICHOLSON GRAHAM LLP
599 LEXINGTON AVENUE
33RD FLOOR
NEW YORK, NY 10022-6030

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OFFICE OF PETITIONS

In re Application of	:	
Brisbois, et al.	:	
Application No. 10/951,223	:	DECISION ON PETITION
Filed: September 27, 2004	:	TO WITHDRAW
Attorney Docket No. BRISBOIS210	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 11, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The 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 file has been transferred to another attorney", 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 April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: BROWN, RUDNICK, BERLACK & ISRAELS LLP
SEVEN TIMES SQUARE
BOSTON MA 02111

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SPENCER, FANE, BRITT & BROWNE
1000 WALNUT STREET
SUITE 1400
KANSAS CITY MO 64106-2140

In re Application of
Dennis L. Abernathie
Application No. 10/951,227
Filed: September 27, 2004
Attorney Docket No. 5014730-2

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 16, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Office communication, mailed September 16, 2008. The communication set a period for reply of one (1) months or thirty (30) days whichever is longer. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 17, 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 declaration, (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,175 extension of time fee submitted with the petition on September 16, 2009 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 JoAnne Burke at (571)272-4584.

This application is being referred to Technology Center AU 3733 for appropriate action by the Examiner in the normal course of business on the reply received

JoAnne Burke
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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ENERGY CONVERSION DEVICES, INC.
2956 WATERVIEW DRIVE
ROCHESTER HILLS MI 48309

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JAN 07 2010

In re Application of :
Reichman et al. :
Application Number: 10/951231 : ON PETITION
Filing Date: 09/27/2004 :
Attorney Docket Number: OBC-122 :
:

This is a decision in reference to the "PETITION UNDER 37 CFR 1.181," filed on October 21, 2009.

The petition is **DISMISSED**.

The application became abandoned on September 26, 2009, for failure to timely submit the issue and publication fees in response to the Notice of Allowance and Fees Due mailed on June 25, 2009, which set a three (3)-month statutory period for reply. On July 6, 2009, a Fee(s) Transmittal form was filed, but no payment or deposit account authorization of the issue and publication fees was authorized. Notice of Abandonment was mailed on October 13, 2009.

Petitioners assert that the Fee Transmittal form was filed on July 6, 2009, but concede that the deposit account number was not supplied on the form filed on July 6, 2009. Petitioners have submitted the issue and publication fees with the subject petition.

The petition must be dismissed because petitioners have not shown that a proper and complete reply was timely filed. In this regard, the Notice of Allowance and Fee(s) Due stated "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." It is undisputed that the issue and publication fees were not paid within three months from the mailing date of the Notice of Allowance and Fee(s) Due mailed on June 25, 2009. Rather, the issue and publication fees were paid

on October 21, 2009, which is more than three (3) months from the mailing date of the Notice of Allowance and Fee(s) Due. Accordingly the application is abandoned as a matter of law, and a petition to revive must be filed.[1]

Further, petitioners have provided no showing as to why a proper reply to the Notice of Allowance and Fee(s) Due mailed June 25, 2009, was not timely filed. In the absence of an adequate showing why a proper reply was not timely filed, or why the delay in filing a proper reply should be excused, the holding of abandonment will not be withdrawn.[2]

Petitioners may wish to consider filing a petition under 37 CFR 1.137(b), which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 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 8 June, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may required additional information where there is a question whether the delay was unintentional; and

---

[1] 37 CFR 1.135(b) states, in pertinent part, 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.

[2] See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985); see also In re Colombo, Inc., 33 USPQ2d 1530, 1532 (Comm'r Pat. 1994)(while the Office attempts to notify applicants of deficiencies in their responses in a manner permitting a timely correction, the Office has no obligation to notify parties of deficiencies in their responses in a manner permitting a timely correction).

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

A copy of the form for filing a petition under 37 CFR 1.137(b) to revive an application unintentionally abandoned is enclosed herewith for petitioners' convenience.

Any request for reconsideration must be filed within **TWO (2) MONTHS** of the date of this decision. This time period is not extendable.[3]

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

A reply may also be filed using the EFS-Web system of the USPTO.

---

[3] See 37 CFR 1.181(f).

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

Cf: PTO/SB/64

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ENERGY CONVERSION DEVICES, INC.
2956 WATERVIEW DRIVE
ROCHESTER HILLS MI 48309

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APR 2 6 2010

OFFICE OF PETITIONS

In re Application of	:	
Benjamin Reichman et al.	:	
Application No. 10/951,231	:	DECISION ON PETITION
Filed: September 27, 2004	:	
Attorney Docket No. OBC-122	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 16, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before September 25, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed June 25, 2009. Accordingly, the date of abandonment of this application is September 26, 2009. A Notice of Abandonment was mailed on June 24, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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

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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

Mail Date: 04/21/2010

Applicant	: Anne Vignalou-Marche	: DECISION ON REQUEST FOR
Patent Number	: 7577530	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/951,235	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/27/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **568** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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WILLIAM P. DANI
WARNER, NORCROSS & JUDD, LLP
900 FIFTH THIRD CENTER
111 LYON STREET, N.W.
GRAND RAPIDS, MI 49503-2487

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OFFICE OF PETITIONS

In re Application of	:	
James P. Cullom et al.	:	
Application No. 10/951,238	:	DECISION ON PETITION
Filed: September 27, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 043812.087225-001	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed February 2, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a photocopy of a birth certificate. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

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 3653 for action on the merits commensurate with this decision.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

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JAN 13 2005

TECHNOLOGY CENTER 3600

PATRICIA SMITH KING
222 North Midvale Boulevard
Suite 22
Madison, WI 53705-5072

In re application of : **DECISION ON PETITION**
Duane Frederick Sippola : **TO MAKE SPECIAL**
Application No. 10/951,240 : **(APPLICANT'S AGE)**
Filed: September 27, 2004 :
For: EFFICIENTLY INSTALLABLE AND DURABLE EMBEDMENT TILE FOR PRODUCING TACTILELY-DETECTABLE SURFACES

This is a decision on the petition submitted on September 27, 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. Sippola indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Randolph A. Reese
Special Programs Examiner
Patent Technology Center 3600
(703) 308-2121

RAR/pav: 12/01/04

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Paper No.

FOLEY & LARDNER LLP
777 EAST WISCONSIN AVENUE
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OFFICE OF PETITIONS

In re Application of	:	
Morrow et al.	:	
Application No. 10/951,257	:	LETTER REGARDING
Filed: September 27, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. 061300-0639	:	

This is in response to the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT," filed February 13, 2008. Pursuant to their duty of candor and good faith to the Office, applicants disclose that the patent term adjustment indicated on the Notice of Allowance disagree with applicants' own calculation of patent term adjustment.

The request for review of the patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is three hundred twenty-seven **(327)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On November 15, 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 to date is 358 days. Applicants state no basis for their disclosure.

Nonetheless, a review of the record confirms that in response to the Office action mailed May 14, 2007, applicants did not file an RCE until September 14, 2007, three months and 31 days later. As such, a period of reduction of 31 days should have been entered pursuant to 37 C.F.R. §1.704(b).

As such, the correct initial determination of the patent term adjustment at the time of the mailing of the notice of allowance is three hundred twenty-seven (327) days.

As this letter was submitted as an advisement to the Office of an error in Applicant's favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks Applicant for their good faith and candor in bringing this to the attention of the Office.

The application is being forwarded to the Office of Data Management for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded and the period is not consumed by the request for continued examination).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM Screen

Day : Tuesday
Date: 7/29/2008

PALM INTRANET

Time: 21:19:10

PTA Calculations for Application: 10/951257			
Application Filing Date:	09/27/2004	PTO Delay (PTO):	358
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	327
PTO Delay Adjustment:	-31		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
57	07/29/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		31	
46	11/15/2007	MAIL NOTICE OF ALLOWANCE			
45	11/13/2007	ISSUE REVISION COMPLETED			
44	11/13/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
43	11/13/2007	DOCUMENT VERIFICATION			
42	09/26/2007	NOTICE OF ALLOWABILITY			
41	09/24/2007	DATE FORWARDED TO EXAMINER			
40	09/14/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
39	09/24/2007	DATE FORWARDED TO EXAMINER			
38	09/14/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
37	09/24/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
36	09/14/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
35	09/14/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
34	05/14/2007	MAIL FINAL REJECTION (PTOL - 326)			
33	05/11/2007	FINAL REJECTION			
32	02/20/2007	NEW OR ADDITIONAL DRAWING FILED			
31	03/03/2007	DATE FORWARDED TO EXAMINER			
30	02/20/2007	RESPONSE AFTER NON-FINAL ACTION			
29	11/20/2006	MAIL NON-FINAL REJECTION	358		-1
28	11/17/2006	NON-FINAL REJECTION			
27	03/10/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
		INFORMATION DISCLOSURE STATEMENT			

26	12/27/2004	CONSIDERED			
25	04/03/2006	CASE DOCKETED TO EXAMINER IN GAU			
24	03/10/2006	REFERENCE CAPTURE ON IDS			
23.7	03/10/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
23	03/10/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	08/03/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
21	08/03/2005	CASE DOCKETED TO EXAMINER IN GAU			
20	12/27/2004	REFERENCE CAPTURE ON IDS			
19.7	12/27/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	12/27/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	02/23/2005	TRANSFER INQUIRY TO GAU			
17	02/14/2005	TRANSFER INQUIRY TO GAU			
16	02/01/2005	APPLICATION RETURN FROM OIPE			
15	02/01/2005	APPLICATION IS NOW COMPLETE			
14	02/01/2005	APPLICATION RETURN TO OIPE			
13	02/01/2005	APPLICATION RETURN FROM OIPE			
12	02/01/2005	APPLICATION RETURN TO OIPE			
11	02/01/2005	APPLICATION RETURN FROM OIPE			
10	02/01/2005	APPLICATION IS NOW COMPLETE			
9	02/01/2005	APPLICATION RETURN TO OIPE			
8	01/31/2005	APPLICATION DISPATCHED FROM OIPE			
7	01/31/2005	APPLICATION IS NOW COMPLETE			
6	01/10/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
5	11/22/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	11/16/2004	CLEARED BY OIPE CSR			
3	11/16/2004	CASE CLASSIFIED BY OIPE			
2	11/15/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	09/27/2004	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

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Thomas J. Perkowski, Esq., P.C.
Soundview Plaza
1266 East Main Street
Stamford CT 06902

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OFFICE OF PETITIONS

In re Application of

GOOD, Timothy
Application No. 10/951,270
Filed: September 27, 2004
Attorney Docket No. **108-120USANF0**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 09, 2005.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Thomas J. Perkowski. Jay Sbrollini, Esq. has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There are no outstanding office actions at this time.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Terri Williams
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of

Brian L Goldwitz
Application No. 10/951,280
Filed: September 27, 2004
Attorney Docket No. 61000(51954)

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 18, 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).

A review of the file indicates that the power of attorney of record in this application was not appointed by customer number. Accordingly, the request under 37 C.F.R. § 1.136(b) to withdraw attorneys/agents associated with customer number 21874 cannot be approved.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272- 2991.

Amelia Au
Petitions Examiner
Office of Petitions

cc: **Justin S. Rerko, Esq.**
19836 Ellsworth Drive
Strongsville, OH 44149

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Boston, MA 02205

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OFFICE OF PETITIONS

In re Application of	:	
Brian L. Goldwitz	:	
Application No. 10/951,280	:	DECISION ON PETITION
Filed: September 27, 2004	:	TO WITHDRAW
Attorney Docket No. 61000(51954)	:	FROM RECORD
	:	

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 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 George N. Chacla 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.

The application became abandoned for failure to timely respond to the Office action mailed September 29, 2006.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Brian L. Goldwitz**
342 Country Lane
Orange, CT 06477

cc: **Justin S. Rerko, Esq.**
511 Windstone Trail
Alpharetta, GA 30004

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/951,280	09/27/2004	Brian L. Goldwitz	61000(51954)

CONFIRMATION NO. 7788

POWER OF ATTORNEY NOTICE

21874
EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON, MA 02205

OC000000027010584

Date Mailed: 11/30/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/18/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tswilliams/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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305 N. SECOND AVENUE
#127
UPLAND, CA 91786-6064

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OFFICE OF PETITIONS

In re Application of	:	
Brian L. GOLDWITZ	:	
Application No. 10/951,280	:	DECISION ON PETITION
Filed: September 27, 2004	:	
Attorney Docket No. GOLD-1019	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 19, 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 September 25, 2006, which set a shortened statutory period for reply of three (3) months. 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 under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 27, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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 $770.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

This application is being referred to Technology Center AU 3711 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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KELLEY DRYE & WARREN LLP
TWO STAMFORD PLAZA
281 TRESSER BOULEVARD
STAMFORD CT 06901

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AUG 03 2009

OFFICE OF PETITIONS

In re Application of
UHRBACH, Amy J. et al.
Application No. 10/951,291
Filed: September 27, 2004
Attorney Docket No. **NU-150(US)**

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 18, 2009.

The request is **NOT APPROVED**.

The Office has revised its change in procedure for request to withdraw from representation applies to requests filed on or after May 12, 2008.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request to withdraw less than all attorneys appointed by customer number 47670 cannot be approved. The addition and/or deletion of a practitioner from the list of practitioners associated with a Customer Number should be made by submitting a "Request for Customer Number Data Change" (PTO/SB/124) which will result in the addition or deletion of such practitioner from the list of persons authorized to represent any applicant or assignee of the entire interest who appointed all of the practitioners associated with such Customer Number. See MPEP 403 Section I. Customer Number Practice.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783..

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **WOLF GREENFIELD & SACKS, P.C.**
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

cc: **KELLEY DRYE & WARREN LLP**
400 ALTLANTIC STREET , 13TH FLOOR
STAMFORD, CT 06901

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KELLEY DRYE & WARREN LLP
TWO STAMFORD PLAZA
281 TRESSER BOULEVARD
STAMFORD CT 06901

In re Application of	:	
UHRBACH, Amy J. et al.	:	
Application No. 10/951,291	:	DECISION ON PETITION
Filed: September 27, 2004	:	TO WITHDRAW
Attorney Docket No. **NU-150(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 August 14, 2009.

The request is **NOT APPROVED** because a revocation of power of attorney has been previously filed.

A review of the file record indicates that the power of attorney to KELLEY DRYE & WARREN LLP has been revoked by the assignee of the patent application on August 12, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **WOLF GREENFIELD & SACKS, P.C.**
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

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LEONARD TACHNER, A PROFESSIONAL LAW CORPORATION
17961 SKY PARK CIRCLE
SUITE 38-E
IRVINE CA 92614

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OFFICE OF PETITIONS

In re Application of
Barry Hudson
Application No. 10/951,297
Filed: September 27, 2004
Attorney Docket No. SEWLEX-7

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 11, 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 3, 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 June 4, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $750; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to April Wise at (571) 272-1642.

This application is being referred to Technology Center AU 3676 for appropriate action by the Examiner in the normal course of business on the reply received.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JUN 0. 9 2006

OFFICE OF PETITIONS

Leonard Tachner
A Professional Law Corporation
17961 Sky Park Circle, Suite 38-E
Irvine, CA 92614

In re Application of
JAMES
Application No.: 10/951,298
Filed: September 27, 2004
Attorney Docket No.: MOSK-169

DECISION ON PETITION

UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed January 27, 2006 to revive the above-entitled application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper reply in a timely manner to the non-final Office action mailed June 27, 2005, which set a shortened statutory period for reply of three (3) months. A response was not filed and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained as indicated by the Notice of Abandonment mailed January 26, 2006. A Notice of Appeal was not filed. Accordingly, by operation of law, the above-identified application became abandoned on September 28, 2005.

The present petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a response to the Office action mailed June 27, 2005; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Office action of June 27, 2005 is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the four-month extension of time submitted with the petition on January 27, 2006 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The application file is being referred to Technology Center AU 3723.

Telephone inquiries concerning this decision should be directed to the undersigned.

Derek A. Putonen
Attorney Advisor
(571) 272-3294

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WOMBLE CARLYLE SANDRIDGE & RICE, PLLC
P.O. BOX 7037
ATLANTA GA 30357-0037

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AUG 0 3 2005

OFFICE OF PETITIONS

In re Application of	:	
Timmer et al.	:	
Application No. 10/951,305	:	ON PETITION
Filed: September 27, 2004	:	
Attorney Docket No. R18631 1062.2	:	

This is a decision on the petition under 37 CFR 1.182, filed July 13, 2005, to change the name of the ninth named inventor.

The petition is **granted**.

The name of the ninth inventor will be changed from "BHATLAPENUMARTHY SESHA SRIDEVI" to - - SESHA SRIDEVI ALLURI- - .

The Office records have been corrected to reflect the change of the ninth inventor's name as noted above. A corrected filing receipt accompanies this decision.

Inquiries regarding this decision may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Corrected Filing Receipt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03/30/10

TO SPE OF : ART UNIT 2191

SUBJECT : Request for Certificate of Correction for Appl. No.: 10951315 Patent No.: 7441238

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: _____

[signature] **SPE**

2191 **Art Unit**

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DEC 0 3 2004
TECHNOLOGY CENTER 3600

FORTKORT GRETHER & KELTON LLP
8911 N. CAPITAL OF TEXAS HWY.
SUITE 3200
AUSTIN, TX 78759

In re application of	:	**DECISION ON PETITION**
Arno Penzias et al.	:	**TO MAKE SPECIAL**
Application No. 10/951,326	:	**(APPLICANT'S AGE)**
Filed: September 27, 2004	:	
For: METHOD AND SYSTEM FOR CONTROLLABLY AND SELECTIVELY SECURING A PORTABLE COMPUTING DEVICE TO A PHYSICAL HOLDING		

This is a decision on the petition submitted on September 27, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a signed passport indicating Mr. Penzias is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/slb: 11/22/04

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ALEXANDRIA, VA 22313-1450
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Paper No.

PATENT DEPARTMENT (51851)
KILPATRICK STOCKTON LLP
1001 WEST FOURTH STREET
WINSTON-SALEM NC 27101

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MAR 01 2010

In re Application of	:	
Mallett et al.	:	
Application No. 10/951,350	:	ON APPLICATION FOR
Filed: September 28, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. IMM081B	:	
Title: ENHANCED CURSOR	:	
CONTROL USING INTERFACE	:	
DEVICES	:	

This is in response to the "REQEUST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION," filed November 18, 2009, which is being treated as a petition pursuant to 37 C.F.R. § 1.705(b). Applicant submits that the correct patent term adjustment to be indicated on the patent is one thousand and thirty-eight (1,038) days, not seven hundred and fifty-four (754) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction partly on the basis that the Office will take in excess of three years to issue this patent.[1]

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not

[1] Applicant also requests this correction on the basis of Applicant delay under 37 C.F.R. § 1.704(c)(10).

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 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 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).[2] 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.[3]

---

[2] It would be proper to include the candor disclosure of the Rule 1.312 amendment concurrently therewith.

[3] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Philip S. Johnson
Johnson & Johnson
One Johnson & Johnson Plaza
New Brunswick, NJ 08933-7003

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FEB 23 2006

OFFICE OF PETITIONS

In re Application of :
Harris et al. :
Application No. 10/951,357 : DECISION ON PETITION
Filed: September 28, 2004 :
Attorney Docket No. ETH-5168 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 29, 2005, which is being treated as a petition under 37 CFR 1.53(e), requesting that the USPTO accord the above-identified application a filing date of September 28, 2004. The petition was recently forwarded to the Office of Petitions for a decision on the merits. The Office sincerely apologizes for any inconvenience.

On September 28, 2004, applicants deposited the above-identified application. On December 1, 2004, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application, stating that the application had not been accorded a filing date as the application was deposited without any drawings. The Notice also stated that the application did not comply with the requirements of 37 CFR 1.821-1.825. The Notice indicated that all of the items noted, and a newly executed oath or declaration covering the item(s) must be submitted within TWO MONTHS of the date of the Notice or the proceedings on the application would be terminated. The Notice stated that the filing date would be the date of receipt of the required item(s) and that any assertion that the item(s) were submitted, or not necessary for a filing date, must be made by way of a petition accompanied by a fee.

On August 17, 2005, the Office mailed a Notice of Termination of Proceedings Under 37 CFR 1.53(e). The Notice stated that the proceedings on the above-identified application were terminated because the application did not meet the requirements to be entitled

to a filing date, and the filing errors specified in the Notice of Incomplete were not timely corrected. The Office refunded the $770.00 filing fee paid by applicants, less a $130.00 handling fee.

On September 29, 2005, applicants submitted the following items:

(1) Petition to Revive Application Abandoned Unintentionally Pursuant to 37 CFR 1.137(b) (and fee);
(2) Petition Pursuant to 37 CFR 1.53 Asserting the Drawings Are Unnecessary (and fee);
(3) Preliminary Amendment;
(4) Power of Attorney;
(5) Statement Under 37 CFR 3.73(b);
(6) Paper Copy of Sequence Listing;
(7) Diskette containing Sequence Listing in computer readable form;
(8) Amendment directing entry of Sequence Listing in specification; and,
(9) Statement to Support Filing of Sequence Listing.

Petition Under 37 CFR 1.137(b)

The filing of the petition under 37 CFR 1.137(b) to revive the application due to unintentional delay is inappropriate under these circumstances. The present application did not meet the requirements to be entitled to a filing date. Therefore, the Office **terminated the proceedings** in the application pursuant to 37 CFR 1.53(e)(2), and refunded the filing fee, less the $130.00 handling fee. Because the application had not been accorded a filing date, the application could not be held abandoned.

Petition Pursuant to 37 CFR 1.53 Asserting Drawings Are Unnecessary

Applicants asserted that the drawings were unnecessary to the above-identified application and submitted a preliminary amendment deleting all references to the drawings from the specification. Specifically, applicants averred:

> The claimed subject matter is directed to a tissue-engineering scaffold, comprising a microporous scaffold composed of a biocompatible material suitable and a nanofibrous, nanoporous hydrogel formed from self-assembling peptides. The subject matter is fully described in words in the specification and examples, such

> that the skilled artisan would understand the claimed subject matter without reference to drawings. Specifically, the content of the figures referred to in the now-deleted "Brief Description of the Drawings," which made reference to certain photomicrographs, is fully described in words in Example 1 of the present application.

Petition dated 09/20/05, pp. 1-2.

The Office notes that:

> A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g), so long as the application contains something that can be construed as a written description and the names of all the inventors.

MPEP § 601.01(f).

The present nonprovisional application contains at least one claim and is directed to subject matter for which a drawing is usually not considered essential for a filing date. Therefore, the application should have been treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g). Namely, the USPTO mails a Notice of Omitted Item(s) In A Nonprovisional Application, indicating that the application **has been accorded a filing date**, but is lacking some of the figures of drawings described in the specification. See MPEP § 601.01(g).

Furthermore, the USPTO should have mailed a Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures - **Filing Date Granted**," and set a two month extendable period to comply with the requirements of 37 CFR 1.821-1.825.

In view of the above, the Notice of Incomplete Nonprovisional Application was mailed in error and is hereby withdrawn. The application will be accorded a filing date of September 28, 2004. Accordingly, the petition is granted.

With the present petition, applicants submitted an "Assignee Power of Attorney," appointing the firm of Woodcock Washburn LLP and changing the correspondence address of record. Additionally, applicants submitted a Statement Under 37 CFR 3.73(b), and indicated that copies of assignment records or other documents in the chain of title were attached. Unfortunately, the Office did not locate these documents with the petition.

The Office reminds applicants that an appointment of power of attorney and a change of the correspondence address may be made by an assignee as provided under 37 CFR 3.73(b). Pursuant to 37 CFR 3.73:

> (b)(1) In order to request or take action in a patent or trademark matter, the assignee must establish its ownership of the patent or trademark property of paragraph (a) of this section to the satisfaction of the Director. The establishment of ownership by the assignee may be combined with the paper that requests or takes the action. Ownership is established by submitting to the Office a signed statement identifying the assignee, accompanied by either:
>
> (i) Documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment). The documents submitted to establish ownership may be required to be recorded pursuant to § 3.11 in the assignment records of the Office as a condition to permitting the assignee to take action in a matter pending before the Office; 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).
>
> (2) The submission establishing ownership must show that the person signing the submission is a person authorized to act on behalf of the assignee by:

(i) Including a statement that the person signing the submission is authorized to act on behalf of the assignee; or

(ii) Being signed by a person having apparent authority to sign on behalf of the assignee, *e.g.*, an officer of the assignee.

The assignee has not meet the requirements of 37 CFR 3.73(b)(1)(i) because it did not submit a statement affirming that documentary evidence was, or concurrently is, submitted for recordation pursuant to 37 CFR 3.11. The Statement Under 37 CFR 3.73(b) will not be accepted. Accordingly, the assignee has not established the right to take action in this application. For this reason, the USPTO will not enter the appointment of power of attorney or the change of the correspondence address of record until the assignee meets the requirements of 37 CFR 3.73(b). As a one-time courtesy, the Office will mail a copy of this decision to the law firm of Woodcock Washburn LLP.

The petition fees, totaling $1,900.00, are unnecessary and will be refunded to applicants' Deposit Account. However, the Office will charge the Deposit Account for the filing fee, less the handling fee, in the amount of $640.00.

The Office of Initial Patent Examination is directed to accord the application a filing date of September 28, 2004, with "0" sheets of drawings.

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

Cc: Woodcock Washburn LLP
One Liberty Place - 46th Floor
Philadelphia PA 19103

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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WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE – 46TH FLOOR
PHILADELPHIA, PA 19103

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OFFICE OF PETITIONS

In re Application of	:	
Carol Wright et al	:	
Application No. 10/951,385	:	DECISION ON PETITION
Filed: September 28, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. JJI-51-CON2	:	37 CFR 1.102(d)
	:	

This is a decision on the petition under 37 CFR §1.102(d), filed August 7, 2006, to make the above-identified application special based on actual infringement as set forth in M.P.E.P. § 708.02, Section II.

The petition is **DISMISSED.**

A grantable petition to make an application special under 37 CFR §1.102(d) and MPEP §708.02, Section II: Infringement, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the office alleging:

> (A) That there is an infringing device or product actually on the market or method in use;
>
> (B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and
>
> (C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.
>
> Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petitioner does not meet the above-listed requirements set forth in MPEP § 708.02, II; therefore, the petition is dismissed.

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 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 3738 for action in its regular turn.

Denise Pothier
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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WOODCOCK WASHBURN LLP
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46TH FLOOR
PHILADELPHIA, PA 19103

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OFFICE OF PETITIONS

In re Application of	:	
Carol Wright et al	:	
Application No. 10/951,385	:	DECISION ON PETITION
Filed: September 28, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. JJI-51-CON2	:	37 CFR 1.102(d)
	:	

This is a decision on the renewed petition under 37 CFR §1.102(d), filed October 9, 2006, to make the above-identified application special based on actual infringement as set forth in M.P.E.P. § 708.02, Section II.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR §1.102(d) and MPEP §708.02, Section II: Infringement, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the office alleging:

> (A) That there is an infringing device or product actually on the market or method in use;
>
> (B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and
>
> (C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.
>
> Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition complies with all the above stated requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at 571-272-3210.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3738 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

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SIEMENS CORPORATION
INTELLECTUAL PROPERTY LAW DEPARTMENT
170 WOOD AVENUE SOUTH
attn: VDO-MDS docketing migration
ISELIN, NJ 08830

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OFFICE OF PETITIONS

In re Application of	:	
William J. Imoehl	:	
Application No. 10/951,387	:	DECISION ON PETITION
Filed: September 28, 2004	:	
Attorney Docket No. 2003 P 15051 US01	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on November 26, 2007, to revive the above-identified application.

The application became abandoned for failure to file a reply to the Restriction/Election Requirement mailed July 17, 2006. A Notice of Abandonment was mailed on February 15, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election with an amendment, an amended specification and one sheet of drawings containing Figures 3-4; (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

The application file is being referred to Technology Center Art Unit 3752 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/951,407	09/27/2004	2676	1490	040194	8	48	4

CONFIRMATION NO. 6402

CORRECTED FILING RECEIPT

OC000000015767373

23696
Qualcomm Incorporated
Patents Department
5775 Morehouse Drive
San Diego, CA 92121-1714

Date Mailed: 04/18/2005

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 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)

Dan Minglun Chuang, San Diego, CA;
Nidish Ramachandra Kamath, Placentia, CA;

Power of Attorney: The patent practitioners associated with Customer Number **23696**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/550,027 03/03/2004

Foreign Applications

If Required, Foreign Filing License Granted: 11/19/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/951,407

Projected Publication Date: 09/08/2005

Non-Publication Request: No

Early Publication Request: No

BEST AVAILABLE COPY

Title

Embedded system with 3D graphics core and local pixel buffer

Preliminary Class

345

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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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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K&L Gates LLP
P.O. Box 1135
CHICAGO, IL 60690

Mail Date: 04/20/2010

Applicant	: Lee E. Cannon	: DECISION ON REQUEST FOR
Patent Number	: 7666088	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/951,414	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/28/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **467** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

In re Patent No.7,460,921	:	
Sullivan, et al.	:	DECISION DISMISSING
Application No. 10/951,418	:	REQUEST FOR
Issue Date: December 2, 2008	:	RECONSIDERATION OF
Filed: September 28, 2004	:	PATENT TERM ADJUSTMENT
Atty. Docket No. 06155-138001	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d), filed February 2, 2009. Patentee requests that the determination of patent term adjustment be corrected from two hundred ninety-two (292) days to six hundred ninety-five (695) days.

The request for reconsideration of patent term adjustment is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. § 154(b) of 292 days.

BACKGROUND

This application was filed on September 28, 2004. On December 2, 2008, the application matured into U.S. Patent No. 7,460,921, with a revised patent term adjustment of 292 days.

On February 2, 2009, patentee timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 695 days under the courts interpretation of the overlap provision as set forth in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentee asserts that pursuant to Wyeth, a PTO delay under §154(b)(1)(A) overlaps with a delay under §154(b)(1)(B) only if the delays "occur on the same day." Patentee maintains that the total non-

overlapping PTO delay under §154(b)(1)(A) & (B) is 834 days as these periods do not occur on the same day. Patentee asserts that only a total of 6 days overlap. Further, given the applicant delay of 139 days, patentee asserts entitlement to 695 (834 - 139) days of patent term adjustment.

OPINION

Patentee's interpretation of the period of overlap has been considered, but found inconsistent with the Office's interpretation of the overlap provision, 35 U.S.C. 154(b)(2)(A). 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f)*[1] *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

---

[1] 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.

> delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the application filing date under 35 U.S.C. 111(a), September 28, 2004, and ending on the date the patent issued, December 2, 2008,(not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)).

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1)[2], 409 days[3] of patent term adjustment were accorded during the pendency of the application for Office delay prior to the issuance of patent. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b)[4], 431 days of patent term adjustment accrued for Office issuance of the patent more than 3 years after the filing date of the application.

All of the 431 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 409 days of patent term adjustment under 37 CFR 1.702(a)(1)and (4). Entry of both the 431 days and the 409 days is neither permitted nor warranted. Accordingly, at issuance, the Office properly entered only 22 days of additional patent term adjustment for the Office taking in excess of three years to issue the patent for a total Office delay of 431 (409 + 22) days.

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[2] 37 CFR § 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

> (a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:
> (1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application;

[3] A non-final Office action was mailed on January 5, 2007, 14 months and 403 days after the application was filed on September 28, 2004. Additionally, a Notice of Allowance was mailed September 22, 2008, 4 months and 6 days after a response to a non-final Office action was filed on May 16, 2008.

[4] Pursuant to 35 U.S.C. 154(b)(1)(B), 37 CFR 1.702(b) provides, in pertinent part, that:

> Failure to issue a patent within three years of the actual filing date of the application. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application.

CONCLUSION

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 292 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 Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/951,431	09/28/2004	Molly Hladik	200314891-1	7853

22879 7590 12/05/2007
HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER
KRUER, KEVIN R

ART UNIT	PAPER NUMBER
1794	

NOTIFICATION DATE	DELIVERY MODE
12/05/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

JERRY.SHORMA@HP.COM
mkraft@hp.com
ipa.mail@hp.com

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DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Mailed: 12-5-07

caf

In re application of	:	
HLADIK et al.	:	DECISION ON
Serial No. 10/951,431	:	PETITION
Filed: September 28, 2004	:	
For: FUSIBLE PRINTING MEDIA	:	

This is a decision on the PETITION FROM REFUSAL TO ADMIT AMENDMENT UNDER 37 CFR § 1.127 filed October 18, 2007.

On July 13, 2007, a final office action was mailed to Applicants, rejecting all of the pending claims under 35 USC 112, 35 USC 102 or 35 USC 103. Applicants responded to this office action with an amendment after final which was filed on September 13, 2007. The examiner refused entry of the amendment in an advisory action mailed October 1, 2007.

On October 18, 2007, the instant petition under 37 CFR 1.127 was timely filed to request the entry of the after final amendment of September 13, 2007.

Petitioners' position is that the amendment after final did not raise any new issues, does not raise the issue of new matter and does not fail to simplify the issues for appeal as alleged by the examiner in the advisory action.

DECISION

Section 714.13 of the MPEP states:

ENTRY NOT A MATTER OF RIGHT

It should be kept in mind that applicant cannot, as a matter of right, amend any finally rejected claims, add new claims after a final rejection (see 37 CFR 1.116) or reinstate previously canceled claims.
Except where an amendment merely cancels claims, adopts examiner suggestions, removes issues for appeal, or in some other way requires only a cursory review by the examiner, compliance with the requirement of a showing under 37 CFR 1.116(c) is expected in all amendments after final rejection. Failure to properly reply under 37 CFR 1.113 to the final rejection results in abandonment.

An amendment filed at any time after final rejection, but before an appeal brief is filed, may be entered upon or after filing of an appeal brief provided the total effect of the amendment is to (A) remove issues for appeal, and/or (B) adopt examiner suggestions.

ACTION BY EXAMINER
See also MPEP § 706.07(f).

In the event that the proposed amendment does not place the case in better form for appeal, nor in condition for allowance, applicant should be promptly informed of this fact, whenever possible, within the statutory period. The refusal to enter the proposed amendment should not be arbitrary. The proposed amendment should be given sufficient consideration to determine whether the claims are in condition for allowance and/or whether the issues on appeal are simplified. Ordinarily, the specific deficiencies of the amendment need not be discussed. The reasons for nonentry should be concisely expressed. For example:

(A) The claims, if amended as proposed, would not avoid any of the rejections set forth in the last Office action, and thus the amendment would not place the case in condition for allowance or in better condition for appeal.
(B) The claims, if amended as proposed, would raise the issue of new matter.
(C) The claims as amended present new issues requiring further consideration or search.
(D) Since the amendment presents additional claims without canceling any finally rejected claims it is not considered as placing the application in better condition for appeal. *Ex parte Wirt*, 1905 C.D. 247, 117 O.G. 599 (Comm'r Pat. 1905).

First, petitioners argue that the Examiner's indication in item 13 in the advisory action, that the new range, meaning the amended range, does not distinguish from the applied art indicates that no search is required as the examiner continues to reject the claims over the art of record. Applicants contend that the amendments should be entered for purposes of appealing the Examiner's assertion that the amended claims do not distinguish from the applied art. That is, the amendments should be entered so that the Board can be given the opportunity to review the claims on appeal in the same form that the examiner is rejecting. Applicants further submit that since the examiner has already searched for particle sizes down to the lower limit of the originally claimed range (0.3μm), which is the same lower limit of the amended range, and indeed found the currently cited reference that only covered a portion of the range originally claimed, no new search is required, as Examiner should have cited other prior art if it was found relevant.

These arguments are not found persuasive. The examiner's statement in the advisory action that the "new range...does not distinguish from the applied art" does not indicate that no search is required. It is unclear from the record as to whether this refers to anticipation or obviousness. If, it refers to obviousness, then a search would be necessary to determine if there is an anticipating reference. The examiner confirms this by checking box 3a on the advisory action indicating that the amendments would require further consideration and/or search. Further, it should be noted that the amended claims have not been rejected by the examiner. The amended claims have not been entered as indicated by the examiner checking box 3 on the advisory action. Finally, the fact that the claims which were rejected in the final rejection have the same lower end point as the claims submitted after final does not mean that a new search is not required. A new range requires a new search and new consideration.

Secondly, petitioners argue that the amendments do not raise new matter and that the amendments should be entered. Applicants contend that since they have previously addressed the issue of new matter in the response filed on September 13, 2007, they are entitled to have this issue considered by the Board on appeal.

These arguments are not found persuasive. The advisory action does not introduce a new matter rejection, but indicates that the proposed amendments raise the issue of new matter. Since the final rejection includes a new matter rejection pertaining to the claimed range, the new matter issue will be addressed by the Board on appeal.

Finally, applicants submit that the amendments after final narrow the scope of the claims. In particular, applicant contends that the amendments narrowed the diameter range of the particles cited in claims 1, 23 and 29 to a range that was not included in the cited references, thereby placing the claims in better form for consideration on appeal by removing issues for appeal. Applicants respectfully submit that the amendments were not made earlier in that Applicants had provided a reasoned basis for their allowance over the applied art.

These arguments are not found persuasive. Since the proposed after final amendments raise the issue of new matter and require further search and/or consideration they do not reduce or simplify the issues for appeal.

For the reasons above, the examiner's refusal to enter the amendments filed September 13, 2007 is found proper. Accordingly, the petition for entry of the after final amendment is **DENIED.**

The shortened statutory period for response continues to run from the July 13, 2007 mailing date of the final office action.

Jacqueline M. Stone

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JUN 04 2007

Michael J. Pomianek, Ph.D.
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston MA 02210-2206

In re Application of:
GRAY, LARRY B. et al.
Serial No.: 10/951,441
Filed: Sep. 28, 2004
Docket: D0570.70010US01
Title: TUBE OCCLUDER FOR OCCLUDING COLLAPSIBLE TUBES

DECISION ON PETITION SEEKING REVERSAL OF OBJECTION TO DRAWINGS

This is a decision on the petition filed on Jan. 29, 2007 seeking reversal of the objection to the drawings. The petition is being considered pursuant to 37 CFR 1.181.

The petition is **DISMISSED**.

In the petition, petitioner requests review of the examiner's objection to the drawings under 37 CFR 1.83 (a). The examiner objected to the drawings for failing to show the feature "a plurality of collapsible tubes" as recited in claim 24. Petitioner believes that the objection to the drawings is in error and requests review and relief therefrom.

The record shows that:

1) In response to the non-final Office action dated Sep. 1, 2005, the applicant filed an amendment to all of the pending claims.
2) On May 5, 2006, the examiner issued a final Office action and objected to the drawings under 37 CFR 1.83(a) because the drawings did not show every feature of the invention specified in the claims. Specifically, the drawings did not depict the newly added limitation "plurality of collapsible tubes" as recited in claim 24.
3) On Nov. 3, 2006, the applicant filed a response under 37 CFR 1.116 and stated that the feature "plurality of collapsible tubes" was clearly illustrated in fig. 11a and fig. 12e-12f.
4) On Nov. 30, 2006, the examiner issued an advisory action and stated that only one tube is shown in the drawings.
5) On Jan 29, 2007, the present petition seeking reversal of the objection to the drawings in the May 5, 2006 final Office action was filed.

Discussion and Analysis

Relevant portions of 37 CFR 1.83 Content of drawing, state: (a) The drawing in a nonprovisional application must show every feature of the invention specified in the claims. However, conventional features disclosed in the description and claims, where their detailed illustration is not essential for a proper understanding of the invention, should be illustrated in the drawing in the form of a graphical drawing symbol or a labeled representation (*e.g.*, a labeled rectangular box). In addition, tables and sequence listings that are included in the specification are, except for applications filed under 35 U.S.C. 371, not permitted to be included in the drawings.

In order to determine whether or not the drawings show the limitations in question, namely "plurality of collapsible tubes" as recited in claim 24, we must look to the drawings. Petitioner alleges that the "plurality of collapsible tubes" as recited in amended claim 24 is shown in fig. 11a and in the cross-sectional illustrations of fig. 12e-12f, particularly when fig. 11a and fig. 12e-12f are viewed together and in light of the explanation of these figures provided in the specification at pages 51-52 and pages 62-64. However, figure 11a does not depict "occluding a plurality of collapsible tubes" as recited in claim 24. Figures 12e-12f do not depict "a plurality of tubes" as recited in claim 24. Figures 12e-12f only depict one tube. Furthermore, the plurality of tubes depicted in figure 11a is not the tube that is occluded in figures 12e and 12f as evident by the different reference character numbers for the tubes in figure 11a and the tube in figures 12e-12f. The review of the record shows that the examiner was in compliance with applicable examining practice as set forth in MPEP 608.02(d). Therefore, the drawings are not in compliance with 37 CFR 1.83(a). The examiner's final Office action dated May 5, 2006 objecting to the drawings is correct.

Conclusion

For the foregoing reasons, the relief requested by petitioner will not be granted. Specifically, the examiner's objection to the drawings in the final Office action dated May 5, 2006 is proper.

The application is being forwarded to Supervisory Patent Examiner of Art Unit 3753 for further processing. Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Any inquiry regarding this decision should be directed to Marc Jimenez, Training Quality Assurance Specialist, at (571) 272-4530.

The petition is dismissed.

Karen M. Young

Karen M. Young, Director
Technology Center 3700

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8/26/07

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Wolf, Greenfield & Sacks, P.C.
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In re Application of:
Gray, Larry B. et al.
Serial No.: 10/951,441
Filed: Sep. 28, 2004
Docket: D0570.70010US01
Title: TUBE OCCLUDER FOR OCCLUDING COLLAPSIBLE TUBES

DECISION ON RENEWED PETITION UNDER 37 CFR § 1.181 SEEKING REVERSAL OF OBJECTION TO DRAWINGS

This is a decision on the petition filed on August 06, 2007 requesting reconsideration of the dismissal of the petition filed January 29, 2007of the objection to the drawings set forth in the final rejection mailed May 05, 2006. The petition is being considered pursuant to 37 CFR § 1.181.

The petition is denied.

In the petition, petitioner essentially asserts that there is a showing for what is claimed, and in view thereof, the objection to the drawings should be withdrawn.

Claim 24 sets forth the following:

24. (Currently Amended) An occluder mechanism for occluding ~~at least one~~ a plurality of collapsible ~~tube~~ tubes comprising: only one occluding member; and a force actuator constructed and positioned to bend the occluding member.

The examiner objected to the drawings based upon 37 CFR § 1.83(a) for not showing the claimed feature of a plurality of tubes in relation to the occluding member as in claim 24.

The undersigned does not dispute the petitioner's assertions that there is a showing of a plurality of inlets and outlets such as in Fig. 11a and described in the specification on page 51, lines 26 and 27. Also, the undersigned does not dispute that the disclosure describes on at least pages 62 and 63 an occluder mechanism for occluding a plurality of collapsible tubes. However, the drawings fail to show a single occluder mechanism for acting against a plurality of the tubes. Every figure of drawing provided that shows an occluder mechanism about to bend or already bending tubing, the tubing comprises but a single shown tube and not a plurality. The tube in Figs 12e – 12f shows but a single tube at 1116 and not a plurality. Applicants may have intended the drawing to be representative of a plurality of tubes by the provided description in the

specification, but it is still a showing of only a single tube. This is what the examiner objected to and the petitioner's presented observations of what the specification discloses does not cure this, i.e., it remains that only a single tube is shown being occluded and not a plurality. Therefore, the drawings remain non-compliant with respect to 37 CFR § 1.83(a) and what is claimed as noted by the examiner. The objection by the examiner is deemed proper.

In view of the conclusion that the drawing objection by the examiner is correct, the relief sought by the petitioner upon reconsideration will not be granted.

PETITION DENIED.

Any inquiry regarding this decision should be directed to Allan N. Shoap, Special Programs Examiner, at (571) 272-4514.

Petitioner is entitled to file a further request for reconsideration, and any such request must be filed within two months of the date of this decision. See 37 CFR § 1.181(f). The request for reconsideration of the petition should be directed to the Office of the Deputy Commissioner for Patent Examination Policy at Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450. See MPEP 1002.02.

The application is being forwarded to the examiner for treatment of the filed Appeal Brief.

Karen M. Young

Karen M. Young, Director
Technology Center 3700

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OFFICE OF PETITIONS

LADAS & PARRY
26 WEST 61ST STREET
NEW YORK NY 10023

In re Patent No. 7,104,943	:	
Issue Date: September 12, 2006	:	
Application No. 10/951,443	:	ON PETITION
Filed: September 28, 2004	:	
Attorney Docket No. U 015387-9	:	

This is a decision on the petition filed December 13, 2006, 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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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patent No. : 7,126,471 B2
Serial No. : 10/951,451
Inventor(s) : Ahmed et al.
Issued : October 14, 2006
Title : **TWO DIMENSION RF LOCATION METHOD AND APPARATUS**
Docket No. : **2004P16335 US**

Re: Request for Reconsideration

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.
See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	571-273-8300 ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Ernest C. White, ***LIE***
For Mary F. Diggs (703) 756-1580
Decisions & Certificates
of Correction Branch
(703) **756-1590**

Siemens Corporation
170 Wood Avenue South
Iselin NJ 08830

ecw

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ALEXANDRIA, VA 22313-1450
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Paper No.

LAW OFFICES OF MARK A. HAMILL, P.C.
45 SOUTH PARK BLVD.
SUITE 205
GLEN ELLYN, IL 60137

COPY MAILED

JUN 21 2005

OFFICE OF PETITIONS

In re Application of	:	
Waldorf et al.	:	ON PETITION
Application No. 10/951,452	:	
Filed: September 28, 2004	:	
Atty Docket No. DMR-101	:	

This is in response to the "PETITION TO ACCORD A FILING DATE UNDER 37 C.F.R. § 1.53(e)," filed February 4, 2005, requesting that the above-identified petition be accorded a filing date of September 28, 2004.

The petition is **GRANTED**.

Application papers in the above-identified application were deposited on September 28, 2004. However, on November 30, 2004, the Initial Patent Examination Division (IPED) mailed a "Notice of Incomplete Nonprovisional Application," notifying applicants that the application papers had not been accorded a filing date because the application was deposited without drawings as required by 35 U.S.C. 113. In addition, the statutory basic filing fee and an executed oath or declaration in compliance with 1.63 were missing. This Notice set a TWO MONTH period to meet the requirements for a filing date to avoid termination of proceedings on the application and a TWO MONTH period, with extensions of time obtainable under § 1.136(a), to supply the missing fees, declaration and late surcharge to avoid abandonment.

On February 4, 2005 (certificate of mailing January 31, 2005), the instant petition was filed, asserting that the application as filed included drawings. In support thereof, petitioners submit a copy of their return postcard receipt, itemizing "_X_ Patent Drawings 13 Sheets" among the enclosures, bearing a USPTO date-stamp of September 27, 2004 with application No. assignment of 10/951,452, and lacking any notation of non-receipt of any item listed. Included with the petition is a copy of the thirteen (13) sheets of drawings as originally filed (In response to the missing declaration and fees, petitioner asserts that an executed declaration and filing fees were filed on January 28, 2004. On petition, applicants supply an additional copy of the declaration.)

A postcard receipt, which itemizes and properly identifies the items, which are being filed, serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503. Applicants have shown that the application as filed, included thirteen (13) sheets of drawings, and thus, is entitled to a filing date. However, the Office erred in stamping the postcard with the date of September 27, 2004. The evidence reveals that the date of deposit in Express Mail of these papers, as stated by applicants, is September 28, 2004, not September 27, 2004. Specifically, USPS Track and Confirm records, available at www.usps.gov, show that the Express Mail package was accepted at 10:41 am on September 28, 2004 (copy of record enclosed).

Given the basis for granting the petition, the petition fee of $130 submitted is being refunded. Petitioner is reminded that the petition fee has increased to $400 and petitions filed without the adequate fee may be dismissed without consideration on the merits.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for:

- further processing with a filing date of September 28, 2004, using the application papers received in the Office on that date and the thirteen (13) sheets of drawings resubmitted on petition filed February 4, 2005, and

- indication in Office records that thirteen (13) sheets of drawings were present on filing.

Applicant will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: USPS Track and Confirm Record

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JUL 13 2005

In re Application of		:	
Barley A. Forsman et al.		:	
Serial No.	10/951,457	:	DECISION ON PETITION
Filed:	September 27, 2004	:	
For:	HYDRATION SYSTEM WITH	:	
	IMPROVED FLUID RESERVOIR	:	

This is a decision on the petition to make special filed on September 27,, 2004. The petition is submitted pursuant to the practice established in MPEP § 708.02(II) "Infringement." The $130.00 petition fee has been received.

The petition is granted.

A review of the petition shows that petitioners have satisfied all of the requirements of the above-cited MPEP section. Accordingly, the examiner will treat this application as special throughout its prosecution. Prior to the first action on the merits, the examiner will conduct a rigorous search for potentially interfering applications. The interference search will be brought up to date prior to each successive action.

The Supervisory Patent Examiner of Patent Examining Art Unit 3727 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, Director
Technology Center 3700

David S. D'Ascenzo
Kolisch Hartwell, PC
520 S.W. Yamhill Street, Suite 200
Portland, OR 97204

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In re Patent No. : **7,568,635**
Issue Date: : August 4th, 2009
Appl. No.: 10/951,470
Filed: : September 28th, 2004

DECISION GRANTING PETITION

37 CFR 1.324

For: : **TURBO SPRAY NOZZLE AND SPRAY COATING DEVICE INCORPORATING SAME**

This is a decision on the petition filed 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.

/Len Tran/
Supervisory Patent Examiner,
Art Unit 3752,
Technology Center 3700

Patrick S. Yoder
FLETCHER YODER
P.O. Box 692289
Houston TX 77269-2289

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 7,568,635
Patented:

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:

Paul R. Micheli and Gary Schwebemeyer

Len Tran
Supervisory Patent Examiner
Art Unit 3752

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United States Patent and Trademark Office
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Patrick S. Yoder
FLETCHER YODER
P.O. Box 692289
Houston, TX 77269-2289

Mail Date: 04/21/2010

Applicant	: Paul R. Micheli	: DECISION ON REQUEST FOR
Patent Number	: 7568635	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/951,470	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/28/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **720** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/10/06

TO SPE OF : ART UNIT 2645

SUBJECT : Request for Certificate of Correction on Patent No.: 6977992

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [x] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes do not apply.
- [ ] **Denied** — State the reasons for denial below.

Comments:

FAN TSANG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

SPE

2645
Art Unit

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Weaver Austin Villeneuve & Sampson LLP
P.O. BOX 70250
OAKLAND, CA 94612-0250

Mail Date: 06/25/2010

Applicant	: Srinath Gundavelli	: DECISION ON REQUEST FOR
Patent Number	: 7639802	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/951,499	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/27/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1397** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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MAR 29 2005
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TC 3600

John P. Ward
BLAKELY, SOKOLOFF, TAYLOR, ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025

In re application of
Randall B. Lauffer
Application No. 10/951,502
Filed: September 27, 2004
For: METHOD AND SYSTEM TO CONNECT CONSUMERS TO INFORMATION

: **DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)**

This is in response to the petition filed on February 22, 2005 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED.**

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/slb: 03/11/05

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WEI TE CHUNG
FOXCONN INTERNATIONAL, INC.
1650 MEMOREX DRIVE
SANTA CLARA, CA 95050

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Wei Ya Cheng et al.
Application No. 10/951,504
Filed: September 27, 2004
Title of Invention: METHOD OF MAKING MICRO COAXIAL CONNECTOR

This is a decision on the petition filed March 13, 2006, 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 July 26, 2005 for failure to file a timely response to a restriction requirement mailed June 24, 2005, which set a one (1) 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 January 12, 2006.

Petitioner asserts that a proper response, was filed via facsimile transmission on July 11, 2005. 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 2833 for appropriate action on the election filed July 11, 2005, a copy of which was submitted March 13, 2006 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

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ST. ONGE STEWARD JOHNSTON & REENS, LLC
986 BEDFORD STREET
STAMFORD CT 06905-5619

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In re Application of	:	
Prohaska, et al.	:	
Application No. 10/951,517	:	ON PETITION
Filed: September 28, 2004	:	
Attorney Docket No. 03141-P0328F	:	

This is a decision on the petition under 37 CFR 1.181, filed October 23, 2006 (certificate of mailing date October 19, 2006), requesting that the Office withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

This application was held abandoned for failure to respond in a timely manner to the final Office action, mailed February 22, 2006, which set forth an extendable three (3) month period for reply. The Office contended that this application became abandoned on May 23, 2006 for failure to reply to the February 22, 2006 final Office action. A Notice of Abandonment was mailed on September 20, 2006.

Petitioners assert an amendment after final was timely filed via facsimile transmission on certificate of transmission date April 13, 2006. The Office has no record of receiving the correspondence. Petitioners have submitted a copy of their after final amendment. It contains a proper certificate of facsimile transmission citing April 13, 2006 as the date of transmission affixed thereto. However, a review of the sending unit's report shows that the correspondence was sent to 571 272-1273. This number is Examiner Jyoti Nagpaul's telephone number.

Petitioners did not transmit the amendment to the only acceptable facsimile number 571 273-8300. Petitioners did not file the amendment on April 13, 2006. The petition to withdraw the holding of abandonment is dismissed.

Petitioners are strongly encouraged to file a petition to revive under the unintentional standard of 137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300 - ATTN: Office of Petitions

Telephone inquiries pertaining to this decision may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
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ST. ONGE STEWARD JOHNSTON & REENS, LLC
986 BEDFORD STREET
STAMFORD CT 06905-5619

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OFFICE OF PETITIONS

In re Application of :
Prohaska, et al. :
Application No. 10/951,517 :
Filed: September 28, 2004 :
Attorney Docket No. 03141-P0328F :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 8, 2006, requesting revival of the above-identified application.

This application was held abandoned for failure to respond in a timely manner to the final Office action, mailed February 22, 2006, which set forth an extendable three (3) month period for reply. The Office contended that this application became abandoned on May 23, 2006 for failure to reply to the February 22, 2006 final Office action. A Notice of Abandonment was mailed on September 20, 2006.

Applicants have submitted a RCE and required fee and amendment in reply to the February 22, 2006 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the February 22, 2006 final Office action, and the petition fee.

Accordingly, the petition under 37 CFR 1.137(b) is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center AU 1743 for consideration of the RCE and amendment filed on December 8, 2006.

Telephone inquiries pertaining to this decision may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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Artem Golestian
540 W. Dryden Street
Glendale CA 91202

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Razmik Saakyan :
Application No. 10/951,535 :
Filed: September 28, 2004 :
Title: UNIVERSAL, PORTABLE, :
FOLDABLE, HEAVY DUTY, LIGHT :
WEIGHT CHAIR :

This is a decision on the petition under 37 CFR 1.137(a),[1] filed on November 22, 2005, to revive the above-identified application, which is first treated as a petition to withdraw the holding of abandonment.

The application became abandoned on October 25, 2005, for failure to reply timely to the Notice of Allowance and Fee(s) Due ("Notice of Allowance") mailed on July 22, 2005, which set a three-month statutory period for reply. This decision precedes the mailing of a Notice of Abandonment

Petitioner asserts that the delay in paying the issue fee and the publication fee was unavoidable because he did not receive the Notice of Allowance.

[1] A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

(1) The required reply to the outstanding Office action or notice, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must include 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(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)).

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

A review of the record indicates no irregularity in the mailing of the Notice, and in the absence of any irregularity in the mailing, there is a strong presumption that the Notice was properly mailed to the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.[2] For example, if a three month period for reply was set in the non-received Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of non-receipt of the Office action. 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).

However, 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 of October 24, 2005, was not entered into that system. The Office would like to see documentary evidence and records as may exist which would substantiate that petitioner exercised due diligence with respect to petitioner's most important business.

As petitioner has not presented the required showing, the petition to withdraw the holding of abandonment is dismissed.

PETITION UNDER 37 CFR 1.137(a)

The Director 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 be "unavoidable".[3] Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

---

[2] M.P.E.P. § 711.03(c); See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

[3] 35 U.S.C. § 133.

> 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.[4]

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).[5] Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[6]

A delay is not unavoidable when an applicant fails to comply with a requirement set forth in an Office communication, which necessitates a response within a specified time period. Additionally, petitioner did not demonstrate that the delay was unavoidable due to non-receipt of the Notice. Accordingly, as petitioner has not satisfied the requirements of a grantable petition under 37 CFR 1.137(a), the petition to revive the application due to unavoidable delay is dismissed.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." Extensions of time are permitted under 37 CFR 1.136(a).

ALTERNATIVE VENUE

Petitioner is strongly encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.137(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 application abandoned for failure to prosecute, the required reply may be met

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[4] 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).

[5] See MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

[6] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must include payment of the issue fee or any outstanding balance. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) The petition fee as set forth in 37 CFR 1.17(m), **an additional** $1,500.00 for a large entity and **$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 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 set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

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 and pay the $750.00 petition fee. Petitioner does not need to submit another reply with the petition because the record indicates that petitioner already submitted a reply in the form of payment of the issue fee and publication fee.

Further correspondence with respect to this matter should be addressed as follows and **to the attention of Senior Petitions Attorney Christina Tartera Donnell:**

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosures: Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b) – Form PTO/SB/64 and Privacy Act Statement

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

Artem Golestian
540 W. Dryden Street
Glendale CA 91202

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JAN 2 4 2006

OFFICE OF PETITIONS

In re Application of
Razmik Saakyan
Application No. 10/951,535
Filed: September 28, 2004
Title: UNIVERSAL, PORTABLE, FOLDABLE, HEAVY DUTY, LIGHT WEIGHT CHAIR

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 9, 2006, to revive the above-identified application.

On July 22, 2005, the Office mailed a Notice of Allowance and Fee(s) Due, which set a three-month statutory period for reply. In the absence of a timely filed response, the application became abandoned on October 23, 2005.

Petitioner has met the requirements of 37 CFR 1.137(b) to revive this application. Petitioner submitted a reply in the form of payment of the issue fee and the publication fee, made the appropriate statement of unintentional delay, and paid the petition fee. Accordingly, the petition is granted.

This matter is being referred to the Office of Patent Publication.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211. All other questions regarding the status of the application or the issuance of a patent should be directed to the Office of Patent Publication Customer Service at (571) 272-4200.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DAVIS WRIGHT TREMAINE, LLP
2600 CENTURY SQUARE
1501 FOURTH AVENUE
SEATTLE WA 98101-1688

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DEC 13 2006

OFFICE OF PETITIONS

In re Application of
Frank Chin-Hwan Kim et al
Application No. 10/951,544
Filed: September 28, 2004
Attorney Docket No. 59259-94

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed August 1, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue fee 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 March 23, 2006, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Patent Publication.

Karen Creasy
Petitions Examiner
Office of Petitions

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

STMICROELECTRONICS, INC.
MAIL STATION 2346
1310 ELECTRONICS DRIVE
CARROLLTON, TX 75006

Mail Date: 04/20/2010

Applicant	: Prakash Padhi Kabi	: DECISION ON REQUEST FOR
Patent Number	: 7653537	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/951,545	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/28/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1415** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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SAN JOSE CA 95170-0640

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JUN 03 2005

OFFICE OF PETITIONS

In re Application of
Timothy J. Guiney et al.
Application No. 10/951,548
Filed: September 27, 2004
Attorney Docket No. LMRX-P049/P1318

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)

This decision is in response to the petition filed March 14, 2005, under 37 CFR 1.47(a), in response to the Notice to File Missing Parts "Notice" mailed December 14, 2004.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to respond, correcting the below-noted deficiencies. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on September 27, 2004, naming Chia Cheng Cheng, Timothy J. Guiney, Rao Annapragada and Subhash Deshmukh and but without a signed declaration. Accordingly, on November 10, 2004, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration.

In response, the present petition was filed with a request for a two month extension of time and the oath and declaration signed by inventors Guiney and Cheng only. Petitioners seek status under 37 CFR 1.47(a) based on the fact that joint inventor Annapragada cannot be located and that joint inventor Deshmukh has refused to cooperate with the filing of the application.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee; and

(4) a statement of the last known address of the non-signing inventor.

The present petition lacks items (1) and (3).

The petition bears proof that through counsel, joint inventor Subhash Deshmukh has expressly refused, in writing, to execute the oath or declaration and thus, to cooperate with the filing of the instant application.

The evidence presented as to joint inventor Annapragada however, is not sufficient to show that he cannot be located or that he refuses to cooperate with the filing of the application. Petitioner has not presented evidence to show that diligent efforts have been made to locate the non-signing inventor. If petitioners are satisfied that he no longer lives at the last known address and would like to renew the argument that he cannot be located, petitioners must present a showing that diligent efforts have been made to locate him.[1] Petitioners must however provide details, in an affidavit or declaration of facts by a person with first hand knowledge of the details, of the additional efforts to locate the non-signing inventor such as Internet, e-mail, or telephone directory searches, which have been undertaken to locate him. If repeated attempts to contact him by telephone, mail, and e-mail, are unsuccessful, petitioners will have established that he cannot be found despite diligent efforts.

Similarly, petitioner has asserted that a mutually convenient meeting whereby the non-signing inventor would have had an opportunity to review the application papers was proposed. While the non-signing inventor never agreed to the meeting and therefore has not had an opportunity to review the application papers, petitioner has not provided evidence sufficient to show that the complete application was ever presented to him. If an address for the non-signing inventor is located, petitioner will want to show proof that a copy of the application was sent or given to the non-signing inventors for review 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 can be shown, the non-signing inventor must have been given an opportunity to review the application. Therefore, petitioners must show proof that the non-signing inventor refuses to sign the declaration after being sent or given a copy of the application papers. If there is a written refusal, petitioners should submit a copy of that refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

The difference between the scenario presented with respect to the two non-signing inventors is that even without the presentation of the application to Mr. Deshmukh, through his counsel it is averred that irrespective of the contents of the application, Mr. Deshmukh is not interested in executing the oath or declaration or cooperating with the filing of the application. Whereas with Mr. Annapragada, he hasn't been presented with

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[1] MPEP 409.03(d).

the application or expressly refused to cooperate. Arranging a mutually convenient meeting whereby the non-signing inventor can have an opportunity to review the application does not rise to the level of a "presentment" of the application even in view of the reasoning given by the petitioner for not forwarding the application directly to the non-signing inventor at the last known address.

Finally, with respect to the petition fee, please be advised that effective November 22, 2004, the petition fee has been increased to $200.00. Therein, deposit account no. 50-2284 will be charged in the amount of $70.00 to make up the difference between that which was paid and that which is due pursuant to 37 CFR 1.17(g). See the Notice published in the Federal Register on September 21, 2004 and in the Official Gazette of the United States Patent and Trademark Office on October 12, 2004.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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SAN JOSE CA 95170-0640

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AUG 17 2005

OFFICE OF PETITIONS

In re Application of
Chia-Cheng Cheng et al.
Application No. 10/951,548
Filed: September 27, 2004
Attorney Docket No. LMRX-P049/P1318

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This decision is in response to the request for reconsideration filed August 8, 2005, (certificate of mail date, August 3, 2005), under 37 CFR 1.47(a), in response to the decision dismissing the petition of June 3, 2005.

The petition is **GRANTED.**

The above-identified application was filed on September 27, 2004, naming Chia Cheng Cheng, Timothy J. Guiney, Rao Annapragada and Subhash Deshmukh and but without a signed declaration. Accordingly, on November 10, 2004, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration. In response, a petition was filed with a request for a two month extension of time and the oath and declaration signed by inventors Guiney and Cheng only. The petition was dismissed because the evidence presented as to joint inventor Annapragada was not sufficient to show that the non-signing inventor could not be located or that he refused to cooperate with the filing of the application.

Comes now petitioner with the instant request for reconsideration.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee; and

(4) a statement of the last known address of the non-signing inventor.

The evidence presented in the original petition sufficiently showed that through counsel, joint inventor Subhash Deshmukh has expressly refused, in writing, to execute the oath or declaration and thus, to cooperate with the filing of the instant application.

The request for reconsideration bears proof that additional efforts were undertaken to

locate the non-signing inventor but those efforts were unsuccessful. The evidence is therefore sufficient to establish diligence as required by the regulation.

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.

Since the petition fee was paid with the original petition filed March 14, 2005, no additional petition fees for the request for reconsideration are required.

This matter is being referred to Technology Center 2858 for examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNION CITY, CA 94587

SUBASH DESHMUKH
5280 APENNINES CIRCLE
SAN JOSE, CA 95138

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AUG 17 2005

OFFICE OF PETITIONS

In re Application of
Chia-Cheng Cheng et al.
Application No. 10/951,548
Filed: September 27, 2004
For: METHODS AND APPARATUS FOR MONITORING A PROCESS IN A PLASMA PROCESSING SYSTEM BY MEASURING IMPEDANCE

Dear Mr. Annapragada and Mr. Deshmukh:

You are named as joint inventors 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 joint inventors.

As named inventors you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned Petitions Attorney at (571) 272-3212. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:
IPSG, P.C.
P.O. BOX 700640
SAN JOSE CA 95170-0640

UNITED STATES PATENT AND TRADEMARK OFFICE

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SAN JOSE CA 95170-0640

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JUN 03 2005

OFFICE OF PETITIONS

In re Application of
Timothy J. Guiney et al.
Application No. 10/951,553
Filed: September 27, 2004
Attorney Docket No. LMRX-P048/P1317

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)

This decision is in response to the petition filed March 14, 2005, under 37 CFR 1.47(a), in response to the Notice to File Missing Parts "Notice" mailed December 14, 2004.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to respond, correcting the below-noted deficiencies. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on September 27, 2004, naming Timothy J. Guiney, Rao Annapragada, Subhash Deshmukh and Chia Cheng Cheng but without a signed declaration. Accordingly, on December 14, 2004, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration.

In response, the present petition was filed with a request for a one month extension of time and the oath and declaration signed by inventors Guiney and Cheng only. Petitioners seek status under 37 CFR 1.47(a) based on the fact that joint inventor Annapragada cannot be located and that joint inventor Deshmukh has refused to cooperate with the filing of the application.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee; and

(4) a statement of the last known address of the non-signing inventor.

The present petition lacks items (1) and (3).

The petition bears proof that through counsel, joint inventor Subhash Deshmukh has expressly refused, in writing, to execute the oath or declaration and thus, to cooperate with the filing of the instant application.

The evidence presented as to joint inventor Annapragada however, is not sufficient to show that he cannot be located or that he refuses to cooperate with the filing of the application. Petitioner has not presented evidence to show that diligent efforts have been made to locate the non-signing inventor. If petitioners are satisfied that he no longer lives at the last known address and would like to renew the argument that he cannot be located, petitioners must present a showing that diligent efforts have been made to locate him.[1] Petitioners must however provide details, in an affidavit or declaration of facts by a person with first hand knowledge of the details, of the additional efforts to locate the non-signing inventor such as Internet, e-mail, or telephone directory searches, which have been undertaken to locate him. If repeated attempts to contact him by telephone, mail, and e-mail, are unsuccessful, petitioners will have established that he cannot be found despite diligent efforts.

Similarly, petitioner has asserted that a mutually convenient meeting whereby the non-signing inventor would have had an opportunity to review the application papers was proposed. While the non-signing inventor never agreed to the meeting and therefore has not had an opportunity to review the application papers, petitioner has not provided evidence sufficient to show that the complete application was ever presented to him. If an address for the non-signing inventor is located, petitioner will want to show proof that a copy of the application was sent or given to the non-signing inventors for review 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 can be shown, the non-signing inventor must have been given an opportunity to review the application. Therefore, petitioners must show proof that the non-signing inventor refuses to sign the declaration after being sent or given a copy of the application papers. If there is a written refusal, petitioners should submit a copy of that refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

The difference between the scenario presented with respect to the two non-signing inventors is that even without the presentation of the application to Mr. Deshmukh, through his counsel it is averred that irrespective of the contents of the application, Mr. Deshmukh is not interested in executing the oath or declaration or cooperating with the filing of the application. Whereas with Mr. Annapragada, he hasn't been presented with

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[1] MPEP 409.03(d).

the application or expressly refused to cooperate. Arranging a mutually convenient meeting whereby the non-signing inventor can have an opportunity to review the application does not rise to the level of a "presentment" of the application even in view of the reasoning given by the petitioner for not forwarding the application directly to the non-signing inventor at the last known address.

Finally, with respect to the petition fee, please be advised that effective November 22, 2004, the petition fee has been increased to $200.00. Therein, deposit account no. 50-2284 will be charged in the amount of $70.00 to make up the difference between that which was paid and that which is due pursuant to 37 CFR 1.17(g). See the Notice published in the Federal Register on September 21, 2004 and in the Official Gazette of the United States Patent and Trademark Office on October 12, 2004.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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www.uspto.gov

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SAN JOSE CA 95170-0640

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AUG 17 2005

OFFICE OF PETITIONS

In re Application of
Timothy J. Guiney et al.
Application No. 10/951,553
Filed: September 27, 2004
Attorney Docket No. LMRX-P049/P1317

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This decision is in response to the request for reconsideration filed August 8, 2005, (certificate of mail date, August 3, 2005), under 37 CFR 1.47(a), in response to the decision dismissing the petition of June 3, 2005.

The petition is **GRANTED**.

The above-identified application was filed on September 27, 2004, naming Chia Cheng Cheng, Timothy J. Guiney, Rao Annapragada and Subhash Deshmukh and but without a signed declaration. Accordingly, on November 10, 2004, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration. In response, a petition was filed with a request for a two month extension of time and the oath and declaration signed by inventors Guiney and Cheng only. The petition was dismissed because the evidence presented as to joint inventor Annapragada was not sufficient to show that the non-signing inventor could not be located or that he refused to cooperate with the filing of the application.

Comes now petitioner with the instant request for reconsideration.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee; and

(4) a statement of the last known address of the non-signing inventor.

The evidence presented in the original petition sufficiently showed that through counsel, joint inventor Subhash Deshmukh has expressly refused, in writing, to execute the oath or declaration and thus, to cooperate with the filing of the instant application.

The request for reconsideration bears proof that additional efforts were undertaken to

locate the non-signing inventor but those efforts were unsuccessful. The evidence is therefore sufficient to establish diligence as required by the regulation.

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.

Since the petition fee was paid with the original petition filed March 14, 2005, no additional petition fees for the request for reconsideration are required.

This matter is being referred to Technology Center 1753 for examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
Timothy J. Guiney et al.
Application No. 10/951,553
Filed: September 27, 2004
For: METHODS AND APPARATUS FOR MONITORING A PROCESS IN A PLASMA PROCESSING SYSTEM BY MEASURING SELF-BIAS VOLTAGE

Dear Mr. Annapragada and Mr. Deshmukh:

You are named as joint inventors 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 joint inventors.

As named inventors you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned Petitions Attorney at (571) 272-3212. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:
IPSG, P.C.
P.O. BOX 700640
SAN JOSE CA 95170-0640

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of	:	
Theodore J. **Miller** et al.	:	
Application No. 10/951,559	:	DECISION ON PETITION
Filed: September 28, 2004	:	
Attorney Docket No. 04-EDP-224	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 13, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to reply in a timely manner to the Non-final Office action mailed March 14, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on June 15, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,540.00 and (3) a proper statement of unintentional delay. Accordingly, the reply to the Non-final Office action of November 13, 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 $1,050.00 extension of time fee submitted with the petition on November 13, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account number 05-0275.

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.

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 Thuy Pardo at (571) 272-6052 or in her absence, the undersigned at (571)272-7099.

This application is being referred to Technology Center AU 2836 for appropriate action by the Examiner in the normal course of business on the reply received.

Cliff Botty

for David A. Bucci
Petitions Examiner
Office of Petitions

cc:
Bradley J. Diedrich
1111 Superior Avenue
Cleveland, OH 44114

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OFFICE OF PETITIONS

In re Application of	:	
Richard W. REED	:	
Application No. 10/951,580	:	DECISION ON PETITION
Filed: September 29, 2004	:	
Attorney Docket No.	:	

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, December 29, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 30, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $770; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571)272-6735.

This application is being referred to Technology Center AU 3677 for appropriate action by the Examiner in the normal course of business on the reply received November 2, 2007.

April Wise
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Richard W. Reed	:	
Application No. 10/951,580	:	DECISION ON PETITION
Filed: September 29, 2004	:	
Attorney Docket No.	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 10, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of February 28, 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 were obtained. Accordingly, the date of abandonment of this application is May 29, 2008. A Notice of Abandonment was mailed on September 9, 2008.

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 lack items (1) and (2).

As to item (1), the RCE can be accepted, due to the RCE fee ($405) not being paid. Credit card authorization was denied.

As to item (2), the petition fee of $810 was not paid. The credit card submitted as payment was denied.

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 Kimberly Inabinet at (571) 272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
Richard Nespola
Filed: September 29, 2004
Application No. 10/951,600
Attorney Docket No. 254846US8
For: METHOD, SYSTEM, AND COMPUTER PROGRAM PRODUCT FOR STRUCTURING AND ALLOCATING PAYMENTS ON A LOAN WITH SECURED REPAYMENTS

ON PETITION

This is a decision on the petition under 37 CFR 1.182 filed on October 13, 2006, to treat the above-identified application as expressly abandoned retroactively as of a date prior to the publication date of the above-identified application and to expunge the publication of the above-identified application.

The petition is **Dismissed**.

STATUTE AND REGULATION

35 U.S.C. § 122[1] provides that:

> (a) CONFIDENTIALITY-- Except as provided in subsection (b), applications for patents shall be kept in confidence by the Patent and Trademark Office and no information concerning the same given without authority of the applicant or owner unless necessary to carry out the provisions of an Act of Congress or in such special circumstances as may be determined by the Director.
> (b) Publication--
> (1) IN GENERAL-- (A) Subject to paragraph (2), each application for a patent shall be published, in accordance with procedures determined by the Director, promptly after the expiration of a period of 18 months from the earliest filing date for which a benefit is sought under this title. At the request of the applicant, an application may be published earlier than the end of such 18-month period.

[1] See 35 U.S.C. § 122 (Supp. V 1999).

(B) No information concerning published patent applications shall be made available to the public except as the Director determines.

(C) Notwithstanding any other provision of law, a determination by the Director to release or not to release information concerning a published patent application shall be final and nonreviewable.

(2) EXCEPTIONS-- (A) An application shall not be published if that application is--

(i) no longer pending;

(ii) subject to a secrecy order under section 181 of this title;

(iii) a provisional application filed under section 111(b) of this title; or

(iv) an application for a design patent filed under chapter 16 of this title.

(B)(i) If an applicant makes a request upon filing, certifying that the invention disclosed in the application has not and will not be the subject of an application filed in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing, the application shall not be published as provided in paragraph (1).

(ii) An applicant may rescind a request made under clause (i) at any time.

(iii) An applicant who has made a request under clause (i) but who subsequently files, in a foreign country or under a multilateral international agreement specified in clause (i), an application directed to the invention disclosed in the application filed in the Patent and Trademark Office, shall notify the Director of such filing not later than 45 days after the date of the filing of such foreign or international application. A failure of the applicant to provide such notice within the prescribed period shall result in the application being regarded as abandoned, unless it is shown to the satisfaction of the Director that the delay in submitting the notice was unintentional.

(iv) If an applicant rescinds a request made under clause (i) or notifies the Director that an application was filed in a foreign country or under a multilateral international agreement specified in clause (i), the application shall be published in accordance with the provisions of paragraph (1) on or as soon as is practical after the date that is specified in clause (i).

(v) If an applicant has filed applications in one or more foreign countries, directly or through a multilateral international agreement, and such foreign filed applications corresponding to an application filed in the Patent and Trademark Office or the description of the invention in such foreign filed applications is less extensive than the application or description of the invention in the application filed in the Patent and Trademark Office, the applicant may submit a redacted copy of the application filed in the Patent and Trademark Office eliminating any part or description of the invention in such application that is not also contained in any of the corresponding applications filed in a foreign country. The Director may only publish the redacted copy of the application unless the redacted copy of the application is not received within 16 months after the earliest effective filing date for which a benefit is sought under this title. The provisions of section 154(d) shall not apply to a claim if the description of the invention published in the redacted application filed under this clause with respect to the claim does not enable a person skilled in the art to make and use the subject matter of the claim.

(c) PROTEST AND PRE-ISSUANCE OPPOSITION-- The Director shall establish appropriate procedures to ensure that no protest or other form of pre-issuance opposition to the grant of a patent on an application may be initiated after publication of the application without the express written consent of the applicant.

(d) NATIONAL SECURITY-- No application for patent shall be published under subsection (b)(1) if the publication or disclosure of such invention would be detrimental to the national security. The Director shall establish appropriate procedures to ensure that such applications are promptly identified and the secrecy of such inventions is maintained in accordance with chapter 17 of this title.

37 CFR 1.138[2] provides that:

(a) An application may be expressly abandoned by filing a written declaration of abandonment identifying the application in the United States Patent and Trademark Office. Express abandonment of the application may not be recognized by the Office before the date of issue or publication unless it is actually received by appropriate officials in time to act.

(b) A written declaration of abandonment must be signed by a party authorized under § 1.33(b)(1), (b)(3), or (b)(4) to sign a paper in the application, except as otherwise provided in this paragraph. A registered attorney or agent, not of record, who acts in a representative capacity under the provisions of § 1.34(a) when filing a continuing application, may expressly abandon the prior application as of the filing date granted to the continuing application.

(c) An applicant seeking to abandon an application to avoid publication of the application (see § 1.211(a)(1)) must submit a declaration of express abandonment by way of a petition under this section including the fee set forth in § 1.17(h) in sufficient time to permit the appropriate officials to recognize the abandonment and remove the application from the publication process. Applicant should expect that the petition will not be granted and the application will be published in regular course unless such declaration of express abandonment and petition are received by the appropriate officials more than four weeks prior to the projected date of publication.

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[2] See 37 CFR 1.138 (2001).

37 CFR 1.182[3] provides that:

> All situations not specifically provided for in the regulations of this part will be decided in accordance with the merits of each situation by or under the authority of the Commissioner, subject to such other requirements as may be imposed, and such decision will be communicated to the interested parties in writing. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(h).

37 CFR 1.211[4] provides that:

> (a) Each U.S. national application for patent filed in the Office under 35 U.S.C. 111(a) and each international application in compliance with 35 U.S.C. 371 will be published promptly after the expiration of a period of eighteen months from the earliest filing date for which a benefit is sought under title 35, United States Code, unless:
> (1) The application is recognized by the Office as no longer pending;
> (2) The application is national security classified (see § 5.2(c)), subject to a secrecy order under 35 U.S.C. 181, or under national security review;
> (3) The application has issued as a patent in sufficient time to be removed from the publication process; or
> (4) The application was filed with a nonpublication request in compliance with § 1.213(a).
> (b) Provisional applications under 35 U.S.C. 111(b) shall not be published, and design applications under 35 U.S.C. chapter 16 and reissue applications under 35 U.S.C. chapter 25 shall not be published under this section.
> (c) An application filed under 35 U.S.C. 111(a) will not be published until it includes the basic filing fee (§ 1.16(a) or 1.16(g)), any English translation required by § 1.52(d), and an executed oath or declaration under § 1.63. The Office may delay publishing any application until it includes a specification having papers in compliance with § 1.52 and an abstract (§ 1.72(b)), drawings in compliance with § 1.84, and a sequence listing in compliance with §§ 1.821 through 1.825 (if applicable), and until any petition under § 1.47 is granted.
> (d) The Office may refuse to publish an application, or to include a portion of an application in the patent application publication (§ 1.215), if publication of the application or portion thereof would violate Federal or state law, or if the application or portion thereof contains offensive or disparaging material.
> (e) The publication fee set forth in § 1.18(d) must be paid in each application published under this section before the patent will be granted. If an application is subject to publication under this section, the sum specified in the notice of allowance under § 1.311 will also include the publication fee which must be paid within three months from the date of mailing of the notice of allowance to avoid abandonment of the application. This

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[3] See 37 CFR 1.182 (2001).

[4] See 37 CFR 1.211 (2001).

three-month period is not extendable. If the application is not published under this section, the publication fee (if paid) will be refunded.

DECISION

Petitioners assert that the letter of express abandonment filed January 12, 2005 should have prevented the publication of the above-identified application. Petitioners argue that since this letter of express abandonment was filed fourteen months prior to the publication of the above-identified application, the United States Patent and Trademark Office (Office) had adequate time to act upon the letter of express abandonment and thus prevent publication of the above-identified application. Petitioners request that the Office treat the above-identified application as expressly abandoned retroactively as of a date prior to the publication date of the above-identified application, and that the Office expunge the publication of the above-identified application from the Office's databases and other worldwide patent databases including, but not limited to, the European Patent Office's International Patent Documentation Center (INPADOC) patent database. Petitioners assert that this situation is different from the prior decision in application No. 09/860,710, as the letter of express abandonment was filed 14 months prior to publication of the application, wherein the prior decision the letter of express abandonment was only filed four months prior to publication. Petitioners also assert that in this application there is a clear intent not to publish the application as a continuation application was filed with a nonpublication request, whereas in the prior instance a continuation-in-part application was filed and it did not include a nonpublication request. Petitioners assert that the procedures outlined in the MPEP with respect to 37 CFR 1.138(c) and announced on "June 22, 2004 (via 1283 OG 147)" were new procedures and generally unavailable to most practitioners. Petitioners state that nothing in 37 CFR 1.138 prohibits an applicant from abandoning an application in the procedure followed by Petitioners.

The above-identified application was filed under 35 U.S.C. § 111(a) and 37 CFR 1.53(b) on September 29, 2004.

On January 12, 2005, Applicants responded to a Notice to File Missing Parts of an Application by submitting a Declaration under 1.53(f), a copy of the Notice to File Missing Parts of Nonprovisional Application, Declaration, Power of Attorney and a Petition of Express Abandonment as noted on the transmittal letter.

On January 28, 2005, a filing receipt was mailed notifying applicant of the projected publication date of the above-identified application.

On April 6, 2006, the above-identified application was published as Patent Application Publication US 2006/0074794 A1.

The American Inventors Protection Act of 1999 (AIPA) was enacted into law on November 29, 1999. See Pub. L. 106-113, 113 Stat. 1501, 1501A-552 through 1501A-591 (1999). The AIPA contained a number of changes to title 35, including provisions for the publication of pending applications for patent, with certain exceptions, promptly after the expiration of a period of

eighteen-months from the earliest filing date for which a benefit is sought under title 35 ("eighteen-month publication"). The eighteen-month publication provisions of the AIPA became effective on November 29, 2000, and apply to all applications filed on or after November 29, 2000. See Pub. L. 106-113, 113 Stat. At 1501A-566 through 1501A-567. The Office implemented the eighteen-month publication provisions of the AIPA in a final rule published in September of 2000. See Changes to Implement Eighteen-Month Publication of Patent Applications, 65 Fed. Reg. 57023 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office 63 (Oct. 10, 2000) (final rule).

One of the exceptions to the eighteen-month publication provisions of the AIPA is that an application shall not be published if the application is no longer pending. See 35 U.S.C. §122(b)(2)(A)(i). In implementing the eighteen-month publication provisions of the AIPA, the Office added 37 CFR 1.138(c) for the specific purpose of providing a petition for express abandonment to avoid publication for those applicants seeking to expressly abandon an application to avoid its publication under the eighteen-month publication provisions of the AIPA. See Changes to Implement Eighteen-Month Publication of Patent Applications, 65 Fed. Reg. at 57034, 1239 Off. Gaz. Pat. Office at 73. The Office also indicated that:

> Unless an applicant has received a notice of abandonment, an applicant who wants to abandon the application to avoid publication must file a petition under [37 CFR] 1.138(c) to expressly abandon the application and avoid publication. An applicant permitting an application to become abandoned (for failure to reply to an Office action) to avoid publication by passively waiting for the Office to recognize that the application has become abandoned must bear the risk that the Office will not recognize that the application has become abandoned and change the status of the application in the PALM system in sufficient time to avoid publication.

See Changes to Implement Eighteen-Month Publication of Patent Applications, 65 Fed Reg. at 57035, 1239 Off. Gaz. Pat. Office at 73.

37 CFR 1.138(c) provides, in part, that "[a]n applicant seeking to abandon an application to avoid publication of the application (see [37 CFR] 1.211(a)(1)) must submit a declaration of express abandonment by way of a petition under this section including the fee set forth in [37 CFR] 1.17(h) in sufficient time to permit the appropriate officials to recognize the abandonment and remove the application from the publication process." The final rule also indicates that petitions under 37 CFR 1.138 should be addressed to Box PGPUB-ABN to increase the chances of such petition being received by the appropriate officials in sufficient time to avoid publication of an application. See Changes to Implement Eighteen-Month Publication of Patent Applications, 65 Fed. Reg. at 57045, 1239 Off. Gaz. Pat. Office at 82 (response to comment 44).

Petitioners filed a letter of Express Abandonment on January 12, 2005 with their response to a missing parts notice. Contrary to petitioners' assertion that the only purpose for Petitioner's actions (being that a continuation application with a nonpublication request was filed) was to avoid publication, the letter of express abandonment only states that "[a]pplicant hereby expressly abandon the above-identified application Serial No 10/951,600 but not the invention recited therein." The letter of express abandonment filed on January 12, 2005 did not mention an

intent to avoid publication or that a continuation application was filed. The letter of express abandonment filed on January 12, 2005 was not in compliance with 37 CFR 1.138(c) because: (1) the letter of express abandonment was not designated as a petition under 37 CFR 1.138(c) or otherwise indicate that it was submitted for the purpose of avoiding publication; and (2) the letter of express abandonment did not include the petition fee set forth in 37 CFR 1.17(h). In addition, petitioners did not address the letter of express abandonment to Mail Stop Express Abandonment.[5] Therefore, the letter of express abandonment filed on January 12, 2005 is properly considered as a letter of express abandonment under 37 CFR 1.138(a), rather than a petition under 37 CFR 1.138(c) to expressly abandon an application to avoid publication.

37 CFR 1.138(a) provides that express abandonment of the application may not be recognized by the Office before the date of issue or publication unless it is actually received by appropriate officials in time to act. See 37 CFR 1.138(a). Furthermore, section 711.01 of the Manual of Patent Examining Procedure (8th ed., 2nd Rev. 2004) provides that a letter of abandonment properly signed becomes effective when an appropriate official of the Office takes action thereon.[6] Since petitioners did not follow the procedure set forth in 37 CFR 1.138(c), petitioners must accept the consequences of the letter of express abandonment under 37 CFR 1.138(a) not being recognized in sufficient time to avoid publication of the above-identified application.

Petitioner's assertions that the procedures concerning 37 CFR 1.38(c) were only announced on June 22, 2004, and thus "were new and generally unavailable to most practitioners" in the Fall of 2004 is not persuasive. The procedures for 37 CFR 1.38(c) were initially published in the final rule in September 2000. The procedures were modified on April 27, 2004 (via 1282 OG 150 (May 2004)) and incorporated into the Manual of Patent Examining Procedure (8th ed., 2nd Rev. 2004) published in May 2004, which created a new mailing address (Mail Stop Express Abandonment) for both petitions for express abandonment under 37 CFR 1.138(c) and letters of express abandonment under 37 CFR 1.138. Petitioner's assertion that nothing in 37 CFR 1.138(c) or the MPEP prohibits abandoning an application prior to publication in the manner followed by Petitioner's or requires the Office to publish an application abandoned in the manner by Petitioner's is not persuasive. While Petitioner may file a letter of express abandonment[7] in the manner chosen, since letter of express abandonment was not acted upon by an appropriate official of the Office and the application was still pending, when the application was published, it was a proper publication under 35 U.S.C. 122(b). Applicants are not prohibited from filing papers in the manner in which Petitioner filed his response, however, they are strongly encouraged to place papers directed to different areas of the Office in separately addressed envelopes to facilitate processing of the papers and that including multiple papers in a single envelope increases the likelihood that one or more of the papers will be delayed before reaching the appropriate area. See section 501 of the Manual of Patent Examining Procedure (8th ed. 2001). Petitioner included the letter of express abandonment with the response to the Notice to File Missing Parts of an Application directed to "ATTN: APPLICATION BRANCH" and the paper (letter of express abandonment) was unfortunately delayed from reaching the appropriate area of the Office.

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[5] See Revised Procedures for Express Abandonments, 1282 OG 150 (May 2004).
[6] See also section 711.01 of the Manual of Patent Examining Procedure (8th ed. 2001).
[7] Under 37 CFR 1.38(a).

Since the letter of express abandonment of January 12, 2005 was not recognized by the appropriate Office official by April 6, 2006 (the date the above-identified application was published), the above-identified application was still pending on the date it was published as Patent Application Publication US 2006/0074794 A1. Therefore, the above-identified application was properly published under 35 U.S.C. § 122(b) on April 6, 2006 as Patent Application Publication US 2006/0074794 A1. There is no basis or authority for expunging the publication of an application that has been properly published as required by 35 U.S.C. § 122(b) from the Office's database or any other patent databases.

CONCLUSION

For the above-stated reasons, the petition under 37 CFR 1.182 to retroactively accept the above-identified application as expressly abandoned as of a date prior to the publication date of the above-identified application and to expunge the publication of the above-identified application is **dismissed**. Therefore, the Office will not expunge the publication of the above-identified application from the Office's or any other patent database.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition. *See* 35 U.S.C. § 41(a)(7). The required $400 fee for the petition under 37 CFR 1.182 has been paid.

Telephone inquiries regarding this communication should be directed to the undersigned 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

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Technology Center 2100

In re Application of: Emaru et al. Application No. 10/951,614 Attorney Docket No. 1213.44313X00 Filed: September 29, 2004 For: STORAGE SYSTEM MANAGEMENT SOFTWARE COOPERATION METHOD	)))))))	**DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER 37 CFR §1.102(d) AND MPEP § 708.02(VIII): ACCELERATED EXAMINATION**

This is a decision on the petition, filed November 18, 2005, under 37 CFR § 1.102(d), in accordance with MPEP § 708.02(VIII), requesting the accelerated examination of the above identified application. The papers filed November 18, 2005 include a petition, the petition fee and an information disclosure statement (PTO-1449).

Issues

In support of the petition, petitioners have provided statements that all claims are directed to a single invention, and that a pre-examination search has been conducted. The petitioners also have provided a list of references deemed most closely related to the subject matter encompassed by the claims and then discussed how the present invention was patentable over the cited references. It is noted that applicants filed an information disclosure statement separately from the petition and that the reference cited thereon has not been discussed in the petition.

The application has independent claims 1, 2, 6, and 10. It appears that Claim 6 is the broadest pending claim.[1] Petitioners state there are two features found in the independent claims which are not taught, or suggested, by the cited references.

Decision

According to the MPEP §708.02 (VIII), the prerequisites to be met by applicant for a grantable petition for Accelerated Examination under 37 CFR § 1.102(d) includes the following:

(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

[1] Applicants are reminded that "[c]laims should preferably be arranged in order of scope so that the first claim presented is the least restrictive." MPEP 608.01(m)

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. 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.

The petition fails to fully comply with the requirements set forth in section (E) above. The petition is deficient in submitting a detailed discussion of the references which points out with the particularity required under 37 CFR § 1.111 how the claimed subject matter is patentable over the references.

A review of petitioners' discussion of the references shows each discussion has the same problem. There are four independent claims pending in the application. The petitioners' discussion of what the references lack is at variance with the actual claim limitations in the independent claims. For example, the discussion for Stallmo et al. '398 states the reference "does not contain a central control unit" and that it "does not describe execution request events that include reconfiguration of data storage devices." The independent claims do not contain any limitations that the control unit be a <u>central</u> control unit. Also, the claims currently include the limitation of "marks up an extent of the impact of the event along with the management job"(Claims 2 and 6). To "mark up" is not the same as to reconfigure. The discussion for the Frey, Jr. reference has similar defects, and again, the concept of the "mark up the maps before the actual configuration change" is language not contained all the independent claims.

The discussion of Nahum '670 is deficient because it states the reference "does not receive execution request events from management programs of the storage devices. Further, Nahum does not mark up the configuration table before the actual configuration change." These are not concepts currently claimed in Claim 2, for example. Therefore, petitioners' analyses do not meet the standard of a detailed discussion which points out with the particularity required under 37 CFR § 1.111 how the claimed subject matter is patentable over the references.

The petition is **<u>DISMISSED</u>**.

The application file will continue to await examination in its proper turn based on its effective filing date. Petitioners are entitled to one opportunity to perfect the request in a renewed petition to make special. Such a request should be filed within two (2) months of the mailing date of this decision. Telephone inquiries should be directed to the undersigned at (571) 272-3567.

Josie A. Ballato
Work Group Quality Assurance Specialist (WQAS) for 2190
Technology Center 2100
Computer Architecture, Software, and Information Security

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Paul J. Skwierawski
Antonelli, Terry, Stout & Kraus, LLP
1300 North Seventeenth Street
Suite 1800
Arlington, VA 22209

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DEC 21 2007

TECHNOLOGY CENTER 2100

In re Application of:
Hironori Emaru et al.
Application No. 10/951,614
Filed: September 29, 2004
For: STORAGE SYSTEM MANAGEMENT SOFTWARE COOPERATION METHOD

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the renewed petition, filed on 30 March 2007 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **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 30 March 2007 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.

Gail Hayes
Special Program Examiner/Quality Assurance Specialist
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3591

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RANDY E. LACASSE
LACASSE & ASSOCIATES, LLC
1725 DUKE STREER
SUITE 650
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Application of	:	
Michael Krupa	:	
Application No. 10/951,631	:	DECISION ON PETITION
Filed: September 29, 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 April 11, 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, "Lacasse & Associates, LLC has been acquired by another entity and will no longer be handling patent prosecution", 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 undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: MICHAEL P. KRUPA
HEALTH PARTNERS NEW ENGLAND
HEALTH PARTNERS TECHNOLOGY
3 WOODLAND ROAD
STONEMAN, MA 02180

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OFFICE OF PETITIONS

ARYAN SAED
#51-1255 RIVERSIDE DR.
PORT COQUITLAM BC V3B 7W5 CA CANADA

In re Application of
Aryan Saed
Application No. 10/951,663
Filed: September 29, 2004
Attorney Docket No.

ON PETITION

This is in response to the communication, filed January 5, 2010, to revive the above-identified application, which is being treated as a petition to withdraw the holding of abandonment.

The petition is **DISMISSED**.

On April 3, 2009, the Office mailed a Notice of Allowance and Issue Fee(s) Due (Notice), which set a three month shortened statutory period to reply. The application became abandoned on July 4, 2009, for failure to submit a timely reply to the April 3, 2009 Notice. On July 28, 2009, the Office mailed a Notice of Abandonment.

DISCUSSION OF PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

A review of the record discloses that petitioner submitted a reply to the Notice of Allowance and Issue Fee(s) Due mailed June 19, 2009. However, the reply received in the Office September 11, 2009, was incomplete. Applicant had until September 19, 2009 to file the complete reply to the Notice. On September 11, 2009, the Office made an attempt to call applicant and inform him of the incomplete items that were faxed to the Office September 11, 2009. Petitioner also argues that the contact number listed in the application was incorrect; all contact information has been updated to that as per the change of address filed December 20, 2005.

Petitioner also argues that he twice faxed an authorization to charge the issue and publication fees to a credit card, but Office records indicate that he credit card form faxed on September 11, 2009 was incomplete and there is no record of a second credit card authorization received in the Office.

Therefore, the petition to withdraw the holding of abandonment is **dismissed**.

ALTERNATIVE VENUE

Petitioner is strongly encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181 or a petition under 37 CFR 1.137(a).

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed. In nonprovisional utility application abandoned for failure to respond to a non-final Office action, the required reply may be met by filing either (A) an argument or amendment under 37 CFR 1.111 or (B) a continuing application under 37 CFR 1.53(b).

(2) The petition fee as set forth in 37 CFR 1.17(m), **$810.00 for a small entity**;

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

A form for filing a petition to revive an unintentionally abandoned application accompanies this decision for petitioner's convenience. If petitioner desires to file a petition under 37 CFR 1.137(b) instead of filing a request for reconsideration, petitioner must complete the enclosed petition form (PTO/SB/64) and pay the $810.00 petition fee.

Petitioner may wish to consider hiring a registered patent attorney or agent to assist in the prosecution of this application. Additionally, petitioner is encouraged to contact the Inventors Assistance Center (IAC) by telephone at 800-786-9199 or 571-272-1000, Monday through Friday from 8:30 AM to 5:30 PM (EST). The IAC provides patent information and services to the public and is staffed by former Supervisory Patent Examiners and experienced Primary Examiners who answer general questions concerning patent examining policy and procedure.

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).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the April M. Wise at (571) 272-1642. All other inquiries concerning this application should be directed to the Office of Data Management at their hotline 571-272-4200.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

Enclosures: Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b); Form PTO/SB/64, Privacy Act Statement;

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PROCOPIO, CORY, HARGREAVES & SAVITCH LLP
530 B STREET
SUITE 2100 SAN DIEGO, CA 92101

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OFFICE OF PETITIONS

In re Application of	:	
Wilk et al.	:	
Application No. 10/951,671	:	DECISION ON PETITION
Filed: September 28, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 110866-ISE14	:	37 CFR 1.102(c)(2)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(2)(i) & (ii), filed August 17, 2006, to make the above-identified application special based on the invention (a) materially enhancing the quality of the environment as set forth in M.P.E.P. § 708.02, Section V and (b) materially contributing to certain categories related to energy resource as set forth in M.P.E.P. § 708.02, Section VI.

The petitions are **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.

The instant petition fails to show the invention meets the materiality standard. The instant invention is directed to the energy storage part of a hybrid-electric drive system, specifically large format ultracapacitor packs. The large format ultracapacitor packs system claimed in the invention could be used in buses and other heavy-duty vehicles, thereby reducing the consumption of fuel with the resulting decrease in emission of pollutants does not in itself satisfy the materiality standard. The materiality standard does not permit the applicant to speculate as to how a hypothetical end-user might specially apply the invention in a manner that could materially enhance the quality of the environment by contributing to the restoration or maintenance of basic life-sustaining natural elements.

A grantable petition to make an application special under 37 CFR 1.102(c)(2)(ii) and MPEP § 708.02, Section VI: Energy, must state that special status is sought because the invention materially contributes to (A) the discovery or development of energy resources, or (B) the more efficient utilization and conservation of energy resources. Examples of inventions in category (A) would be developments in

fossil fuels (natural gas, coal, and petroleum), hydrogen fuel technologies, nuclear energy, solar energy, etc. Category (B) would include inventions relating to the reduction of energy consumption in combustion systems, industrial equipment, household appliances, etc. If the application disclosure is not clear on its face that the claimed invention materially contributes to category (A) or (B), the petition must be accompanied by a statement under 37 CFR 1.102 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.

The instant petition, fails to meet the materiality standard of 37 CFR 102(c)(2)(ii). Although the disclosure may be generally directed to the energy storage part of a hybrid-electric drive system, specifically large format ultracapacitor packs, the materiality standard of the rule has not been met, i.e., petitioner has failed to state how the claimed invention contributes in a significant, substantial, or noticeable manner to inventions relating to the reduction of energy consumption. The materiality standard does not permit the applicant to speculate as to how a hypothetical end-user might specially apply the invention in a manner that could materially contribute to category (A) or (B) as set forth above. Accordingly, it is unclear as to how the claimed invention would contribute in a significant manner to category (A) or (B).

This lack of meeting the materiality standards of 37 CFR 102(c)(2) (i) and (ii) does not permit the applicant 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 Jefferey Harold at 571-272-7519, or to the undersigned at 571-272-7099.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 2836 for action in its regular turn.

David Bucci
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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ABELMAN, FRAYNE & SCHWAB
666 THIRD AVENUE, 10TH FLOOR
NEW YORK, NY 10017

Mail Date: 06/21/2010

Applicant	: Rony Gotesdyner	: DECISION ON REQUEST FOR
Patent Number	: 7660889	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/951,727	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/29/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1384** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

INTEL CORPORATION
c/o CPA Global
P.O. BOX 52050
MINNEAPOLIS MN 55402

In re Application of	:	
Kim Pallister	:	
Application No. 10/951,749	:	DECISION ON PETITION
Filed: September 27, 2004	:	
Attorney Docket No. 42P19893	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 16, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before January 6, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed February 1, 2010. Accordingly, the date of abandonment of this application is January 7, 2009. A Notice of Abandonment was mailed on February 1, 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 and a RCE (Request for Continued Examination, with the required fee of $810, (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 Technology Center AU 2624 for processing of the RCE and any action that is required by the Examiner in the normal course of business.

/Kimberly A. Inabinet/

Kimberly A. Inabinet
Petitions Examiner
Office of Petitions

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ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 North Seventeenth Street
Suite 1800
Arlington, VA 22209-3873

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Technology Center 2100

In re Application of: FUJIMOTO, et al.
Application No. 10/951,771
Filed: 29 September 2004
For: STORAGE SYSTEM EXECUTING ENCRYPTION AND DECRYPTION PROCESSING

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER M.P.E.P. §708.02 (VIII)

This is a decision on the petition filed 8 Dec. 2005, to make the captioned Application special, under 37 C.F.R. 102(d) and M.P.E.P. § 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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AMSTER, ROTHSTEIN & EBENSTEIN, LLP
90 PARK AVENUE
NEW YORK, NY 10016

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OFFICE OF PETITIONS

In re Application of :
Andrew Waksmundzki, et. al. :
Application No. 10/951,791 : ON PETITION
Filed: September 29, 2004 :
Attorney Docket No. 34315/59 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 15, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Michael G. Panian appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1).

The application became abandoned for failure to timely file a proper reply within the meaning of 37 CFR 1.113 to the final Office action mailed March 28, 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 on November 15, 2007, does not *prima facie* place the application in condition for allowance, 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). A courtesy copy of the Advisory Action is being mailed with this decision on petition.

The Office acknowledges receipt of $1,050 for a three months extension of time filed on November 15, 2007. However, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1,050 extension of time was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Additionally, the Power of Attorney filed on June 25, 2008 has been accepted and made of record. A Notification of Acceptance accompanies this decision.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
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Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

Enclosure: Courtesy Copy of the Advisory Action
Notification of Acceptance of Power of Attorney

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/951,791	Applicant(s) WAKSMUNDZKI ET AL.	
	Examiner Michele Kidwell	Art Unit 3761	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 15 November 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Michele Kidwell/
Primary Examiner, Art Unit 3761

Continuation of 11. does NOT place the application in condition for allowance because: the applicant's arguments are not persuasive. The applicant argues that the layers relied on by the examiner are not analogous to the claimed layers. The examiner contends, however, that the layer relied upon may function as claimed as they use the same materials. Likewise, element 120 is considered to form part of the sub layer and bottom sheet 30 contacts that layer. Furthermore, the examiner contends that the term adjacent does not prohibit having layers found therebetween.

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/951,791	09/29/2004	Andrew Waksmundzki	28131

CONFIRMATION NO. 9516

POA ACCEPTANCE LETTER

1912
AMSTER, ROTHSTEIN & EBENSTEIN LLP
90 PARK AVENUE
NEW YORK, NY 10016

OC000000030767578

Date Mailed: 07/02/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/25/2008.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/amsmith/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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AMSTER, ROTHSTEIN & EBENSTEIN, LLP
90 PARK AVENUE
NEW YORK, NY 10016

MAILED

MAR 06 2009

OFFICE OF PETITIONS

In re Application of
Andrew Waksmundzki, et. al.
Application No. 10/951,791
Filed: September 29, 2004
Attorney Docket No. 34315-247

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed December 31, 2008, to revive the above-identified application.

In response to the decision mailed July 2, 2008, petitioner submits a Request for Continued Examination (RCE) with the $405 fee, the submission under 37 CFR 1.114, and a four month extension of time filed on December 31, 2008.

Since the renewed petition satisfies the requirements of 37 CFR 1.137(b), the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 3761 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) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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POSZ LAW GROUP, PLC
12040 SOUTH LAKES DRIVE
SUITE 101
RESTON VA 20191

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APR 1 0 2008

OFFICE OF PETITIONS

In re Application of	:	
Daniel J. Roelker, et al.	:	
Application No. 10/951,796	:	DECISION ON PETITION
Filed: September 29, 2004	:	
Attorney Docket No. 61-009T	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 4, 2008, 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**.

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 within 45 days subsequent to the filing of the subject application in a foreign country. The application became abandoned on August 4, 2005.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by

37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. *See* MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (1) and (3).

With respect to item (1): a petition cannot be granted where there is an outstanding requirement. In the instant case, there was no request to rescind the nonpublication filed. A courtesy copy of this Request is being mailed along with this decision. Accordingly, the petition to revive cannot be granted until the request is received.

With respect to 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).

<u>As to Period (1):</u>

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]. <u>See</u> 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 ½ years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on August 5, 2005. That party, in turn must explain what effort(s) was made to 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 Posz Law Group, PC (identified as Posz from here and throughout) was responsible for the application at the time of abandonment, Posz should explain why this application became abandoned while it was under his control and what efforts he made to reply and with whom this matter was discussed outside of Posz presence. 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), Posz and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons responsible for handling this application, and the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of intent to file a notice to rescind within the required time. 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 3 ½ 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 handling this application 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 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.

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 April M. Wise at (571) 272-1642.

Irvin Dingle
Petitions Examiner
Office of Petitions

Attachment: Rescission of Previous Nonpublication Request

PTO/SB/36 (01-08)
Approved for use through 03/31/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

RESCISSION OF PREVIOUS NONPUBLICATION REQUEST
(35 U.S.C. 122(b)(2)(B)(ii))
AND, IF APPLICABLE,
NOTICE OF FOREIGN FILING
(35 U.S.C. 122(b)(2)(B)(iii))

Send completed form to:
Mail Stop PG Pub
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX: (571) 273-8300

Application Number	
Filing Date	
First Named Inventor	
Title	
Atty Docket Number	
Art Unit	
Examiner	

A request that the above-identified application not be published under 35 U.S.C. 122(b) (nonpublication request) was included with the above-identified application on filing pursuant to 35 U.S.C. 122(b)(2)(B)(i).
I hereby **rescind** the previous nonpublication request.

If a notice of foreign or international filing is or will be required by 35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c), I hereby provide such notice. This notice is being provided no later than forty-five (**45**) days after the date of such foreign or international filing.

*If a notice of subsequent foreign or international filing required by 35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c) was not filed within forty-five (**45**) days after the date of filing of the foreign or international application, the application is ABANDONED, and a petition to revive under 37 CFR 1.137(b) is required. See 37 CFR 1.137(f).*

Signature _____ Date _____

Typed or printed name _____ Registration Number, if applicable _____

Telephone Number _____

This request must be signed in compliance with 37 CFR 1.33(b).

If information or assistance is needed in completing this form, please contact the Pre-Grant Publication Division at (703)605-4283 or by e-mail at PGPub@USPTO.gov.

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 PG Pub, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

Signature

Name (Print/Type) | Date

This collection of information is required by 37 CFR 1.213(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 6 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop PG Pub, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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POSZ LAW GROUP, PLC
12040 SOUTH LAKES DRIVE
SUITE 101
RESTON VA 20191

In re Application of	:	
Daniel J. Roelker, et al.	:	
Application No. 10/951,796	:	DECISION ON PETITION
Filed: September 29, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 61-009T	:	

This is a decision on the renewed petition, filed April 30, 2008, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on July 20, 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 6, 2008 was previously mailed on August 28, 2008.

Telephone inquiries concerning this decision should be directed to April Wise at (571) 272-1642.

This decision ratifies the ensuing prosecution. This application is being referred to Technology Center Art Unit 2137 for examination in due course.

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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ERIC ROBINSON
PMB 955
21010 SOUTHBANK STREET
POTOMAC FALLS, VA 20165

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OFFICE OF PETITIONS

In re Application of	:
Kazuo Nishi et al	:
Application No. 10/951,811	: DECISION GRANTING PETITION
Filed: September 29, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 0756-7411	:

This is a decision on the petition, filed August 31, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 23, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2815 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment.*

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The Gillette Company
Prudential Tower Building
Boston MA 02199

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SEP 0 4 2008

In re Application of	:	
Sanchez-Martinez et al.	:	
Application No. 10/951,851	:	DECISION ON PETITION
Filed: September 28, 2004	:	
Patent No. 7,147,645	:	
Issued: December 12, 2006	:	
Attorney Docket No. B06090-F	:	

This is a decision on the request under 37 CFR 3.81(b)[1] filed December 22, 2006 to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **DISMISSED**.

Petitioner states that the correct assignee's name is Braun Aktiengesellschaft and that the incorrect assignee's name was included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent in the patent to be issued from the application.

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).

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[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). However, although the request authorizes the charging of the fee set forth in § 1.17(i) ($130.00), office records currently do not show that Edward S. Podszus or the Gillette Company are authorized to charge Deposit Account No. 07-1350. Accordingly, the request fails to comply with the provisions of 37 CFR 3.81(b) in that the required fee under 37 CFR 1.17(i) is not provided.

Also, a review of Office database assignment records reflects that an assignment to Braun Aktiengesellschaft was recorded before issuance of the patent. Therefore, upon submission of the required fee under 37 CFR 1.17(i) ($130.00), 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 Braun Aktiengesellschaft was the assignee of record at the time of issuance of the application into a patent. *Note also* 35 U.S.C. § 152.

In view of the above, **the Certificates of Correction Branch is instructed to issue a certificate of correction upon submission by petitioner of the required fee under 37 CFR 1.17(i) ($130.00)**. *No certificate of correction will be issued which sets forth an assignee other than the assignee set forth in this request. A copy of this decision* ***must*** *accompany the request for a Certificate of Correction.*

No further renewed request under 37 CFR 3.81(b) is necessary for consideration by the Office of Petitions for issuance of a certificate of correction in the name of the assignee set forth in this request, since this decision operates as an instruction to the Certificates of Correction Branch to issue the requested certificate of correction.

Telephone inquiries concerning this decision should be directed to Christopher Bottorff at (571) 272-6692. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Christopher Bottorff
Petitions Examiner
Office of Petitions

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IRVINE, CA 92614

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MAR 27 2008

OFFICE OF PETITIONS

In re Application of :
Parker N. Willis :
Application No. 10/951,853 :
Filed: September 27, 2004 :
Attorney Docket No. 02-0289 (US02) :

ON PETITION

This is a decision on the petition filed January 11, 2008 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and Publication fee in a timely manner in reply to the Notice of Allowance mailed October 9, 2007, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on January 10, 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 payment of the Issue fee and Publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This matter is being referred to the Publishing Division for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: David T. Burse
Vista IP Law Group, LLP
12930 Saratoga Ave., Ste D-2
Saratoga, CA 95070

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SEP 09 2009

OFFICE OF PETITIONS

In re Patent No. 7,435,576 :
Issued: October 14, 2008 :
Application No. 10/951,875 : PATENT TERM ADJUSTMENT
Filed: September 29, 2004 :
Dkt. No.: 2599-127 :

This is a decision on the "PETITION TO CORRECT PATENT TERM ADJUSTMENT," filed December 12, 2008. This matter is being properly treated under 37 CFR 1.705(d) as an application for patent term adjustment.

The request for reconsideration of patent term adjustment (PTA) is **DISMISSED**.

The above-identified application matured into U.S. Pat. No. 7,435,576 on October 14, 2008. The patent issued with a PTA of 663 days. The request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See, 37 CFR 1.705(d). Patentees request that the adjustment be increased from 663 days to 1,024 days. Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008).

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, patentees are entitled to the period of Office delay reduced by the period of applicant delay.

Patentees do not dispute that the total period of Office delay is the sum of the period of three years delay and the period of examination delay, to the extent that these periods of delay are not overlapping. However, in effect, patentees contend that only a portion of the three year delay period overlaps with the period of examination delay. Accordingly, patentees submit that the total period of adjustment for Office delay is 1,050 days (deemed by applicants to be the sum of the period of three year delay (381 days) and the period of examination delay (689 days), reduced by 20 days of overlap). As such, patentees assert entitlement to a patent term adjustment of 1,024 days (381 days *plus* 689 days *less* 20 days of overlap *less* 26 days of applicant delay).

The Office agrees that as of the time that at the time of issuance of the patent, the application was pending three years and 381 days after its filing date. The three years delay commences the day after the date that is three years after the date that an application is filed, and ends the date that the patent issues, notwithstanding any periods of time excluded pursuant to U.S.C. 154(b)(1)(B)(i)-(iii). The Office agrees that certain action was not taken within a specified time frame, and, thus, the entry of a period of adjustment of 689 days is correct. At issue is whether patentees should accrue an additional 381 days of patent term adjustment for the Office taking in excess of three years to issue the patent as well as 689 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the period of 381 days of delay in issuing the patent overlaps with the period of examination delay of 689 days. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> To the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 35 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in § 1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A), 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). *See Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See, also, Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See, also, Explanation of 37 CFR 1.703(f) and of the

United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A), 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of Patentees. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A), the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding § 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3-year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See, 145 Cong. Rec. S14,718[1].

As such, the period for over three-year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application.

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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).

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(1)(A) is the entire period during which the application was pending before the Office, September 29, 2004, to the date the patent issued on October 14, 2008. Prior to the issuance of the patent, 689 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 381 days for Office delay in issuing the patent overlap with the 689 days of Office delay. During that time, the issuance of the patent was delayed by 689 days. The Office did not delay 689 days and then delay an additional 381 days. Accordingly, as the 381 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 689 days attributable to grounds specified in § 1.702(a), entry of both periods is not warranted and only the actual number of delays of delay, 689, were entered.

In view thereof, no adjustment to the patent term will be made.

The Office acknowledges submission of the required application fee of $200.00. The fee will not be refunded, as requested, as submission of the patent term adjustment application fee is required per 37 CFR 1.18(e).

The correspondence address indicated on the application for patent term adjustment differs from that contained in the official record. If patentee desires to receive correspondence at an address other than that contained in the record, the appropriate request for change of correspondence address must be submitted to the Office. All future correspondence concerning this patent will directed to the correspondence address contained in the record and the courtesy of a dual mailing will not be extended.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

CC: Richard Wydeven
Rothwell Figg Ernst and Manbeck, PC
1425 K Street NW, Suite 800
Washington, DC 20005

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SAN DIEGO, CA 92121

Mail Date: 04/20/2010

Applicant	: Reza Bashar	: DECISION ON REQUEST FOR
Patent Number	: 7435576	: RECALCULATION of PATENT
Issue Date	: 10/14/2008	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/951,875	: OF WYETH
Filed	: 09/29/2004	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OFFICE OF PETITIONS

CARTER, DELUCA, FARRELL & SCHMIDT, LLP
445 BROAD HOLLOW ROAD
SUITE 420
MELVILLE NY 11747

In re Application of	:	
Roger J. Talish, et al.	:	
Application No. 11/951,876	:	DECISION ON PETITION
Filed: December 6, 2007	:	TO WITHDRAW
Attorney Docket No. 1429-64 CIP	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 12, 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 request cannot be approved because practitioners were not appointed by customer number 50855. Petitioner must withdraw by they customer number which they were appointed.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: JUVENT, INC.
300 ATRIUM DRIVE
SUITE 210
SOMERSET, NJ 08873

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9/2/09

In re Application of:
WAKSMUNDZKI, ANDREW et al
Serial No.: 10/951,889
Filed: Sep. 29, 2004
Docket: 34315-0189
Title: ABSORBENT ARTICLE WITH C-FOLDED MOISTURE BARRIER AND METHODS OF MANUFACTURING SAME

DECISION ON PETITION

This is a decision on the petition filed on March 18, 2009 in which the petitioner requests reconsideration and withdrawal of the election of species mailed on December 20, 2006 and entry of amendment of July 13, 2007. This petition is considered as pursuant to 37 CFR 1.144 and 37 CFR 1.181, and no fee is required.

The petition is **Granted in Part**.

The relevant part of the record shows that:

1. In the December 20, 2006 Office action, a restriction requirement and election of species were promulgated. The examiner held there are three inventions in the application. The examiner indicated that the inventions are defined by combination and sub-combination and method and apparatus. In addition, the examiner held there were seven patentable distinct species, namely, Figs. 2-9.
2. On February 28, 2007, an election was made with traverse and arguments by the applicant were submitted. In the response, the application elected Group I invention and Species of Fig.2. The applicant also indicated that claims 1-4 and 37-40 were directed to the elected Invention I and Species Fig. 2.
3. On April 25, 2007, a Non-Final Office action was issued and the restriction requirement was repeated and made final.
4. On July 13, 2007, the applicant filed a response to the non-final Office action of April 25, 2007 with amendment to the elected independent claims 1 and 37.
5. On September 27, 2007, February 8, 2008, July 24, 2008 and November 19, 2008, a total of four non-compliant letters were sent. In the non-compliant letters, the examiner held the

amendment of July 13, 2007 was non-compliant. In particular, the examiner stated that the amended claims 1-4 and 37-40 of the amendment of July 13, 2007 do not read on the elected Species of Fig. 2. The Species of Fig. 2 illustrates C-shaped impervious barrier layer 210. In the amended claims 1 and 37, the C-shaped barrier is not and cannot possibly be construed to be disposed between the back sheet and the core, or between any two claimed features, as the C-shaped layer is the outermost layer in the embodiment of that figure. The examiner held that the independent claims 1 and 37 cannot possibly be drawn to the Species of figure 2. Therefore, they are withdrawn from consideration and constructively non-elected by original presentation, leaving no claims to be examined.

6. In the replies of all non-compliant letters, at least three occasions on October 31, 2007, April 17, 2008 and August 26, 20088, the applicant in essence argued that the amended claims 1-4 and 37-40 do read on the elected Species of Fig. 2. The examiner was wrong in refusing entry of the amendment of July 13, 2007.
7. On March 18, 2009, the present petition was filed and petitioner requested the election of species of December 20, 206 be withdrawn and the amendment of July 13, 2009 be entered.

Discussion and Analysis

The March 18, 2009 petition requested withdrawal of the election of species requirement between Species of Figs. 2-9 imposed in the December 20, 2006 Office action and entry of amendment of July 13, 2007. The petitioner asserts that the election of species requirement was improper because the only difference between Species 1-8 is the structure of the absorbent core. The petitioner pointed out that the various structures are shown in corresponding FIGS. 2-8. With regard to the examiner's refusal to enter the amendment of July 13, 2007, the petitioner argued that the present specification clearly points out that each of FIGS. 2-8 is being illustrated as "a cross-sectional view taken along transverse line 150-150 in FIG. 1 of a leakage reducing absorbent core." This is supported by the original specification. Therefore, when the examiner considers the contents of the amended claims 1-4 and 37-40, she must view the elected Species of Fig. 2 in conjunction with FIG. 1. The petitioner also pointed out that the differences between the species result from the additional layers that are added to the absorbent core beyond the C-shaped fluid impervious layer. In the amendment of July 13, 2007, the added feature of the C-shaped layer regarding "disposed intermediate the back sheet layer and the absorbent core" did not alter the elected Species of Fig. 2, since all species in the application include this C-shaped layer.

The examiner's refusal to enter the amendment is based on that species of Fig. 2 illustrates C-shaped impervious barrier layer 210. The examiner considered the C-shaped barrier cannot be construed to be disposed between the back sheet and the core, or between any two claimed features, as the C-shaped layer is the outermost layer in the embodiment of that figure. Therefore, the examiner concluded that the independent claims 1 and 37 do not read on the elected species of figure 2.

Pursuant to MPEP 803, there are two criteria for a proper restriction requirement: (1) the inventions must be independent or distinct as claimed and (2) there would be a serious burden on the examiner if restriction is not required.

In the December 20, 2006 Office action, the examiner restricted the disclosed species on the basis of being patentably distinct. On page 2 of the petition, the petitioner acknowledged that the species are distinct. In particular, the petitioner stated that each of the absorbent cores shown in the figures have different structure from one another. According to MPEP 806.04[1], an election of species restriction is proper if the species are independent or distinct. MPEP 806.04(f)[2] states that a restriction requirement for mutually exclusive species may be issued. In addition, there must be a patentable difference between the species as claimed as required by MPEP 806.04(h)[3]. A review of the record shows that the applicant has not admitted on the record that the species are not patentably distinct or identify any evidence showing the species to be obvious variants (see last paragraph of page 4 of the Office action of December 20, 2006). Since the claims directed to the Species are patentable over each other, then, the election of species requirement of December 20, 2006 is proper.

With regard to the examiner's refusal to enter the amendment of July 13, 2006, it appears that Paragraph 072, lines 1-4 of the original specification, does suggest the contents of the amended claims 1-4 and 37-40. The examiner must consider the amended claims 1-4 and 37-40 in light of the supporting specification. Therefore, the consideration of elected Species of Fig. 2 must be viewed in conjunction with FIG. 1 as indicated by the petitioner. Under the circumstances, the examiner is directed to enter the amendment of July 13, 2006 and consider the merits of the elected amended claims 1-4 and 37-40. However, this decision does not address the sufficiency and adequacy of the specification for the purposes of patentability determination of the claims.

Conclusion

For the reasons outlined above, the election of species requirement imposed in the December 20, 2006 Office action and made final in the April 25, 2007 Office action is in accordance with proper Office procedure. Accordingly, the election of species requirement of December 20, 2006 is proper. The requested relief to withdraw the election of species will not be granted. However, the requested relief for entry of the amendment of July 13, 2006 is granted.

The application is being forwarded to Supervisory Patent Examiner of Art Unit 3761 for further consideration of amendment of July 13, 2006. Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Any inquiry

---

[1] **MPEP 806.04**>Genus and/or Species< Inventions [R-3]**
**>Where an application includes claims directed to different embodiments or species that could fall within the scope of a generic claim, restriction between the species may be proper if the species are independent or distinct.

[2] **MPEP 806.04(f)**>Restriction Between< Mutually Exclusive *>Species< [R-3]**
>Where two or more species are claimed, a requirement for restriction to a single species may be proper if the species are mutually exclusive.< Claims ** to

[3] **MPEP 806.04(h)Species Must Be Patentably Distinct From Each Other[R-3]**
**In making a requirement for restriction in an application claiming plural species, the examiner should group together species considered clearly unpatentable over each other **. Where generic claims are

regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

The petition is **GRANTED in PART.**

Donald T. Hajec, Director
Technology Center 3700

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FEB 0 2 2009

OFFICE OF PETITIONS

In re Application of	:	
SOMBERG, John C. et al.	:	
Application No. 10/951,900	:	DECISION ON PETITION
Filed: September 29, 2004	:	TO WITHDRAW
Attorney Docket No.	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 28, 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 Gildo Fato the sole attorney of record. Gildo Fato has been withdrawn as attorney or agent of record. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor John C. Somberg at the address indicated below.

The application became abandoned for failure to timely reply to the office action mailed November 23, 2007.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **JOHN C. SOMBERG, MD.**
210 SOUTH SAUNDERS RD.
LAKE FOREST, ILLINOIS 60045

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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OLIFF & BERRIDGE P.C
P O BOX 19928
ALEXANDRIA, VA 22320

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AUG 0 1 2006

OFFICE OF PETITIONS

In re Application of :
Makoto Suzuki :
Application No. 10/951,911 : DECISION GRANTING PETITION
Filed: September 29, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 120439 :

This is a decision on the petition, filed July 27, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 8, 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 3747 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission), which includes the following language thereon: "The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee in the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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United States Patent and Trademark Office
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WEST & ASSOCIATES, A PC
1255 Treat Blvd.
3rd Floor
WALNUT CREEK, CA 94597

Mail Date: 04/20/2010

Applicant	: Ying-Shih Sun	: DECISION ON REQUEST FOR
Patent Number	: 7650615	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/951,952	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/28/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **913** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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WALL MARJAMA & BILINSKI
101 SOUTH SALINA STREET
SUITE 400
SYRACUSE, NY 13202

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MAY 18 2006
OFFICE OF PETITIONS

In re Application of :
Robert A. Hartley, et al. :
Application No. 10/951,967 : ON PETITION
Filed: September 28, 2004 :
Attorney Docket No.: 781_058 :

This is a decision on the petition, filed May 15, 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 5, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 1755 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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SIEMENS CORPORATION
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170 WOOD AVENUE SOUTH
ISELIN NJ 08830

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MAR 1 8 2005

OFFICE OF PETITIONS

In re Application of
Barnes, et al.
Application No.: 10/951,970
Filed: September 27, 2004
Attorney Docket No.: 2004P06989US
For: IMAGE PLANE SENSING METHODS AND SYSTEMS FOR INTRA-PATIENT PROBES

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed February 16, 2005.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on September 27, 2004 without an executed oath or declaration. Accordingly, on November 10, 2004, a "Notice to File Missing Parts of Nonprovisional Application" (Notice) was mailed, requiring an executed oath or declaration and a surcharge for its late filing. Inventor Mirsaid Bolorforosh did not execute the declaration.

In response, on February 16, 2005, a request for a two month extension of time and required fee, the surcharge, and the instant petition were filed.[1] A declaration of facts of Jenny G. Ko, an attorney handling this application, accompanied the petition. Ms. Ko states that the application papers were mailed to Mr. Bolorforosh's last known address and were subsequently returned by FedEx.

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $200 as specified in 37 CFR § 1.17(h), and
(4) the last known address of the omitted inventor(s).

This petition lacks items (1) above.

---

[1] Pursuant to petitioners' authorization, deposit account no. 19-2179 will be charged a $200.00 Rule 47 petition fee.

As to item (1), applicants have failed to establish that the non-signing inventor has refused to sign the declaration or cannot be reached. A successful Rule 47 petition requires either (1) a clear refusal to join, whether expressly or by conduct, or (2) a showing of diligence in trying to find an unavailable inventor.

Peter Lam's January 7, 2005 cover letter and Exhibit F to the Statement of Facts establish that the application papers were mailed to a California address for Mr. Bolorforosh and returned to sender due to "stop shipment/ return requested by pet shipper, Peggy Simmons." The FedEx Express Tracking Report does **not** state that Mr. Bolorforosh refused to accept the package or the package was unclaimed or Mr. Bolorforosh had moved. These three options were listed on the form, but were not selected. The FedEx Express Tracking Report merely states that the package was returned because of a "stop shipment/return" request.

In addition, it is noted that Exhibit D to the Statement of Facts states that Elie Barbarito of the Human Resources Department for the Ultrasound Division of SMS believes that Mr. Bolorforosh moved to Schenectedy, NY.

In short, it is not apparent that Mr. Bolorforosh refused to execute the declaration/receive the application papers OR could not be located after diligent search.

A complete copy of the application, including specification, claims and drawings, and the declaration should be mailed to the inventor's last known address with the request that he sign the declaration. If petitioners can provide evidence that Mr. Bolorforosh received the complete application and that he either refused to sign the declaration or would not respond to the request that he sign the declaration within a reasonable amount of time, petitioners will have established his refusal to join in the filing of the application.

Any written refusal to sign the declaration should be included as documentary evidence in any reconsideration petition. If there is an oral refusal, the facts surrounding the refusal should be included in a declaration by a party with first hand knowledge of the refusal. If it is concluded by the 37 CFR 1.47 applicants that a non-signing inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration.

If petitioners are alleging that the non-signing inventor cannot be located, other attempts to reach him are required. The following is a list of evidentiary sources that are commonly relied upon to prove inability to locate an inventor: searches of Internet databases; inquiries of local telephone directories; telegrams; and documented inquiries of last known employers. Every listed type of search need not be done. However, a diligent effort to find the inventor must be made.

Documentary evidence that supports a finding that the non-signing inventor could not be found or reached should be made part of any affidavits or declarations that fully describe the exact facts which are relied on to establish that a diligent effort was made to locate the non-signing inventor. Printed computer search records would suffice.

The affidavit or declaration 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. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (703) 872-9306 – ATTN: Office of Petitions

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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OCT 1 2 2005

OFFICE OF PETITIONS

In re Application of
Barnes, et al.
Application No.: 10/951,970
Filed: September 27, 2004
Attorney Docket No.: 2004P06989US
For: IMAGE PLANE SENSING METHODS AND SYSTEMS FOR INTRA-PATIENT PROBES

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed September 19, 2005.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Mirsaid Bolorforosh, has constructively refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the statement of facts of Attorney Jenny G. Ko establishes that the inventor was successfully mailed the application papers, including the specification, claims and drawings, but failed to respond to the request that he sign the declaration. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64. Regarding fees, petitioners were charged two Rule 47 petition fees. Only one is required. Therefore, deposit account no. 19-2179 will be credited the $200.00 petition fee charged on September 22, 2005.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the Schenectedy, NY address, which is the address to which Attorney Ko successfully mailed the application papers. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be forwarded Technology Center GAU 3737 for examination in due course.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MIRSAID BOLORFOROSH
PO BOX 9614
SCHENECTEDY, NY 12309-9614

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OCT 1 2 2005

OFFICE OF PETITIONS

In re Application of
Barnes, et al.
Application No.: 10/951,970
Filed: September 27, 2004
Attorney Docket No.: 2004P06989US
For: IMAGE PLANE SENSING METHODS AND SYSTEMS FOR INTRA-PATIENT PROBES

LETTER

Dear Mr. Bolorforosh:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN NJ 08830

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PAPER MILL VILLAGE, BUILDING 23
600 VILLAGE TRACE
SUITE 300
MARIETTA, GA 30067

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NOV 23 2004

OFFICE OF PETITIONS

In re Application of: Franz Schwab	:	
Application No. 10/951,988	:	
Filed: September 28, 2004	:	NOTICE
Attorney Docket No. 9S01.1-061	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This file is being referred to the Office of Initial Patent Examination, to await a response to the Notice to File Missing Parts mailed November 12, 2004.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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GARLICK HARRISON & MARKISON LLP
P.O. BOX 160727
AUSTIN, TX 78716-0727

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MAR 1 1 2005

OFFICE OF PETITIONS

In re Patent of :
Yue Chen :
Application No. 10/951,989 : DECISION
Filed: September 28, 2004 : ON PETITION
Attorney Docket Number: BP3017 :

This is a decision on the Petition filed December 20, 2004, and supplemented on February 9, 2005, requesting the application be accorded a filing date of September 28, 2004, including drawing Figures 12, 19 and 20 described in the specification. The petition is properly treated under 37 CFR 1.182.

The petition is **DISMISSED**.

Background

The application was filed on September 28, 2004. On November 24, 2004, the Office of Initial Patent Examination (OIPE) mailed a Notice of Omitted Item(s) in a Nonprovisional Application (hereinafter "Notice"), informing Applicant that a filing date had been accorded the application; however, Figures 12, 19 and 20 described in the specification were blank.

The instant petition

Applicant has failed to file the petition fee with the instant petition. An attempt to charge deposit account 50-2126 the petition fee, $400.00[1], as authorized in the Fee Transmittal filed with the application on September 28, 2004, revealed insufficient funds in the deposit account.

Further correspondence with respect to this matter should be addressed as follows:

[1] The petition fee has increased to $400.00 effective December 8, 2004. Applicant's deposit account contained a balance of $47.00.

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney/Advisor
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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GARLICK HARRISON & MARKISON LLP
P.O. BOX 160727
AUSTIN, TX 78716-0727

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OFFICE OF PETITIONS

In re Patent of	:	
Yue Chen	:	
Application No. 10/951,989	:	DECISION
Filed: September 28, 2004	:	ON PETITION
Attorney Docket Number: BP3017	:	

This is a decision on the Petition filed December 20, 2004, and supplemented on February 9, 2005, requesting the application be accorded a filing date of September 28, 2004, including drawing Figures 12, 19 and 20 described in the specification. The petition is properly treated under 37 CFR 1.182.

The petition is **DISMISSED.**

Background

The application was filed on September 28, 2004. On November 24, 2004, the Office of Initial Patent Examination (OIPE) mailed a Notice of Omitted Item(s) in a Nonprovisional Application (hereinafter "Notice"), informing Applicant that a filing date had been accorded the application; however, Figures 12, 19 and 20 described in the specification were blank.

The instant petition

Applicant files the instant petition and new drawing Figures 12, 19 and 20, and also files a copy of a return-receipt postcard. The petition does not assert that the drawings labeled a Figures 12, 19 and 20 were not blank on filing, but simply submits new drawings labeled Figures 12, 19 and 20 which are not blank, along with a return receipt postcard. A review of the return-receipt postcard reveals that it lists, *inter alia*, 21 sheets of drawings as having been filed with the application on September 28, 2004.

A review of the application papers filed on September 28, 2004, reveal that drawing sheets labeled Figures 12, 19 and 20 were filed with the application on September 28, 2004, however, drawing sheets labeled Figures 12, 19 and 20 filed on September 28, 2004, were blank (i.e. did not contain any drawings).

Analysis

The best evidence of what was filed on September 28, 2004, is applicant's postcard receipt. In this case, Applicant's postcard receipt fails to demonstrate that Figures 12, 19 and 20 were not blank.

Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self-addressed postcard properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the postcard in the outgoing mail. "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." MPEP § 503.

In this instance, Applicant's postcard receipt does not identify any drawing figures that were filed, but only states that 21 sheets of drawings were filed with the application. Thus, Applicant's postcard receipt fails to demonstrate that drawing sheets numbered Figures 12, 19 and 20 were not blank (contained any figures), on filing.

The MPEP provides that

> If a new application is being filed, all parts of the application being submitted should be separately listed on the post card, e.g. the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).
>
> The postcard receipt will not serve as prima facie evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard 'a complete application' or 'patent application' will not serve as

> a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee[] or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portions of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard.

MPEP § 503

Conclusion

If drawing sheets labeled Figures 12, 19 and 20 were blank on September 28, 2004, then replacement drawing sheets that are not blank, and labeled Figures 12, 19 and 20, cannot be considered a part of the original disclosure of the application. Applicant has failed to satisfactorily demonstrate that drawing sheets labeled Figures 12, 19 and 20 were NOT blank on September 28, 2004. Therefore, the application cannot be accorded the September 28, 2004 filing date with replacement drawing sheets labeled Figures 12, 19 and 20, and that are not blank, as part of the original disclosure. The issue of new matter is one appropriately addressed by the primary examiner during prosecution of the application after the filing date of the application has been determined.

The application is being referred to the Office of Initial Patent Examination ("OIPE") for further processing with a filing date of September 28, 2004, using the sheets of drawing Figures filed on that date.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
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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MYERS BIGEL SIBLEY & SAJOVEC, P.A
PO BOX 37428
RALEIGH NC 27627

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OFFICE OF PETITIONS

In re Application of:
BLOEBAUM, L. Scott, et al.
Application No.: 10/952,001
Filed: September 28, 2004
Attorney Docket No.: 9314-90

DECISION APPROVING
WITHDRAWAL OF ATTORNEY

This is a decision on the Request to Withdraw as Attorney/Agent of Record under 37 CFR § 1.36, filed October 2, 2008.

The Request is **APPROVED**.

Debra K. Stephens requests that she alone be withdrawn as an attorney under 37 CFR § 1.36, pursuant to the reason set forth under 37 CFR § 10.40(b)(2), because of her current employment by the United States Patent and Trademark Office. Since the Request satisfies all of the requirements for withdrawal, it is appropriate to approve the Request and withdraw only Ms. Stephens as an attorney of record.

All future communications from the Office will continue to be directed to the above-identified correspondence address.

A courtesy copy of this decision is being mailed to Ms. Stephens at the address identified in the Request.

Telephone inquiries relating to this decision should be directed Brian W. Brown at (571) 272-5338.

Brian W. Brown
Petitions Examiner
Office of Petitions

Cc: Debra K. Stephens
301 Edgemore Avenue
Cary, NC 27519

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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CROMPTON, SEAGER & TUFTE, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS, MN 55403-2420

Mail Date: 04/21/2010

Applicant	: Darrel Gumm	: DECISION ON REQUEST FOR
Patent Number	: 7635383	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/952,006	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/28/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1205** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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COMMISSIONER FOR PATENTS
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Kevin J. Zilka
Zilka-Kotab, PC
P.O. Box 721120
San Jose, CA 95172-1120

MAILED

FEB 15 2006

TECHNOLOGY CENTER 2100

In re Application of: Edwards, et al.)
Application No. 10/952,039)
Filed: September 27, 2004)
For: VIRUS SCANNER SYSTEM AND)
METHOD WITH INTEGRATED)
SPYWARE DETECTION CAPABILITIES)

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. §1.102(d) AND M.P.E.P.§708.02(XI)

This is a decision on the petition to make special filed June 10, 2005 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(XI): Inventions For Countering Terrorism.

The Petition is **GRANTED**.

M.P.E.P. §708.02(XI), which sets forth the prerequisites for a grantable petition for Inventions For Countering Terrorism under 37 C.F.R. § 1.102(d), states in relevant part:

> International terrorism as defined in 18 U.S.C. 2331 includes "activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping..." The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.
>
> Applicants who desire that an application relating to inventions for countering terrorism be made special should file a petition with the petition fee under 37 CFR 1.17(h) requesting the U.S. Patent and Trademark Office to make the application special. The petition for special status should be accompanied by a statement explaining how the invention contributes to countering terrorism.

Petitioner's submission meets the criteria set out above with respect to countering terrorism as in M.P.E.P. § 708.02(XI). Accordingly, the petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for expedited examination. 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

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

DEC 28 2004

JERRY L. BRAZEAL
890 JOHNSON BRIDGE RD
DEQUEEN AR 71832

In re Application of	:
Julie D. Joiner	:
Serial No.: 10/952,040	: PETITION TO MAKE SPECIAL
Filed: September 27, 2004	:
Attorney Docket No.:	:

This is in response to the petition filed September 27, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based environmental quality.

Applicant petitions on the basis that the invention will enhance the quality of the environment. M.P.E.P. 708.02, Part V, gives guidance in this matter, as follows:

> The Patent and Trademark Office will accord "special" status to all patent applications for inventions which **materially enhance** the quality of the environment of mankind **by contributing to the restoration or maintenance of the basic life - sustaining natural elements - air, water, and soil.**
>
> All applicants desiring to participate in this program should petition that their applications be accorded "special" status. Such petitions should be accompanied by verified statements under 37 CFR 1.102 by the applicant or assignee or statements by an attorney/agent registered to practice before the PTO ** explaining how the inventions contribute to the restoration or maintenance of one of these life - sustaining elements. No fee is required for such a petition, 37 CFR 1.102(c).

Applicant's claims are directed to a fire ant and termite controlling composition made of natural substances (foods). The composition is claimed to be environmentally safe in that it does not contaminate ground water. The guidance highlighted above indicates that the application must contribute to the **restoration or maintenance** of air, soil or water. In the sense that the composition does not permanently contaminate soil or water when applied, it can be considered to contribute to the maintenance of soil or water.

Applicant's petition is **GRANTED**.

The application will be forwarded to an examiner for further consideration.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission to the general Office facsimile number, 571-273-8300.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Robert C. Klinger
Jackson Walker LLP.
Suite 600
2435 North Central Expressway
Richardson TX 75080

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APR 1 5 2005

OFFICE OF PETITIONS

In re Application of
Patterson, et al.
Application No. 10/952,043
Filed: September 28, 2004
Attorney Docket No. 106645-00006
For: AUTOMATED METER READER HAVING HIGH PRODUCT DELIVERY RATE ALERT GENERATOR

ON PETITION

A petition under 37 CFR 1.47(a) was received in the United States Patent and Trademark Office (Office) on January 18, 2005 (certificate of mailing date January 12, 2005).

Petitioners are reminded that a grantable petition under 37 CFR 1.47(a) requires:

(1) a petition including proof of the pertinent facts establishing that the joint inventor refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the petition fee of $200 as specified in 37 CFR § 1.17(g), and
(4) the last known address of the omitted inventor.

President Bush signed the Consolidated Appropriations Act, 2005 , for the remainder of Fiscal Year 2005 (H.R. 4818). The Consolidated Appropriations Act revised patent fees. Effective December 8, 2004, the fee for filing a Rule 47 petition is $200.00. It is noted that petitioners submitted only $130.00 with the instant petition. The merits of the petition will not be addressed until the balance due for the petition fee, $70.00, is paid in full.

The petition under 37 CFR 1.47(a) is **dismissed**.

Petitioners must submit $70.00 towards payment of the $200.00 petition fee within **TWO (2) months** of the mail date of this decision. **Failure to respond will result in abandonment of the application.**

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (703) 872-9306 – ATTN: Office of Petitions

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
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
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www.uspto.gov

Robert C. Klinger
Jackson Walker LLP.
Suite 600
2435 North Central Expressway
Richardson TX 75080

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OCT 2 5 2005

OFFICE OF PETITIONS

In re Application of :
Patterson, et al. :
Application No. 10/952,043 : ON PETITION
Filed: September 28, 2004 :
Attorney Docket No. 106645-00006 :
For: AUTOMATED METER READER HAVING :
HIGH PRODUCT DELIVERY RATE ALERT
GENERATOR

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed April 28, 2005 (certificate of mailing date April 25, 2005).

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on September 28, 2004 with a partially executed oath or declaration. Accordingly, on November 19, 2004, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a surcharge for its late filing.

In response, on January 18, 2005 (certificate of mailing date January 12, 2005), the surcharge, a $130.00 petition fee, and a Rule 47 petition were filed. This petition was dismissed on April 15, 2005 for failure to submit the entire $200.00 petition fee.

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,

(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $200.00
(4) the last known address of the omitted inventor(s).

This petition lacks item (1) above.

As to item (1), petitioners have failed to establish that the non-signing inventor, Erwin Holowick, has refused to sign the declaration. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events. **The Office requires that the non-signing inventor be provided with a complete copy of the application as filed**. This includes the specification with claims, drawings, if any, and a declaration. See MPEP 409.03(d).

Inventor Holowick must have the complete application in his possession in order to make an informed decision as to whether he joins in its filing. When petitioners can show that Inventor Holowick was mailed or received the complete application and that he either refused to sign the declaration or would not respond to the request that he sign the declaration, petitioners will have satisfied this requirement. Requesting an inventor to visit a former employer's work site in order to review the application is not viewed as equivalent to mailing the application to his last known address. A visit to the employer's work site, especially after employment ended on a less than cordial note, involves undue pressure and inconvenience to the former employee.

Please keep in mind that as a named inventor, Mr. Holowick will be 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 his position of record in the application.

Further correspondence with respect to this matter should be addressed as follows:

By mail:
Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand:
U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX:
(571) 273-8300 - ATTN: Office of Petitions

Telephone inquires may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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Robert C. Klinger
Jackson Walker LLP.
Suite 600
2435 North Central Expressway
Richardson TX 75080

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MAR 0 3 2006

OFFICE OF PETITIONS

In re Application of	:	
Patterson, et al.	:	
Application No.: 10/952,043	:	ON PETITION
Filed: September 28, 2004	:	
Attorney Docket No.: 106645-00006	:	
FOR: AUTOMATED METER READER	:	
DEVICE HAVING HIGH PRODUCT	:	
DELIVERY RATE ALERT GENERATOR	:	

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed December 2, 2005 (certificate of mailing date November 29, 2005).

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Erwin Holowick, has constructively refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration/statement of facts of Attorney Robert C. Klinger establishes that the inventor was mailed the application papers, including the specification, claims and drawings, but expressly refused to sign the declaration unless he is paid a significant fee in compensation for past services. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be forwarded to Technology Center A.U. 2635 for consideration of the amendment filed December 27, 2005 (certificate of mailing date December 22, 2005).

Telephone inquires may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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ERWIN HOLOWICK
UNIT 12-449 MAIN STREET
OAKBANK, MANITOBA
CANADA R0E1J0

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OFFICE OF PETITIONS

In re Application of	:	
Patterson, et al.	:	
Application No.: 10/952,043	:	LETTER
Filed: September 28, 2004	:	
Attorney Docket No.: 106645-00006	:	
FOR: AUTOMATED METER READER	:	
DEVICE HAVING HIGH PRODUCT	:	
DELIVERY RATE ALERT GENERATOR	:	

Dear Mr. Li:

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, the contact person listed below would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382(outside the Washington D.C. area).

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: Robert C. Klinger
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2435 North Central Expressway
Richardson TX 75080

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APR 1 5 2005

OFFICE OF PETITIONS

In re Application of
Patterson, et al.
Application No. 10/952,044
Filed: September 28, 2004
Attorney Docket No. 106645-00007
For: AUTOMATED METER READER DEVICE HAVING OPTICAL SENSOR WITH AUTOMATIC GAIN CONTROL

ON PETITION

A petition under 37 CFR 1.47(a) was received in the United States Patent and Trademark Office (Office) on January 18, 2005 (certificate of mailing date January 12, 2005).

Petitioners are reminded that a grantable petition under 37 CFR 1.47(a) requires:

(1) a petition including proof of the pertinent facts establishing that the joint inventor refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the petition fee of $200 as specified in 37 CFR § 1.17(g), and
(4) the last known address of the omitted inventor.

President Bush signed the Consolidated Appropriations Act, 2005 , for the remainder of Fiscal Year 2005 (H.R. 4818). The Consolidated Appropriations Act revised patent fees. Effective December 8, 2004, the fee for filing a Rule 47 petition is $200.00. It is noted that petitioners submitted only $130.00 with the instant petition. The merits of the petition will not be addressed until the balance due for the petition fee, $70.00, is paid in full.

The petition under 37 CFR 1.47(a) is **dismissed**.

Petitioners must submit $70.00 towards payment of the $200.00 petition fee within **TWO (2) months** of the mail date of this decision. **Failure to respond will result in abandonment of the application.**

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (703) 872-9306 – ATTN: Office of Petitions

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Jackson Walker, LLP
Suite 600
2435 North Central Expressway
Richardson TX 75080

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OFFICE OF PETITIONS

In re Application of	:	DECISION REFUSING STATUS
Patterson, et al.	:	UNDER 37 CFR 1.47(a)
Application No.: 10/952,044	:	
Filed: September 28, 2004	:	
Attorney Docket No.: 106645-00007	:	

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed April 28, 2005 (certificate of mailing date April 25, 2005).

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on September 27, 2004 with an unexecuted oath or declaration. Accordingly, on November 12, 2005, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring, *inter alia*, an executed oath or declaration and a surcharge for its late filing. Applicants' first petition under 37 CFR 1.47(a), filed January 18, 2005 (certificate of mailing date January 12, 2005), was dismissed on April 15, 2005 for failure to pay the entire petition fee.

In response, on April 28, 2005 (certificate of mailing date April 25, 2005), the balance due towards the petition fee was filed. A declaration of facts of Philip J. Masters accompanied the first petition under 37 CFR 1.47(a). Mr. Masters states that he wrote the non-signing inventors, Erwin Holowick and Jason R. Pickham, requesting them to visit their former employer's place of business to review the above-identified application, make edits if necessary, and sign paperwork. Mr. Holowick's counsel allegedly stated in a letter that Mr. Holowick would consider the matter when employment issues between the former employer and Mr. Holowick were settled. (They

have not been). Mr. Pickham allegedly received Mr. Master's letter.

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $200.00
(4) the last known address of the omitted inventor(s).

This petition lacks item (1) above.

As to item (1), Applicants have failed to establish that the non-signing inventors have refused to sign the declaration. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events. The Office requires that the non-signing inventors be provided with a complete copy of the application as filed. This includes the specification with claims, drawings, if any, and a declaration. See MPEP 409.03(d). Asking the inventors to visit their former employer's place of business to review the application papers will not suffice.

When petitioners can show that the non-signing inventors were successfully mailed or received the complete application and that they either refused to sign the declaration or would not respond to the request that they sign the declaration, petitioners will have satisfied this requirement.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (703) 872-9306 – ATTN: Office of Petitions

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
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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Robert C. Klinger
Jackson Walker, LLP
Suite 600
2435 North Central Expressway
Richardson TX 75080

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NOV 18 2005

OFFICE OF PETITIONS

In re Application of	:	
Patterson, et al.	:	DECISION REFUSING STATUS
Application No.: 10/952,044	:	UNDER 37 CFR 1.47(a)
Filed: September 28, 2004	:	
Attorney Docket No.: 106645-00007	:	

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed September 26, 2005 (certificate of mailing date September 21, 2005).

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on September 27, 2004 with an unexecuted oath or declaration. Accordingly, on November 12, 2005, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring, *inter alia*, an executed oath or declaration and a surcharge for its late filing. Applicants' first petition under 37 CFR 1.47(a), filed January 18, 2005 (certificate of mailing date January 12, 2005), was dismissed on April 15, 2005 for failure to pay the entire petition fee. Applicant's second petition under 37 CFR 1.47(a), filed April 28, 2005 (certificate of mailing date April 25, 2005), was dismissed on May 31, 2005 for failure to show the non-signing inventors, Holowick and Pickham, refused to execute the declaration.

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $200.00

(4) the last known address of the omitted inventor(s).

This petition still lacks item (1) above.

As to item (1), applicants have failed to establish that the non-signing inventors have refused to sign the declaration. Petitioners have not submitted documentary evidence of any communications with the two non-signing inventors.

The petition explains that a complete copy of the application and a copy of the declaration were mailed to Mr. Holowick for his review on July 11, 2005. Mr. Holowick responded in writing on August 30, 2005 that he would not review the application unless he received additional compensation. As stated in MPEP 409.03(d), "When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts."

The petition states that on August 23, 2005 Mr. Pickham e-mailed counsel and informed him that he did not receive the copy of the application that was purportedly sent to him via U.S. mail on August 22, 2005. The application was purportedly e-mailed by counsel to Mr. Pickham on August 24, 2005. Counsel states that no further communications from Mr. Pickham have been received.

E-mailing is generally not accepted as a means to communicate with non-signing inventors. This is because the Office cannot know definitely if the message was received; people are not as careful in deleting e-mails as they are in throwing out mail as shown by bulk folder deletions and the fact that some people might not check e-mails frequently; the Office does not know if the recipient has the program to open the specific attachment; and PTO guidelines regarding accepting e-mail reflects the fact that the Office does not have the same confidence in e-mail as it does in USPS service.

The Office typically requires documentary evidence of successful e-mailing in the form of a response e-mail from the non-signing inventor in which the inventor acknowledges receipt of the e-mail and his ability to read the attachments. Since no further communications from Mr. Pickham were received after counsel's August 24, 2005 e-mail, it seems this form of documentary evidence is not available.

Petitioners should send another copy of the application and the declaration to Mr. Pickham by U.S. mail.

As stated above, any written refusal to sign the declaration should be included as documentary evidence in any reconsideration petition. If there is an oral refusal, the facts surrounding the refusal should be included in a declaration by a party with first hand knowledge of the refusal. If it is concluded by the 37 CFR 1.47 applicant that a non-signing inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300 - ATTN: Office of Petitions

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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In re Application of	:	
Patterson, et al.	:	
Application No. 10/952,044	:	ON PETITION
Filed: September 28, 2004	:	
Attorney Docket No. 106645-00007	:	

This is in response to the reconsideration petition under 37 CFR 1.47(a), filed January 23, 2006 (certificate of mailing date December 17, 2005).

The petition is **GRANTED.**

Petitioners have shown that the non-signing inventors, Holowick and Pickham, have refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the statement of facts of Attorney Robert C. Klinger explains that Mr. Pickham was mailed a copy of the application and declaration on November 29, 2005. Mr. Pickham did not respond to the request that he sign and return the declaration within a reasonable period of time. In a letter dated August 30, 2005, Mr. Holowick refused to review the application papers and sign the declaration in his possession unless he was paid a substantial amount of money. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After the mailing of this decision, the application will be forwarded to Publications Division for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ERWIN HOLOWICK
UNIT 12-449 MAIN STREET
OAKBANK, MANITOBA
CANADA R0E 1J0

COPY MAILED

MAR 2 0 2006

OFFICE OF PETITIONS

In re Application of	:	
Patterson, et al.	:	
Application No. 10/952,044	:	LETTER
Filed: September 28, 2004	:	
Attorney Docket No. 106645-00007	:	

Dear Mr. Holowick:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: Robert C. Klinger
Jackson Walker, LLP
Suite 600
2435 North Central Expressway
Richardson TX 75080

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JASON R. PICKHAM
5604 PETUNIA DRIVE
MCKINNEY, TX 75050

COPY MAILED
MAR 2 0 2006
OFFICE OF PETITIONS

In re Application of	:	
Patterson, et al.	:	
Application No. 10/952,044	:	LETTER
Filed: September 28, 2004	:	
Attorney Docket No. 106645-00007	:	

Dear Mr. Pickham:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: Robert C. Klinger
Jackson Walker, LLP
Suite 600
2435 North Central Expressway
Richardson TX 75080

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Robert C. Klinger
Jackson Walker, LLP
Suite 600
2435 North Central Expressway
Richardson TX 75080

COPY MAILED
MAR 2 0 2006
OFFICE OF PETITIONS

In re Application of	:	
Patterson, et al.	:	
Application No. 10/952,044	:	ON PETITION
Filed: September 28, 2004	:	
Attorney Docket No. 106645-00007	:	

This is in response to the reconsideration petition under 37 CFR 1.47(a), filed January 23, 2006 (certificate of mailing date December 17, 2005).

The petition is **GRANTED.**

Petitioners have shown that the non-signing inventors, Holowick and Pickham, have refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the statement of facts of Attorney Robert C. Klinger explains that Mr. Pickham was mailed a copy of the application and declaration on November 29, 2005. Mr. Pickham did not respond to the request that he sign and return the declaration within a reasonable period of time. In a letter dated August 30, 2005, Mr. Holowick refused to review the application papers and sign the declaration in his possession unless he was paid a substantial amount of money. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

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K&L Gates LLP
P.O. Box 1135
CHICAGO, IL 60690

Mail Date: 04/20/2010

Applicant	: Bayard S. Webb	: DECISION ON REQUEST FOR
Patent Number	: 7597618	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/952,058	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/27/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **670** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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APR 11 2006

TECHNOLOGY CENTER 3600

April 10, 2006

Peter Stone
1015 Arcadia Ave (#17)
Arcadia, CA 91007-7190

In re Application of:	:	**LETTER REGARDING**
Peter Stone et al	:	**CORRESPONDENCE ADDRESS**
Serial No.: 10/952,067	:	
Filed: September 28, 2004	:	
For: FAIL-SAFE CLEAT WITH	:	
AUTOMATIC IN-LINE	:	
LOCKING CAM AND	:	
QUICK-RELEASE SLOT	:	

This is to notify that correction has been made on the record correspondence address to reflect the proper correspondence address of the file as listed on the top section of page 2 of the original declaration document as follows:

1015 Arcadia Avenue
Arcadia, CA 91007-7190

A review of the file record reveals that there are two joint inventors, Peter Stone and Anton P. Vasyukevich. As originally filed, there was no power of attorney. Stone gave his address as 1015 Arcadia Avenue, Arcadia, CA 91007-7190 as listed on top of page 2 of the declaration form and then gave his residence as Brooklyn, NY right below his signature on page 2 of the declaration. However, Stone then gave his mailing address as 1015 Arcadia Avenue (#17), Arcadia, NY 91007-7190.

Evidently, it's obvious that his mailing address should have been Arcadia, CA and not Arcadia, NY (note that 91007-7190 is a California zip code).

Stone has subsequently filed two subsequent change of address forms, see 11/01/05 ("change" to Arcadia, CA), 2/16/06, change to Brooklyn, NY). These changes should not

have not been proposed and have not been made because as joint inventors, both inventors would have to sign the change of address form as required by 37 CFR 1.33.

Furthermore, the request by Michael Travis, purpoting to represent the assignee "of the entire right, title and interest", filed on 02/13/06 for a power of attorney and a change of address cannot be recognized for the following reason:

the assignment document dated 01/04/2005 indicates that assignee Stone Travis, Inc. only owns 98% of the application, which is not "the entire right, title and interest." Therefore, the assignee cannot change the correspondence address nor will a power of attorney be recognized without the signatures of the co-inventors and the assignee.

For all of the reasons listed above, no changes of address will be entered unless executed by both inventors as required by 37 CFR 1.33(b)(2), no power of attorney will be recognized unless signed by the applicants, and there is currently no assignee of the entire right, title and interest on record.

It should also be pointed out that no further dual correspondence will be carried out.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
Phone: 571-272-6587

ffj/kd: 04/05/06

Cc: Anton P. Vasyukevich
1015 Arcadia Ave (#17)
Arcadia, CA 91007-7190

Cc: Stone Travis INC.
67 Wall Street Suite 2211
New York, NY 10005

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PCE INDUSTRY, INC.
ATT. Steven Reiss
288 SOUTH MAYO AVENUE
CITY OF INDUSTRY, CA 91789

Mail Date: 04/21/2010

Applicant	: Wen-Tang Peng	: DECISION ON REQUEST FOR
Patent Number	: 7611100	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/952,084	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/28/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1436** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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ROBERT D. FISH
RUTAN & TUCKER, LLP
611 ANTON BLVD 14TH FLOOR
COSTA MESA, CA 92626-1931

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NOV 22 2006
OFFICE OF PETITIONS

In re Application of	:	
Paul G. Scharold, et. al.	:	
Application No. 10/952,085	:	ON PETITION
Filed: September 27, 2004	:	
Attorney Docket No. 100325.0113US2	:	

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on July 25, 2006, to revive the above-identified application.

The application became abandoned for failure to timely respond to the Notice of Allowability mailed March 7, 2006. A Notice of Abandonment was mailed on July 13, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of one (1) replacement sheet of drawings containing Figures 1-4; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Office acknowledges receipt of $1,400 for payment of the issue fee, $300 for payment of the publication fee and $9 for three (3) advance order soft copies submitted on June 6, 2006.

This application file is being referred to the Office of Publications, for review of the replacement sheet of drawings filed July 25, 2006.

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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MARTINE PENILLA & GENCARELLA, LLP
710 LAKEWAY DRIVE
SUITE 200
SUNNYVALE, CA 94085

Mail Date: 05/17/2010

Applicant	: Kamran Sayrafian-Pour	: DECISION ON REQUEST FOR
Patent Number	: 7643493	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/952,099	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/29/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1454** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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DRINKER BIDDLE & REATH (DC)
1500 K STREET, N.W.
SUITE 1100
WASHINGTON, DC 20005-1209

Mail Date: 04/20/2010

Applicant	: Atsushi Watanabe	: DECISION ON REQUEST FOR
Patent Number	: 7590468	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/952,101	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/29/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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.

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TECHNOLOGY CENTER 2800

SAMSUNG ELECTRONICS, CO. LTD.
416, Maetan-Dong, Yeongtong-Gu
Suwon-Si, Gyeonggi-Do,
Republic of Korea

In re Application of: LEE *et al.* Serial No.: 10/952,105 Filed: September 28, 2004 Attorney Docket No.: **SAM-0608**	DECISION ON PETITION TO REMOVE FINALITY OF LAST OFFICE ACTION

This is a decision on the petition filed October 2, 2006, to remove the finality of the last office action mailed August 4, 2006 in the above-identified application under 37 C.F.R. § 1.17(h) and in consideration of M.P.E.P section 706.07(a).

The petition is **GRANTED.**

The finality of the last office action mailed August 4, 2006 in the above-identified application is hereby removed and the application will be returned to the examiner for further action.

A review of the written record indicates that the finality of the last office action was premature. The supervisory patent examiner and the examiner of record met October 19, 2006 and considered applicant's remarks dated October 2, 2006 of the instant petition and mutually agreed as to the appropriateness of withdrawing the finality of the last office action.

For the above stated reason, the petition is granted.

Inquiries regarding this decision should be directed to Richard T. Elms at (571) 272-1869.

Robert Oberleitner, Director
Technology Center 2800
(571) 272-1950

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JUL 13 2005

In re Application of		:	
Barley A. Forsman et al.		:	
Serial No.	10/952,114	:	DECISION ON PETITION
Filed:	September 27, 2004	:	
For:	HYDRATION SYSTEM WITH	:	
	IMPROVED FLUID RESERVOIR	:	

This is a decision on the petition to make special filed on September 27,, 2004. The petition is submitted pursuant to the practice established in MPEP § 708.02(II) "Infringement." The $130.00 petition fee has been received.

The petition is granted.

A review of the petition shows that petitioners have satisfied all of the requirements of the above-cited MPEP section. Accordingly, the examiner will treat this application as special throughout its prosecution. Prior to the first action on the merits, the examiner will conduct a rigorous search for potentially interfering applications. The interference search will be brought up to date prior to each successive action.

The Supervisory Patent Examiner of Patent Examining Art Unit 3727 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, Director
Technology Center 3700

David S. D'Ascenzo
Kolisch Hartwell, PC
520 S.W. Yamhill Street, Suite 200
Portland, OR 97204

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IBM CORPORATION
3039 CORNWALLIS RD.
DEPT. T81 / B503, PO BOX 12195
RESEARCH TRIANGLE PARK, NC 27709

Mail Date: 04/20/2010

Applicant	: Patrick R. Guido	: DECISION ON REQUEST FOR
Patent Number	: 7617233	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/952,120	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/28/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **495** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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CHRISTOPHER PARADIES, PH.D.
FOWLER WHITE BOGGS BANKIER, P.A.
501 E KENNEDY BLVD, STE. 1900
TAMPA FL 33602

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FEB 21 2006

OFFICE OF PETITIONS

In re Application of :
Christopher D. Tagge, et al :
Application No. 10/952,122 : ON PETITION
Filed: September 27, 2004 :
Attorney Docket No. P/4237-43 :

This is a decision on the petition, filed February 16, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 12, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 1755 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

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FULWIDER PATTON LLP
200 OCEANGATE, SUITE 1550
LONG BEACH CA 90802

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JAN 25 2008

OFFICE OF PETITIONS

In re Application of	:	
Leslie et al.	:	
Application No. 10/952,135	:	ON PETITION
Filed: September 28, 2004	:	
Attorney Docket No. ACPT.72489	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 18, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely and properly reply to the final Office action mailed April 19, 2007. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on July 20, 2007. A Notice of Abandonment was mailed December 18, 2007.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:
(1) the required reply,[1]
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information.[2]

---

[1] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

[2] See MPEP 711.03(c)(III)(C) and (D).

The instant petition lacks item (1). The Amendment submitted to the Examiner on December 18, 2007 failed to place the above-identified application in prima facie condition for allowance. A proper reply to a final rejection under 37 CFR 1.113 may be: (1) an amendment, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee); or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. Petitioner must submit one of the above documents in order to revive the above-identified application.

The Advisory Action issued by the Examiner is enclosed.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:

U.S. Patent and Trademark Office
Customer Service Window Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

Enclosure: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/952,135	LESLIE ET AL.	
	Examiner	Art Unit	
	Aaron M. Dunwoody	3679	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 28 December 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: *1,4-6,27,28,30,31,33-36 and 38*.
   Claim(s) objected to: *21 and 25*.
   Claim(s) rejected: *20,23 and 26*.
   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: _____.

Continuation of 3. NOTE: The amended claims do not have proper claim dependence which creates 112 second paragraph issues; and withdrawn claims are not canceled.

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6060 CENTER DRIVE
10TH FLOOR
LOS ANGELES CA 90045

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APR 1 8 2008

OFFICE OF PETITIONS

In re Application of	:	
Leslie et al.	:	
Application No. 10/952,135	:	DECISION ON PETITION
Filed: September 28, 2004	:	
Attorney Docket No. ACPT.72489	:	

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed February 8, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:
(1) the required reply,[1]
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information.[2]

The instant petition lacks item(s) (1). The Amendment submitted to the Examiner on February 8. 2008, failed to place the above-identified application in prima facie condition for allowance. A proper reply to a final rejection under 37 CFR 1.113 may be: (1) an amendment, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee); or (3) a

[1] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

[2] See MPEP 711.03(c)(III)(C) and (D).

Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. Petitioner must submit one of the above documents in order to revive the above-identified application.

The Advisory Action issued by the Examiner is enclosed.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:

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Customer Service Window Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

Enclosure : Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/952,135	LESLIE ET AL.	
	Examiner	Art Unit	
	Aaron M. Dunwoody	3679	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 28 February 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: *1,4-6,27,28,30,31,33-36 and 38*.
   Claim(s) objected to: *21 and 25*.
   Claim(s) rejected: *20,23 and 26*.
   Claim(s) withdrawn from consideration: *22,24,29,32 and 37*.

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: _____.

Continuation of 3. NOTE: The new issue is the respective said bosses and nipples not being screwed together.

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JUL 16 2008

OFFICE OF PETITIONS

In re Application of	:	
Leslie et al.	:	
Application No. 10/952,135	:	ON PETITION
Filed: September 28, 2004	:	
Attorney Docket No. ACPT.72489	:	

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed May 9, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition now satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied the reply in the form of an Amendment.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center 3679 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

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Linda E. Horner
United States Patent and Trademark Office
600 Dulany Street
Alexandria, VA 22314

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OFFICE OF PETITIONS

In re Application of	:	
Leonard Dauphinee	:	
Application No. 10/952,168	:	DECISION ON PETITION
Filed: September 29,2004	:	TO WITHDRAW
Attorney Docket No. 1875.4740001	:	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 7, 2006.

The request is not **APPROVED** as moot.

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).

Power of attorney was given to those practitioners associated with Customer Number 49579. In that, Linda E. Horner is not associated with Customer Number 49579 according to Office records, the request has been rendered moot.

There is no outstanding Office action at this time.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Amelia Au
Petitions Examiner
Office of Petitions

cc: **Sterne, Kessler, Goldstein & Fox PLLC**
1100 New York Ave., N.W.
Washington D.C. 20005

UNITED STATES PATENT AND TRADEMARK OFFICE

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STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Mark Taunton	: DECISION ON REQUEST FOR
Patent Number	: 7660840	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/952,169	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/29/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **905** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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FOLEY & LARDNER LLP
P.O. BOX 80278
SAN DIEGO, CA 92138-0278

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JAN 04 2010

OFFICE OF PETITIONS

In re Application of
Jouni Saarinen et al.
Application No. 10/952,195
Filed: September 28, 2004
Attorney Docket No. **P3598US00**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR. § 1.36(b), filed October 22, 2009.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to attorneys/agents associated with Customer Number 30542 has been revoked by the applicants of the patent application on November 9, 2009. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: DITTHAVONG MORI & STEINER, P.C.
918 Prince Street
Alexandria VA 22314

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS MI 48303

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OFFICE OF PETITIONS

In re Application of
Sebastian Lienkamp
Application No. 10/952,200
Filed: September 28, 2004
Attorney Docket No. **8540G-000262/US**

ON PETITION

This is a decision on the petition filed February 12, 2009 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition under 37 CFR 1.137 (b) is **GRANTED**.

This application became abandoned January 12, 2009 for failure to timely pay the issue fee on or before January 9, 2009. Accordingly, a Notice of Abandonment was mailed February 2, 2009.

The issue fee in the amount of $1510.00, petition fee in the amount of $1620.00 and publication fee in the amount of $300 have been charged to the deposit account numbers provided, as authorized. All other requirements of 37 CFR 1.137(b) having now been met, this matter is being referred to the Publishing Division to be processed into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 06102005

In re Application of HAWKINS ET AL. Appl No.: 10/952,205 Filed: September 28, 2004 For: FUEL-FIRED HEATING APPLIANCE WITH TEMPERATURE-BASED FUEL SHUTOFF SYSTEM	:	**DECISION GRANTING PETITION** *37 CFR 1.48(b)*

This is a decision on the petition filed 6/6/2005 to correct inventorship under 37 CFR 1.48(b).

The petition is granted.

The inventorship in this application has been corrected to delete JAMES M. MARTIN and JAMES W. MEARS and THOMAS E ARCHIBALD.

Jiping Lu
Primary Examiner,
Art Unit 3749
Technology Center 3700

KONNEKER & SMITH, P.C.
660 N. CENTRAL EXPWY., #230
PLANO, TX 75074

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/952,227	09/27/2004	3727	1346	KRN 317D	8	52	3

CONFIRMATION NO. 1250

CORRECTED FILING RECEIPT

OC000000014728205

23581
KOLISCH HARTWELL, P.C.
520 S.W. YAMHILL STREET
SUITE 200
PORTLAND, OR 97204

Date Mailed: 12/13/2004

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)

Barley A. Forsman, Cotati, CA;
Robert Miros, Mill Valley, CA;
Robert Choi, Rohnert Park, CA;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of 10/611,088 06/30/2003 PAT 6,820,780
which is a CON of 09/902,935 07/10/2001 PAT 6,675,998
which claims benefit of 60/217,429 07/10/2000

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 US10/952,227

Projected Publication Date: 03/24/2005

Non-Publication Request: No

Early Publication Request: No

Title

Hydration system with improved fluid reservoir

Preliminary Class

224

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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KOLISCH HARTWELL, P.C.
200 PACIFIC BUILDING
520 SW YAMHILL STREET
PORTLAND OR 97204

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DEC 2 3 2005

OFFICE OF PETITIONS

In re Application of	:	
Forsman et al.	:	
Application No. 10/952,227	:	ON PETITION
Filed: September 27, 2004	:	
Attorney Docket No. KRN 317D	:	

This is a decision on the petition under 37 CFR §1.102(d), filed September 27, 2004 to make the above-identified application special.

The petition requests that the above-identified application be made special under the accelerated examination procedure set forth in M.P.E.P. § 708.02, Section II: Infringement.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR §1.102(d) and MPEP §708.02, Section II: Infringement, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the office alleging:

(A) That there is an infringing device or product actually on the market or method in use;

(B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and

(C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.

Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition complies with all the above stated requirements. Accordingly, the above-identified application has been accorded "special" status

Telephone inquires concerning this decision should be directed to Paralegal Liana Chase at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 3727 for expedited prosecution.

David Bucci
Petitions Examiner
Office of Petitions

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Siemens Corporation
170 Wood Avenue South
Iselin NJ 08830

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APR 21 2009

OFFICE OF PETITIONS

In re Application of :
AHMED et al. :
Application No. 10/952,236 : DECISION ON PETITION
Filed: 09/27/2004 :
Attorney Docket No. 2004P16403 US :

This is a decision on the petition under 37 CFR 1.137(a), filed October 16, 2008, to revive the above-identified application.

This application was held abandoned for failure to file a timely and proper response to the nonfinal Office Action mailed on October 2, 2007, which set a three-month shortened statutory period for reply. Accordingly, the application became abandoned on January 3, 2008. A Notice of Abandonment was mailed on April 10, 2008.

The present petition satisfies the requirements of 37 CFR 1.137(a). Petitioner submitted the required reply in the form of an amendment, paid the petition fee, and a provided a showing to the satisfaction of the Director that the entire delay was unavoidable.

This matter is being referred to Technology Center Art Unit 2612 for a review of the amendment filed with the present petition.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3211.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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FULBRIGHT & JAWORSKI L.L.P.
600 CONGRESS AVE.
SUITE 2400
AUSTIN, TX 78701

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FEB 2 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Katz, et al.	:	
Application No. 10/952,251	:	ON PETITION
Filed: September 28, 2004	:	
Attorney Docket No. UTSC:658USC1	:	

This is a decision on the petition under 37 CFR 1.10(c) filed July 19, 2005, requesting that the above-identified application be accorded a filing date of September 28, 2004. The petition was recently forwarded to this office for consideration.

United States Patent and Trademark Office records indicate that the presently accorded filing date of the above-identified application is September 28, 2004. Therefore, the petition involves a moot issue.

A replacement filing receipt is enclosed for petitioner's records.

Accordingly, the petition is dismissed.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Replacement Filing Receipt

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/952,251	09/28/2004	1634	1035	UTSC:658USC1	12	39	4

CONFIRMATION NO. 9326

REPLACEMENT FILING RECEIPT

OC000000018087783

32425
FULBRIGHT & JAWORSKI L.L.P.
600 CONGRESS AVE.
SUITE 2400
AUSTIN, TX 78701

Date Mailed: 02/17/2006

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)

Ruth Katz, Houston, TX;
Feng Jiang, Houston, TX;

Power of Attorney:

David Bahler--30932
Christopher Benson--31941
David Parker--32165
Mark Wilson--37259
Steven Highlander--37642
Robert Hanson--42628
Michael Barrett--44523
Mark Garrett--44699
Gina Shishima--45104

Domestic Priority data as claimed by applicant

This application is a CON of 09/923,304 08/06/2001 PAT 6,797,471
which claims benefit of 60/222,811 08/04/2000

Foreign Applications

If Required, Foreign Filing License Granted: 12/13/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/952,251

Projected Publication Date: 04/13/2006

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Detection and diagnosis of smoking related cancers

Preliminary Class

435

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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Helen C. Lockhart, Ph.D.
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston, MA 02210-2206

Mail Date: 04/21/2010

Applicant	: Eugen Uhlmann	: DECISION ON REQUEST FOR
Patent Number	: 7615539	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/952,254	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/27/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **918** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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BLACK & DECKER CORPORATION
MAIL STOP TW199
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TOWSON, MD 21286

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OFFICE OF PETITIONS

In re Application of	:	
Mike Wilson et al	:	
Application No. 10/952,263	:	DECISION ON PETITION
Filed: September 28, 2004	:	
Atty Docket No. P-US-PR 1089	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 28, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 15, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on March 16, 2006. A Notice of Abandonment was mailed on July 13, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of December 15, 2005 is accepted as being 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 $1,020 extension of time fee submitted with the petition on July 28, 2006 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This application is being referred to Technology Center AU 3724 for appropriate action in the normal course of business on the reply received July 28, 2006.

Frances Hicks
Petitions Examiner
Office of Petitions

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

Mail Date: 05/28/2010

Applicant	: Durga Prasad Malladi	: DECISION ON REQUEST FOR
Patent Number	: 7613144	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/952,265	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/27/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **983** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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55 GRIFFIN ROAD SOUTH
BLOOMFIELD CT 06002

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OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Corti et al.	:	
Application No. 10/952,269	:	
Filed: September 28, 2004	:	
Attorney Docket No. FIS920010247US2	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 7, 2006, to revive the above-identified application.

The petition is **GRANTED.**

This matter is being referred to the Publishing Division..

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Walsh
Petitions Examiner
Office of Petitions

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PRINCETON PIKE CORPORATE CENTER
997 Lenox Drive
Bldg. #3
Lawrenceville, NJ 08648

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OFFICE OF PETITIONS

In re Application of :
Donald BRANDOM et al :
Application No. 10/952,274 : ON PETITION
Filed: September 27, 2004 :
Attorney Docket No. 74584.00149/)27,864-A- :
USA

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 24, 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 May 13, 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 months 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 14, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a 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.

This application is being referred to Technology Center AU 1618 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) 272-0602.

Thurman K. Page
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

Morrison & Foerster LLP
12531 High Bluff Drive
Suite 100
San Diego, CA 92130-2040

In re Application of	:	
Shijin Mei	:	
Application No. 10/952,283	:	DECISION ON PETITION
Filed: September 27, 2004	:	TO WITHDRAW
Attorney Docket No. MGNC-104-2	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 7, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster LLP has been revoked by the assignee of the patent application on May 25, 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: **Intellectual Property Law Office**
of Joel Voelzke
24772 Saddle Peak Road
Malibu, CA 90265

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HAYNES AND BOONE, LLP
901 MAIN STREET, SUITE 3100
DALLAS TX 75202

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OFFICE OF PETITIONS

In re Application of

COOK, Robert L. et al.
Application No. 10/952,288
Filed: September 28, 2004
Attorney Docket No. **25791.332**

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 19, 2007.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272- 2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **TODD MATTINGLY**
KING & SPALDING, L.L.P.
1100 LOUISIANA STREET
SUITE 4000
HOUSTON, TX 77002

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1150 HUNTINGTON BUILDING
925 EUCLID AVENUE
CLEVELAND, OH 44115-1414

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JUN 19 2008

OFFICE OF PETITIONS

In re Application of	:	
Costin V. Cozianu, et. al.	:	
Application No. 10/952,290	:	ON PETITION
Filed: September 28, 2004	:	
Attorney Docket No. 66329/00276	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on October 19, 2007, to revive the above-identified application.

The above application became abandoned for failure to file a reply to the final Office action mailed April 4, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114 with the $810 filing fee and an amendment; (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application is being revived for consideration of the RCE filed on October 19, 2007.

The application file is being referred to Technology Center Art Unit 3694, for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Randy D. Kummer et al	:	
Application No. 10/952,294	:	DECISION GRANTING PETITION
Filed: September 28, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 125448-1001	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 5, 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 4, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2831 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed 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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SNELL & WILMER LLP
600 ANTON BOULEVARD
SUITE 1400
COSTA MESA CA 92626

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SEP 28 2006

OFFICE OF PETITIONS

In re Application of :
George H. Heaven Jr. et al. :
Application No. 10/952,300 : ON PETITION
Filed: September 27, 2004 :
Attorney Docket No.: 44243-0500 :

This is a decision on the petition under 37 CFR 1.182, filed September 1, 2006, to change the order of the names of the inventors.

The petition is **GRANTED**.

The order of the names of the inventors will be changed as follows:

1. George H. Heaven Jr.

2. Michael K. Walden

A corrected filing receipt reflecting the correct order of the names of the inventors is attached.

This matter is being referred to the Publishing Division to be processed into a patent.

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

ATTACHMENT: Corrected Filing Receipt

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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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
10/952,300	09/27/2004	3644	518	44243-0500	8	30	4

CONFIRMATION NO. 9078
CORRECTED FILING RECEIPT
OC000000020631254
OC000000020631254

21611
SNELL & WILMER LLP
600 ANTON BOULEVARD
SUITE 1400
COSTA MESA, CA 92626

Date Mailed: 09/28/2006

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)

George H. Heaven JR., North Las Vegas, NV;
Michael K. Walden, North Las Vegas, NV;

Power of Attorney: The patent practitioners associated with Customer Number **21611**.

Domestic Priority data as claimed by applicant

Foreign Applications
If Required, Foreign Filing License Granted: 09/28/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/952,300

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

SYSTEMS FOR ACTIVELY CONTROLLING THE AEROSTATIC LIFT OF AN AIRSHIP

Preliminary Class
244

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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WASHINGTON, D.C. 20231
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Paper No. 06102005

In re Application of HAWKINS ET AL.	:	
Appl No.: 10/952,324	:	**DECISION GRANTING**
Filed: September 28, 2004	:	**PETITION**
For: Fuel-fired heating appliance with temperature-based fuel shutoff system	:	*37 CFR 1.48(b)*

This is a decision on the petition filed 6/6/2005 to correct inventorship under 37 CFR 1.48(b).

The petition is granted.

The inventorship in this application has been corrected to delete JAMES M. MARTIN and JAMES W. MEARS and THOMAS E ARCHIBALD.

Jiping Lu
Primary Examiner,
Art Unit 3749
Technology Center 3700

KONNEKER & SMITH, P.C.
660 N. CENTRAL EXPWY., #230
PLANO, TX 75074

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APR 18 2005

OFFICE OF PETITIONS

In re Application of	:	
Guy, et al.	:	
Application No. 10/952,325	:	
	:	DECISION REFUSING
Filing Date: September 28, 2004	:	STATUS UNDER § 1.47(b)
Attorney Docket No. 29250-002052	:	

This is in response to the "PETITION UNDER 37 CFR § 1.42 - 1.47 FOR ACCEPTANCE OF AN APPLICATION MISSING INVENTORS", filed March 14, 2005, which is properly treated as a petition under 37 CFR 1.47(b).[1]

The petition under 37 CFR 1.47(b) 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(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventors. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR 1.136(a).

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[1] 37 CFR 1.42 pertains to the legal representative making the oath or declaration in the case of the death of an inventor.

The above-identified application was filed on September 28, 2004, without an executed oath or declaration. Accordingly, on November 12, 2004, the Office of Initial Patent Examination mailed a Notice to File Missing Parts, requiring an executed oath or declaration. In addition, the Notice required a declaration identifying the citizenship of each inventor, as well as the $130 surcharge for late filing of the declaration. In response, applicants filed the instant petition on March 14, 2004, made timely by obtaining a two month extension of time, and by the fact that March 12 and 13 fell on a Saturday and Sunday, respectively. See 37 CFR 1.7(a).

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor; (5) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application; and (6) proof of irreparable damage. The instant petition does not satisfy requirements (1), (2), and (5).

As to requirement (1), there has been no showing that the non-signing inventors were presented with the application papers (specification, claims, drawings, oath or declaration). Rather, the petition only establishes that the inventors was forwarded a "letter". Regarding this, the Manual of Patent Examining Procedure states:

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers.
>
> It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 U.S.P.Q. 80 Comm'r Pat. 1956).

Proof that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient.[2]

If it is instead the case that the inventors can not be found or reached, then Rule 47 applicant must describe the diligent effort taken to locate the inventors. Here, applicant has not demonstrated diligent effort in finding the non-signing inventors. With respect to showing diligent effort, "an affidavit or declaration of facts should be submitted that **fully describes the exact facts** which are relied on to establish that a diligent effort was made."[3] Here, applicant has provided no information other than that "Counsel of Record have attempted to obtain phone numbers for the inventors, but these are unavailable." In addition, applicant has provided no documentary evidence, such as a certified mail return receipt or copies of an internet search, to support such a finding[4].

As to requirement (2), Rule 47 applicant has not submitted a proper declaration. On renewed petition, applicant must submit an oath or declaration in compliance with 37 CFR 1.63. As set forth in MPEP 409.03(b), the "37 CFR 1.47(b) applicant must make the oath required by 37 CFR 1.63 and 1.64 or 1.175." The declaration must be executed, and must identify the full name, residence, post office address, and citizenship of the nonsigning inventors (here, no citizenship is given for any of the nonsigning inventors). In addition, the title or position of the person signing must be stated if signing on behalf of a corporation. A corporation may authorize any person, including a registered attorney or agent, to sign the oath or declaration on its behalf. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, proof of the attorney's or agent's authority in the form of a statement signed by the appropriate corporate officer must be submitted, or the attorney or agent can simply state that he or she is authorized to sign on behalf of the corporation.[5]

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[2] MPEP 409.03(d).

[3] MPEP 409.03(d) (emphasis added).

[4] Such documentary evidence should be made part of the affidavit or declaration. See id.

[5] See MPEP 409.03(b).

As to requirement (5), applicant has not shown a sufficient proprietary interest. Applicant has not submitted a copy of the assignment for the instant application nor a statement under 37 CFR § 3.73(b) by the assignee.[6] While applicant did provide a copy of a global assignment document for applications 09/909,265 and 10/128,092 (to which the instant application claims priority benefit), those applications do not share the same inventorship in full.[7] If applicant can not show a sufficient proprietary interest by supplying a copy of the assignment (or a copy of an agreement to assign, e.g. an employment agreement), a proprietary interest "may be demonstrated by an appropriate legal memorandum to the effect that a court of competent jurisdiction (federal, state, or foreign) would by the weight of authority in that jurisdiction award title of the invention to the 37 CFR 1.47(b) applicant."[8]

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

Telephone inquiries concerning this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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[6] See MPEP 409.03(f). Rule 47 applicant did submit this data for application no. 60/508,610. However, there is no indication that the instant application claimed priority to this provisional application.

[7] For example, the instant application lists Robert Alan Nadon and Christian Scheerer as co-inventors. Neither of these inventors are named in 09/909,265 or 10/128,092.

[8] Id.

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JUN 30 2005

OFFICE OF PETITIONS

In re Application of	:	
Guy, et al.	:	
Application No. 10/952,325	:	
	:	DECISION REFUSING
Filing Date: September 28, 2004	:	STATUS UNDER § 1.47(b)
Attorney Docket No. 29250-002052	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 CFR 1.47(b)", filed May 13, 2005.

The petition under 37 CFR 1.47(b) 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(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventors. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on September 28, 2004, without an executed oath or declaration. Accordingly, on November 12, 2004, the Office of Initial Patent Examination mailed a Notice to File Missing Parts, requiring an executed oath

or declaration. In addition, the Notice required a declaration identifying the citizenship of each inventor, as well as the $130 surcharge for late filing of the declaration. In response, applicants filed a petition under 37 CFR 1.47(b) on March 14, 2004, made timely by obtaining a two month extension of time, and by the fact that March 12 and 13 fell on a Saturday and Sunday, respectively. See 37 CFR 1.7(a). However, the petition was dismissed in a decision mailed on April 18, 2005.

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor; (5) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application; and (6) proof of irreparable damage. The instant petition does not satisfy requirement (2).

As to requirement (2), Rule 47 applicant has not submitted a proper declaration. On renewed petition, applicant must submit an oath or declaration in compliance with 37 CFR 1.63. As set forth in MPEP 409.03(b). The declaration submitted does not identify the citizenship of inventor John Peter Guy, as required by 37 CFR 1.63(a)(3).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

Telephone inquiries concerning this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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SEP 12 2005

OFFICE OF PETITIONS

In re Application of	: DECISION NOTING JOINDER
Guy, et al.	: OF INVENTORS AND PETITION
Application No. 10/952,325	: UNDER 37 CFR 1.47(b) MOOT
	:
Filing Date: September 28, 2004	:
Attorney Docket No. 29250-002052	:

This is in response to the "REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 CFR 1.47(b)", filed July 22, 2005.

The above-identified application was filed on September 28, 2004, without an executed oath or declaration. Accordingly, on November 12, 2004, the Office of Initial Patent Examination mailed a Notice to File Missing Parts, requiring an executed oath or declaration. In addition, the Notice required a declaration identifying the citizenship of each inventor, as well as the $130 surcharge for late filing of the declaration. In response, applicants filed a petition under 37 CFR 1.47(b) on March 14, 2004, made timely by obtaining a two month extension of time, and by the fact that March 12 and 13 fell on a Saturday and Sunday, respectively. See 37 CFR 1.7(a). However, the petition was dismissed in a decision mailed on April 18, 2005.

In view of the **joinder** of the inventors, consideration under 37 CFR 1.47(b) is not necessary and the petition is considered to be **moot**. This application does not have any Rule 1.47(b) 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(b).

The application file is being forwarded to the Office of Initial Patent Examination for pre-examination processing.

Telephone inquiries concerning this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
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CAPITOL PATENT & TRADEMARK LAW FIRM, PLLC
P.O. BOX 1995
VIENNA, VA 22183

Mail Date: 04/21/2010

Applicant	: John Peter Guy	: DECISION ON REQUEST FOR
Patent Number	: 7599621	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/952,325	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/28/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1170** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/952330	09/28/2004	Karpman	2550/A39

Steven G. Saunders
Bromberg & Sunstein LLP
125 Summer Street
Boston MA 02110-1618

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.

Kalethis King
Signature of Reviewer, Office of Pre-Grant Publication

UNITED STATES PATENT AND TRADEMARK OFFICE

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Kenyon & Kenyon LLP
One Broadway
New York, NY 10004

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MAR 21 2007

OFFICE OF PETITIONS

In re Application of	:	
Robert M. Freund	:	
Application No. 10/952,349	:	DECISION ON PETITION
Filed: September 27, 2004	:	TO WITHDRAW
Attorney Docket No. 12946/2	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 8, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to the attorneys and/or agents associated with Kenyon & Kenyon LLP has been revoked by the assignee of the patent application on February 6, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **Charles A. Garris, Jr.**
9616 Darrow Court
Vienna, VA 22181

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ABELMAN, FRAYNE & SCHWAB
150 EAST 42ND STREET
NEW YORK NY 10017-5612

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DEC 13 2005

OFFICE OF PETITIONS

In re Application of	:	
Perel et al.	:	DECISION DISMISSING PETITION
Application No. 10/952,354	:	UNDER 37 CFR 1.55(c)
Filed: 27 September, 2004	:	
Atty Docket No. 206.689	:	

This is a decision on the petition under 37 CFR 1.55(c), filed 22 July, 2005, for acceptance of an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of the filing date of foreign European Application No. 042 5 000 8.2, filed on 5 January, 2004.

The instant pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Therefore, since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date and be

included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional.); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The instant petition fails to comply with item (2) above. In this regard, a review of the file record fails to disclose that the priority information was included in an oath or declaration or in an Application Data Sheet in accordance with 37 CFR 1.76(b)(6). Unless provided in an application data sheet, 37 CFR 1.63(c)(2) requires that the oath or declaration must identify the foreign application for patent or inventor's certificate for which priority is claimed under 37 CFR 1.55, and any foreign applications having a filing date before that of the application on which priority is claimed, by specifying the application number, country, day, month, and year of its filing. *Note* MPEP 201.14, page 200-77 (Rev. 2, May 2004), last paragraph, second column.

In view of the above, compliance with 37 CFR 1.63(c)(2) or 37 CFR 1.76(b)(6) must be satisfied if applicant desires to claim priority to the foreign applications noted in the petition. Any future petition should include a cover letter and be entitled "Renewed Petition under 37 CFR 1.55(c)."

The address in the petition is different than the address in Office records. 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
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any inquiries directly pertaining to this matter may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Frances Hicks

Frances Hicks
Lead Paralegal
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: ABELMAN, FRAYNE & SCHWAB
666 THIRD AVENUE
NEW YORK NY 10017

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

ABELMAN, FRAYNE & SCHWAB
150 EAST 42ND STREET
NEW YORK NY 10017-5612

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FEB 14 2006

OFFICE OF PETITIONS

In re Application of	:	
Perel et al.	:	DECISION GRANTING PETITION
Application No. 10/952,354	:	UNDER 37 CFR 1.55(c)
Filed: 27 September, 2004	:	
Atty Docket No. 206.689	:	

This is a decision on the renewed petition under 37 CFR 1.55(c), filed 3 January, 2006, for acceptance of an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of the filing date of foreign European Application No. 042 5 000 8.2, filed on 5 January, 2004.

The instant pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Therefore, since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date and be

included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional.); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The above-identified pending nonprovisional application was filed on 27 September, 2004, which is after November 29, 2000 and within 12 months of 5 January, 2004 (the filing date of the foreign application to which benefit is now being claimed). On 3 January, 2006, a supplemental declaration was received which identifies the foreign application for which priority is claimed by application number, country and filing date. The required petition fee of $1370.00 was previously received. Lastly, petitioner has provided an adequate statement of unintentional delay.

All requirements being met, the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a)-(d) is **granted**.

A Corrected Filing Receipt which reflects the above-noted foreign application accompanies this decision on petition.

The address in the petition is different from the address in Office records. 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.

The granting of the petition to accept the delayed benefit claim of priority to the prior-filed application(s) under 37 CFR 1.55(c) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application(s). In order for the instant application to be entitled to the benefit of the prior-filed application(s), all

other requirements under 35 U.S.C. § 119(a)-(d) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application(s) should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application(s) noted thereon. Accordingly, the examiner will, in due course, consider this priority claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

This application is being forwarded to Technology Center AU 2873 for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a)-(d).

Any inquiries directly pertaining to this matter may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Frances Hicks

Frances Hicks
Lead Paralegal
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

cc: ABELMAN, FRAYNE & SCHWAB
666 THIRD AVENUE
NEW YORK NY 10017

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/952,354	09/27/2004	2873	917	206,689	4	48	8

CONFIRMATION NO. 8663

CORRECTED FILING RECEIPT

OC000000018025375

ABELMAN, FRAYNE & SCHWAB
150 East 42nd Street
New York, NY 10017-5612

Date Mailed: 02/09/2006

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)

Ivan Maurice Perel, Nisgav, ISRAEL;
Alain Schmulewitsch, Paris, FRANCE;

Power of Attorney:

Jay Cinamon--24156
Jeffrey Schwab--24490
Joseph Catanzaro--25837
Thomas Spath--25928
Alan Gilliland--26549
Anthony Natoli--36223
Anthony Coppola--41493
Harold Furlow--43621

Domestic Priority data as claimed by applicant

This application is a CIP of 10/640,114 08/12/2003 PAT 6,929,366

Foreign Applications

EUROPEAN PATENT OFFICE (EPO) 04250008.2 01/05/2004

If Required, Foreign Filing License Granted: 11/10/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is
US10/952,354

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Multifocal contact lens

Preliminary Class

351

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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KSOPHT0101-Z2100
OVERLAND PARK, KS 66251-2100

Mail Date: 04/21/2010

Applicant	: James D. Barnes	: DECISION ON REQUEST FOR
Patent Number	: 7590727	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/952,405	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/28/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1140** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/952424	09/28/2004	Karpman	2550/A32

Steven G. Saunders
Bromberg & Sunstein LLP
125 Summer Street
Boston MA 02110-1618

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.

Signature of Reviewer, Office of Pre-Grant Publication

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

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MAY 14 2009

OFFICE OF PETITIONS

In re Patent No. 7,493,239	:	
Yuki Okada et al.	:	DECISION ON
Issue Date: February 17, 2009	:	REQUEST FOR RECONSIDERATION
Application No. 10/952,430	:	OF
Filed: September 29, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 016910-0517	:	
	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705," filed February 20, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from four hundred fifty-three (453) days to nine hundred fifty-two (952) days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On February 17, 2009, the above-identified application matured into US Patent No. 7,493,239 with a patent term adjustment of 453 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 507-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 507 days and the period of adjustment

due to other examination delay, pursuant to 37 CFR §1.702(a), of 567 days.

The 507-day period is calculated based on the application having been filed under 35 U.S.C. §111(a) on September 29, 2004, and the instant patent issued on February 17, 2009, which is 3 years and 507 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 114 days for applicant delay is in dispute. Patentees assert

> "[t]here were no circumstances during the prosecution of the application resulting in the patent that constitute a failure to engage in reasonable efforts to conclude processing or examination of such application as set forth in § 1.704."

This assertion is inaccurate. Pursuant to 37 C.F.R. § 1.704(b), the failure to reply to an Office action within three months is a failure to engage in reasonable efforts to conclude prosecution. The non-final action was mailed on June 19, 2007, and a response was not filed until November 19, 2007, which is three months and <u>61 days</u> after the mailing of the Office action. Similarly, a second non-final action was mailed on February 19, 2008, and a response was not filed until July 11, 2008, which is three months and <u>53 days</u> after the mailing of the Office action. Consequently, there were 114 (61 + 53) days of applicant delay.

Patentees do not dispute that the total period of Office delay is the sum of the period of Three Years Delay (507 days) and the period of Examination Delay (567 days) to the extent that these periods of delay are not overlapping. However, Patentees contend that 122 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 952 days, which is the sum of the period of Three Year Delay (507 days) and the period of Examination Delay (567 days), reduced by the period of overlap (114 days).

Patentees' assertion is being construed to include the 114 days of applicant delay: as such, Patentees assert entitlement to a patent term adjustment of not 952 days, but rather 838 days (567 + 507 reduced by 122 overlap - 114 (applicant delay)).

The Office agrees that the application was pending 3 years and 507 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 567 days for Office delay is correct. At issue is whether Patentees should accrue 385 days of patent term adjustment for the Office taking in excess of three years to issue the patent (507 days less the 122 days of overlap), as well as 567 days for Office failure to take a certain action within a specified time frame (or examination delay).

<u>The Office contends that the entire 507-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 29, 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 29,

---

[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).

2004 to February 17, 2009. 567 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. All of the 507 days for Office delay in issuing the patent overlap with the 567 days of Office delay. During that time, the issuance of the patent was delayed by 567 days, not 567 + (507 - 122 = 385) days. Other than the periods of Office delay pursuant to 37 C.F.R. §§ 702(a)(1) which total 567 days, the Office took all actions set forth in 37 C.F.R. § 1.702(a) within the prescribed timeframes. Nonetheless, given the initial 567 days of Office delay and the 114 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 507 days. The Office did not delay 567 days and then an additional 385 days. Accordingly, 567 days of patent term adjustment (not 567 and 385 days) was properly entered since the entire period of delay of 507 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 567 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted. 567 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 507 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.

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.

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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HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON DC 20006-1109

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AUG 3 0 2006
OFFICE OF PETITIONS

In re Application of	:	
Christophe Servaes	:	
Application No. 10/952,435	:	ON PETITION
Filed: September 29, 2004	:	
Attorney Docket No. 56162.000495	:	

This is a decision on the petition under 37 CFR 1.182, filed April 25, 2006, requesting entry of the new drawing sheet labeled "Figure 1" and replacement drawing sheet labeled "Figure 2" in the above-identified application with a filing date of September 29, 2004, as part of the original disclosure.

On September 29, 2004, applicant filed the above-identified application. On January 18, 2005, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application, stating that the Office had accorded the application a filing date of September 29, 2004, and advising applicant that Figure 2 described in the specification appeared to be omitted from the application. Additionally, the Notice required the submission of an executed oath or declaration and surcharge.

On March 21, 2005, applicant submitted an executed declaration, a request for an extension of time for response within the first month, and an authorization to charge the necessary fees to the Deposit Account. On April 25, 2006, applicant filed the present petition, a new drawing sheet labeled "Figure 1" and a replacement drawing sheet labeled "Figure 2," and copy of the return, date-stamped postcard receipt.

In the present petition, applicant asserted that the above-identified application was filed on September 29, 2004, with drawings of Figures 1-9, as evidenced by the date-stamped postcard receipt. Applicant explained that due to a clerical error, Figure 2 was mislabeled as Figure 1 so that there were two figures labeled as "Figure 1," *i.e.,* the actual Figure 1 and the mislabeled Figure 2.

The Office file is the official record of the papers originally filed in this application. Figure 2 was not located among the original sheets of drawings in official file. A petitioner 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 USPTO of all the items listed on the date stamped thereon by the Office. See MPEP 503.

Upon inspection of the return, date-stamped postcard receipt, the Office notes that there is a discrepancy in the number of sheets of drawings listed on the postcard, as well as the number of drawing sheets that applicant alleged were filed on September 29, 2004. Applicant indicated that 9 sheets of drawings were submitted on filing. Nevertheless, the postcard receipt identified: "**Eight (9) sheets** of drawings (Figs. 1-9)." Accordingly, the postcard receipt submitted to the Office did not properly itemize and identify the number of drawing sheets that applicant filed on September 29, 2004.

Section 503 of the Manual for Patent Examining Procedure states, in pertinent part:

> The postcard receipt will not serve as prima facie evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard.

Moreover, the listing of papers on an application transmittal letter is evidence of what applicant intended to submit and not what applicant actually submitted with the USPTO. The Office finds the facts that applicant's return, date-stamped postcard receipt listed "**Eight (9) sheets** of drawings (Figs. 1-9)" and that the official record contains only 8 sheets of drawings deposited on September 29, 2004, more persuasive evidence of the actual content of the application compared to the evidence provided by applicant. Therefore, the Office concludes that the allegations made in the petition were not supported by a preponderance of the evidence. In this instance, the return, date-stamped postcard receipt is prima facie, **but not conclusive**, evidence of receipt of the number of drawing sheets itemized thereon. Consequently, a decision on the petition must be based on all of the evidence present in the official file.

For the reasons stated above, and after a thorough review of the record, the Office finds that the postcard receipt cannot serve as conclusive evidence that applicant filed 9 sheets of drawings on September 29, 2004, and that two drawing sheets were mislabeled Figure 1. Accordingly, the petition is **dismissed**. The application will be processed using the 8 sheets of drawings filed on September 29, 2004. Nevertheless, applicant may file a preliminary amendment with the examiner requesting entry of the drawing sheet.

The Deposit Account will be charged a $400.00 petition fee because the filing of the present petition was not necessitated by any error on the part of the USPTO.

The Office of Initial Patent Examination is directed to process the application with a filing date of September 29, 2004, using only the drawings submitted on that date. The two sheets of drawing submitted with the petition on April 25, 2006, will not be entered at this time.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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ARENT FOX PLLC
1050 CONNECTICUT AVENUE NW
SUITE 400
WASHINGTON, DC 20036

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APR 2 0 2007

OFFICE OF PETITIONS

In re Application of	:	
Gojin Arakawa	:	
Application No. 10/952,447	:	DECISION GRANTING PETITION
Filed: September 29, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 025720-00049	:	

This is a decision on the petition, filed April 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 March 13, 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 2817 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\Apr10\952447.wpd

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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ARENT FOX LLP
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON, DC 20036

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MAR 28 2008

OFFICE OF PETITIONS

In re Application of :
Gojin Arakawa :
Application No. 10/952,447 : ON PETITION
Filed: September 29, 2004 :
Attorney Docket No. 025720-00049

This is a decision on the petition, filed March 27, 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 3, 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 2817 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7/17/09

TO SPE OF : ART UNIT 3679 Stodola Daniel (spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/952484 Patent No.: 7354079

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.
- xXx **Denied** — State the reasons for denial below.

Comments: The submitted dwgs are not acceptable due to the solid black of the seal elements in Figs. 5 & 8, the solid black between the collet sections in Figs. 1 & 5, the solid black of teeth 168 in Fig. 5, the solid black partially filling in the depth marks in Fig. 7, & the general overall poor line quality, e.g., note the seal elements of Fig. 1. Further, while the exr failed to indicate what drawing submission, if any, was approved, it appears that the replacement drawings as filed on July 26, 2007 are the drawings that should be present in the patent.

/Daniel P. Stodola/ — SPE

3679 — Art Unit

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

2/18/10

Patent No. :7354079
Inventor(s) :Rehder et al.
Issued :4/8/2008
Title :Connector
Atty.doc./File No.

Request for Certificates of Correction

Consideration has been given to your request for the issuance of a Certificate of Correction, for the above – identified patent under the provisions of CFR 1.322.

Inspection of the application for the patent reveals the submitted drawings ar not acceptable due to the solid black of the seal elements in figures that were submitted, the SPE has denied your request. Therefore being no fault on the Patent and Trademark Office, It has no authority to issue a certificate of correction under the provision of 1.322.

In view of the forgoing, your request in this matter, is hereby denied.

Future written correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Henry Randall
Decisions & Certificates
of Correction Branch
(703) 756-1571

FRANK L. GERRATANA
FISH & RICHARDSON P.C.
P.O. BOX 1022
Minneapolis, MN 55440-1022

HR

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/29/10

TO SPE OF : ART UNIT 3679 Stodola Daniel (Spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/952484 Patent No.: 7354079

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Certificates of Correction Branch
703-756-1571 _____

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 drawings submitted on March 19, 2010 are approved.

/Daniel P. Stodola/ — **SPE**

3679 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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1969 KELLOGG AVENUE
CARLSBAD, CA 92008

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MAR 17 2008

OFFICE OF PETITIONS

In re Application of	:	
Ismail Lakkis	:	
Application No. 10/952,485	:	DECISION ON PETITION
Filed: September 27, 2004	:	
Attorney Docket No. N/A	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 1, 2007, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the Office action under Ex parte Quayle, 1935 Dec. Comm'r Pat. 11 (1935), mailed September 8, 2006. A Notice of Abandonment was mailed on August 15, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, a specification, and one replacement sheet of drawing containing Figure 32, (2) the petition fee of $770, and (3) a proper statement of unintentional delay. Therefore, the petition is **granted**.

This application is being referred to Technology Center Art Unit 2112, for appropriate action by the Examiner in the normal course of business.

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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MACMILLAN, SOBANSKI & TODD, LLC
ONE MARITIME PLAZA-FOURTH FLOOR
720 WATER STREET
TOLEDO OH 43604

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MAR 2 4 2005

OFFICE OF PETITIONS

In re Application of	:
Radu and Dry	:
Application No. 10/952,494	: DECISION ACCORDING STATUS
Filed: September 28, 2004	: UNDER 37 CFR 1.47(a)
Attorney Docket No. 1-74953	:
For: Assembly For Supporting an	:
Article in a Vehicle	:

This is in response to the petition under 37 CFR 1.47(a), filed February 17, 2005 (certificate of mailing February 14, 2005). Petitioner obtained a extension of time within the second month to respond. Accordingly, the petition is timely filed.

The petition is granted.

Petitioner has shown that Bogdan Radu, 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, Scott A. Blake, the attorney of record, stated that copies of the application papers were mailed to both the non-signing inventor and his attorney. Mr. Blake further states that Mr. Radu failed to respond to the request that he sign the declaration.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the present petition. Notice of the filing of this application will also be published in the Official Gazette.

The Office records indicate that petitioner paid a $130.00 petition fee. However, the current fee for a petition under 37 CFR 1.47(a) is $200.00. Accordingly, Deposit Account No. 13-0005 will be charge the difference of $70.00.

This matter is being referred to Technology Center Art Unit 3637.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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KLAUBER & JACKSON
411 HACKENSACK AVENUE
HACKENSACK NJ 07601

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DEC 28 2006

OFFICE OF PETITIONS

In re Application of	:	
Racquel Z. Legeros	:	
Application No. 10/952,530	:	ON PETITION
Filed: September 28, 2004	:	
Attorney Docket No. 1049-1-038 N	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed August 23, 2006.

The petition is **GRANTED**.

This application was held abandoned for failure to timely file a response to the Notice to File Missing parts, mailed December 14, 2004. This Notice set a two (2) month extendable period to submit the statutory basic filing fee, an oath or declaration, the surcharge for their late filing, and replacement drawings. Applicant filed a response on March 14, 2005, made timely by obtaining a one (1) month extension of time. However, the Office mailed a Notice of Incomplete Reply on March 23, 2005, stating that the Office did not receive replacement drawings, and that the time period to file such would continue to run from the Notice to File Missing Parts. A Notice of Abandonment was mailed on August 14, 2006.

Petitioner contends that he did timely file replacementdrawings. In support, petitioner has included a copy of a postcard receipt dated March 23, 2005, itemizing "Drawings 4 Sheet(s) Figs 6-9". In addition, a review of Office records indicates that the Office

received the fee for an additional one month extension of time on March 23, 2005.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503.

In view thereof, **THE HOLDING OF ABANDONMENT IS WITHDRAWN.**

The matter is being forwarded to the Office of Initial Patent Examination for pre-examination processing, using the drawings filed March 23, 2005 (copy re-supplied on petition filed August 23, 2006).

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MARTIN & HENSON, P.C.
9250 W 5TH AVENUE
SUITE 200
LAKEWOOD, CO 80226

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NOV 0 6 2006

OFFICE OF PETITIONS

In re Application of	:	
KRUTZ	:	
Application No. 10/952,537	:	DECISION ON PETITION
Filed: September 28, 2004	:	TO WITHDRAW
Attorney Docket No. 2095	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 31, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Michael R. Henson on behalf of all attorneys of record who are associated with Customer No. 24264. All attorneys/agents associated with the Customer No. 24264 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is no outstanding Office action that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Patricia Volpe at 571-272-6825.

Patricia Volpe
Petitions Examiner
Office of Petitions

cc: RONALD L. KRUTZ
2009 PLYMOUTH COURT
GIBSONIA, PA 15044

cc: SYTEX, INC.
C/O BARBARA LOSCALZO
VICE PRESIDENT AND GENERAL COUNSEL
LOCKHEED MARTIN INFORMATION & TECHNOLOGY SERVICES
2339 ROUTE 70 WEST
CHERRY HILL, NJ 08002

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
10/952,537	09/28/2004	Ronald L. Krutz	2095

CONFIRMATION NO. 9433

OC000000021117488

24264
MARTIN & HENSON, P.C.
9250 W 5TH AVENUE
SUITE 200
LAKEWOOD, CO 80226

Date Mailed: 11/06/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/31/2006.

- 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.

PVolpe

PATRICIA A VOLPE
OP (571) 272-6825

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVENUE, SUITE 5400
SEATTLE, WA 98104-7092

Mail Date: 04/21/2010

Applicant	: Fabio Sozzani	: DECISION ON REQUEST FOR
Patent Number	: 7620186	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/952,549	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/28/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1087** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE, WA 98101-2347

Mail Date: 04/20/2010

Applicant	: Sang Kyeong Yun	: DECISION ON REQUEST FOR
Patent Number	: 7626745	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/952,556	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/28/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **657** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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FOLEY HOAG, LLP
PATENT GROUP, WORLD TRADE CENTER WEST
155 SEAPORT BLVD
BOSTON, MA 02110

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NOV 30 2009

OFFICE OF PETITIONS

In re Application of	:	
Vandekerckhove et al.	:	DECISION ON PETITION
Application No. 10/952,557	:	TO WITHDRAW
Filed: September 28, 2004	:	FROM RECORD
Attorney Docket No. VBS-001.02	:	

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, 2009.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on November 25, 2009 the power of attorney was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Knobbe Martens Olson & Bear LLP
2040 Main Street
Fourteenth Floor
Irvine CA 92614

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SAN JOSE CA 95170-0640

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JUN 03 2005

OFFICE OF PETITIONS

In re Application of
Timothy J. Guiney et al.
Application No. 10/952,562
Filed: September 27, 2004
Attorney Docket No. LMRX-P050/P1320

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)

This decision is in response to the petition filed March 14, 2005, under 37 CFR 1.47(a), in response to the Notice to File Missing Parts "Notice" mailed December 14, 2004.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to respond, correcting the below-noted deficiencies. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on September 27, 2004, naming Chia Cheng Cheng, Timothy J. Guiney, Rao Annapragada and Subhash Deshmukh and but without a signed declaration. Accordingly, on December 16, 2004, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration.

In response, the present petition was filed with a request for a two month extension of time and the oath and declaration signed by inventors Guiney and Cheng only. Petitioners seek status under 37 CFR 1.47(a) based on the fact that joint inventor Annapragada cannot be located and that joint inventor Deshmukh has refused to cooperate with the filing of the application.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee; and

(4) a statement of the last known address of the non-signing inventor.

The present petition lacks items (1) and (3).

The petition bears proof that through counsel, joint inventor Subhash Deshmukh has expressly refused, in writing, to execute the oath or declaration and thus, to cooperate with the filing of the instant application.

The evidence presented as to joint inventor Annapragada however, is not sufficient to show that he cannot be located or that he refuses to cooperate with the filing of the application. Petitioner has not presented evidence to show that diligent efforts have been made to locate the non-signing inventor. If petitioners are satisfied that he no longer lives at the last known address and would like to renew the argument that he cannot be located, petitioners must present a showing that diligent efforts have been made to locate him.[1] Petitioners must however provide details, in an affidavit or declaration of facts by a person with first hand knowledge of the details, of the additional efforts to locate the non-signing inventor such as Internet, e-mail, or telephone directory searches, which have been undertaken to locate him. If repeated attempts to contact him by telephone, mail, and e-mail, are unsuccessful, petitioners will have established that he cannot be found despite diligent efforts.

Similarly, petitioner has asserted that a mutually convenient meeting whereby the non-signing inventor would have had an opportunity to review the application papers was proposed. While the non-signing inventor never agreed to the meeting and therefore has not had an opportunity to review the application papers, petitioner has not provided evidence sufficient to show that the complete application was ever presented to him. If an address for the non-signing inventor is located, petitioner will want to show proof that a copy of the application was sent or given to the non-signing inventors for review 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 can be shown, the non-signing inventor must have been given an opportunity to review the application. Therefore, petitioners must show proof that the non-signing inventor refuses to sign the declaration after being sent or given a copy of the application papers. If there is a written refusal, petitioners should submit a copy of that refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

The difference between the scenario presented with respect to the two non-signing inventors is that even without the presentation of the application to Mr. Deshmukh, through his counsel it is averred that irrespective of the contents of the application, Mr. Deshmukh is not interested in executing the oath or declaration or cooperating with the filing of the application. Whereas with Mr. Annapragada, he hasn't been presented with

---

[1] MPEP 409.03(d).

the application or expressly refused to cooperate. Arranging a mutually convenient meeting whereby the non-signing inventor can have an opportunity to review the application does not rise to the level of a "presentment" of the application even in view of the reasoning given by the petitioner for not forwarding the application directly to the non-signing inventor at the last known address.

Finally, with respect to the petition fee, please be advised that effective November 22, 2004, the petition fee has been increased to $200.00. Therein, deposit account no. 50-2284 will be charged in the amount of $70.00 to make up the difference between that which was paid and that which is due pursuant to 37 CFR 1.17(g). See the Notice published in the Federal Register on September 21, 2004 and in the Official Gazette of the United States Patent and Trademark Office on October 12, 2004.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 700640
SAN JOSE CA 95170-0640

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AUG 17 2005

OFFICE OF PETITIONS

In re Application of
Chia-Cheng Cheng et al.
Application No. 10/952,562
Filed: September 27, 2004
Attorney Docket No. LMRX-P049/P1320

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This decision is in response to the request for reconsideration filed August 8, 2005, (certificate of mail date, August 3, 2005), under 37 CFR 1.47(a), in response to the decision dismissing the petition of June 3, 2005.

The petition is **GRANTED.**

The above-identified application was filed on September 27, 2004, naming Chia Cheng Cheng, Timothy J. Guiney, Rao Annapragada and Subhash Deshmukh and but without a signed declaration. Accordingly, on November 10, 2004, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration. In response, a petition was filed with a request for a two month extension of time and the oath and declaration signed by inventors Guiney and Cheng only. The petition was dismissed because the evidence presented as to joint inventor Annapragada was not sufficient to show that the non-signing inventor could not be located or that he refused to cooperate with the filing of the application.

Comes now petitioner with the instant request for reconsideration.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee; and

(4) a statement of the last known address of the non-signing inventor.

The evidence presented in the original petition sufficiently showed that through counsel, joint inventor Subhash Deshmukh has expressly refused, in writing, to execute the oath or declaration and thus, to cooperate with the filing of the instant application.

The request for reconsideration bears proof that additional efforts were undertaken to

locate the non-signing inventor but those efforts were unsuccessful. The evidence is therefore sufficient to establish diligence as required by the regulation.

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.

Since the petition fee was paid with the original petition filed March 14, 2005, no additional petition fees for the request for reconsideration are required.

This matter is being referred to Technology Center 1763 for examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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34268 PINNACLES DRIVE
UNION CITY, CA 94587

SUBASH DESHMUKH
5280 APENNINES CIRCLE
SAN JOSE, CA 95138

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AUG 17 2005

OFFICE OF PETITIONS

In re Application of
Chia-Cheng Cheng et al.
Application No. 10/952,562
Filed: September 27, 2004
For: METHODS AND APPARATUS FOR MONITORING A PROCESS IN A PLASMA PROCESSING SYSTEM BY MEASURING A PLASMA FREQUENCY

Dear Mr. Annapragada and Mr. Deshmukh:

You are named as joint inventors 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 joint inventors.

As named inventors you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned Petitions Attorney at (571) 272-3212. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:
IPSG, P.C.
P.O. BOX 700640
SAN JOSE CA 95170-0640

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SAN FRANCISCO CA 94111-3834

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OFFICE OF PETITIONS

In re Application of :
Craig Welk et al. :
Application No. 10/952,568 :
Filed: September 27, 2004 :
Attorney Docket No.: **021629-003200US** :

ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed April 10, 2007, to change the order of the names of the inventors.

The petition is **GRANTED**.

The order of the names of the inventors will be changed as follows:

1. Craig Welk
2. Jeffry J. Grainger
3. Pablo Acosta

A corrected filing receipt reflecting the correct order of the names of the inventors is attached.

This matter is being referred to Technology Center 3731 for further examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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United States Patent and Trademark Office
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4238 NORTH ARLINGTON HEIGHTS ROAD
SUITE B-135
ARLINGTON HEIGHTS, IL 60004-1304

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AUG 28 2008

In re Application of	:	
John Thomas Foster, et. al.	:	
Application No. 10/952,586	:	DECISION ON PETITION
Filed: September 26, 2004	:	
Attorney Docket No. JF-2004	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 12, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to file a reply to the non-final Office action mailed May 3, 2005, which set a statutory period for reply of three months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on August 4, 2005.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either

the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. *See* MPEP 711.03(c)(II)(C) and (D). The instant petition lack items (1) and (3).

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the

initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (over 2 years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on August 4, 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). As applicants, John Foster and Glenda Hill-Foster, were responsible for this application at the time of abandonment, they should explain why this application became abandoned while it was under their control and what efforts they made to further reply and with whom this matter was discussed outside of themselves. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s) and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons and the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

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 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) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

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OFFICE OF PETITIONS

In re Application of
Alireza Shahdoost Moghadam et al
Application No. 10/952,590
Filed: September 28, 2004
Attorney Docket No. 20830-09026

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 jun 17, 2005.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of 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 T. McNelis on behalf of all attorneys of record who are associated with customer No. 00758.

All attorneys/agents associated with the Customer Number 00758 have been withdrawn.

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.

This matter is being referred to Technology Center AU 3722 for examination in due course.

Telephone inquires concerning this decision should be directed to Wan Laymon at 571-272-3220.

Amelia Au
Petitions Examiner
Office of Petitions

cc: JED CAVEN AND RAMIN AGHEVLI
CAVEN & AGHEVLI
9249 S. BROADWAY BLVD
UNIT 200-201
HIGHLANDS RANCH, CO 80129

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TOWNSEND AND TOWNSEND AND CREW LLP/ORACLE
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 04/21/2010

Applicant	: Thomas Remahl	: DECISION ON REQUEST FOR
Patent Number	: 7630974	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/952,592	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/28/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **192** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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FULBRIGHT AND JAWORSKI L L P
PATENT DOCKETING 29TH FLOOR
865 SOUTH FIGUEROA STREET
LOS ANGELES, CA 90017-2576

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FEB 2 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Guillermo C. Bazan, et al.	:	
Application No. 10/952,624	:	NOTICE
Filed: September 28, 2004	:	
Attorney Docket No. 1279-421/10401869	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3201.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 04/20/2010

Applicant	: John W. Sinclair	: DECISION ON REQUEST FOR
Patent Number	: 7590716	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/952,626	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/28/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1131** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 05/17/2010

Applicant : John W. Sinclair
Patent Number : 7590716
Issue Date : 09/15/2009
Application No : 10/952,626
Filed : 09/28/2004

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **1172** 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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PPG INDUSTRIES, INC.
INTELLECTUAL PROPERTY DEPARTMENT
ONE PPG PLACE
PITTSBURGH, PA 15272

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JAN 11 2010

In re Application of	:	
Terence J. HART, et *al.*	:	
Application No. 10/952,652	:	DECISION ON PETITION
Filed: September 29, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. **1890A1**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 30, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 21, 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 (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is July 22, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal; (2) the petition fee of $1620; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 1792 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Christopher Bottorff
Petitions Examiner
Office of Petitions

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BELL, BOYD & LLOYD LLP
P.O. BOX 1135
CHICAGO IL 60690

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JUL 2 5 2008

OFFICE OF PETITIONS

In re Application of :
Ryan W. Cuddy, et al. :
Application No. 10/952,656 :
Filed: September 29, 2004 :
Attorney Docket No. 0112300-2553 :

ON PETITION

This is a decision on the petition under 37 CFR 1.313(a), filed July 17, 2008, to withdraw the above-identified application from issue.

The petition is **DISMISSED**.

Petitioner requests that the present application be withdrawn from issue for consideration of an IDS filed on July 17, 2008.

37 CFR 1.313(a) states, in part:

> Applications may be withdrawn from issue for further action at the initiative of the Office or upon petition by the applicant. To request that the Office withdraw an application from issue, applicant must file a petition under this section including the fee set forth in § 1.17(h) and a showing of good and sufficient reasons why withdrawal of the application from issue is necessary.

As such, a grantable petition requesting withdrawal of an application from issue must be accompanied by: (1) a showing of good and sufficient reasons why withdrawal of the application from issue is necessary; and (2) the requisite petition fee under 37 CFR 1.17(h). The petition fee of $130 has been charged to petitioner's deposit account.

However, the petition does not set forth good and sufficient reasons as to why withdrawal of the application from issue is necessary. The mere submission of an IDS with the petition does not make withdrawal of the application from issue necessary. There are other avenues open to applicant to have an IDS considered other than by way of petition.

Following the part of 37 CFR 1.313(a) cited above, 37 CFR 1.313(a) goes on to state:

> A petition under this section is not required if a request for continued examination under § 1.114 is filed prior to payment of the issue fee.

The filing of a request for continued examination (RCE) under 37 CFR 1.114 with a submission and the fee set forth in 37 CFR 1.17(e) would have been a proper available option to have the IDS considered. It is well documented that an IDS satisfies the submission requirement under 37 CFR 1.114. *See* MPEP 706.07(h)(II).

For the above reasons, this application will not be withdrawn from issue under the provisions of 37 CFR 1.313(a).

The issue fee in this application has not been received. If the IDS is not favorably considered by the examiner, petitioner may wish to file a petition under 37 CFR 1.313(c)(2).

Any inquiries regarding this decision should be directed to undersigned at (571) 272-1642.

This matter is being referred to Technology Center AU 3714 for appropriate action on the copies of the IDS filed concurrently with this petition.

April M. Wise
April M. Wise
Petitions Examiner
Office of Petitions

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PO BOX 1135
CHICAGO, IL 60690

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AUG 21 2008

In re Application of	:	
Ryan W. Cuddy, et al.	:	
Application No. 10/952,656	:	DECISION DISMISSING PETITION
Filed: September 29, 2004	:	UNDER 37 CFR 1.313(a)
Attorney Docket No. 0112300-2553	:	

This is a decision on the renewed petition under 37 CFR 1.313(a), filed August 15, 2008, requesting withdrawal of the above-identified application from issue.

The petition is **DISMISSED** as moot for the reasons stated below.

A review of the file record discloses that a Notice of Allowance and Fee(s) Due was mailed on July 1, 2008, with the issue fee being due on or before October 1, 2008. The petition states that the issue fee in this case has not been paid.

The filing of a petition under 37 CFR 1.313(a) is unnecessary, since the mere filing of an RCE and submission will effectively withdraw an application from issue prior to payment of the issue fee. In view thereof, the petition to withdraw from issue is dismissed as involving a moot issue. *Note* MPEP §§ 706.07(h)(IX) and 1308.

Telephone inquiries concerning this decision may be directed to undersigned at (571) 272-1642.

The matter is being referred to Technology Center AU 3714 for appropriate processing of the RCE filed August 15, 2008, and for consideration of the information disclosure statement previously filed July 17, 2008.

April M. Wise
Petitions Examiner
Office of Petitions

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PLANTRONICS, INC.
IP Department/Legal
345 ENCINAL STREET
P.O. BOX 635
SANTA CRUZ, CA 95060-0635

Mail Date: 04/20/2010

Applicant	: Ching Shyu	: DECISION ON REQUEST FOR
Patent Number	: 7616769	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/952,662	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/29/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1405** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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FISH & RICHARDSON P.C.
P.O BOX 1022
MINNEAPOLIS MN 55440-1022

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FEB 08 2008

OFFICE OF PETITIONS

In re Application of :
Prabhu Soundarraijan, et al. :
Application No.: 10/952,669 : ON PETITION
Filed: September 29, 2004 :
Attorney Docket No.: 21545-000000 :

This is a decision on the petition, filed February 6, 2008, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

The application is being referred to Technology Center AU 1753 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

cc: KELLY K. KORDIZK
FISH & RICHARDSON P.C.
ONE CONGRESS PLAZA, SUITE 810
111 CONGRESS AVENUE
AUTSIN, TX 78701

[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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JAN 19 2005

KING & SPALDING LLP
191 PEACHTREE STREET, N.E.
ATLANTA GA 30303-1763

In re Application of	:
Bryce M. Harvey et al	:
Serial No.: 10/952,670	: PETITION TO MAKE SPECIAL
Filed: September 29, 2004	:
Attorney Docket No.: 09028.105003	:

This is in response to applicants' petition filed October 29, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, VIII. Therefor the petition is **GRANTED**.

The following condition applies to the grant of this petition: If, upon examination, it is determined that a restriction requirement is necessary because of multiple inventions being claimed, applicant will be required to make an election without traverse of a single invention to be prosecuted. Failure to make an election without traverse will void the special status accorded in this decision.

The application will be forwarded the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at the general Office facsimile number, 571-273-8300.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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SIMON GALASSO & FRANTZ PLC
P.O. BOX 26503
AUSTIN, TX 78755-0503

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OFFICE OF PETITIONS

In re Application of	:	
Ruth Mazar et al	:	
Application No. 10/952,671	:	ON PETITION
Filed: September 29, 2004	:	
Attorney Docket No. 1723.040026	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 25, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed November 15, 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 16, 2005.

Pursuant to petitioner's authorization, Deposit Account No. 50-3446 was charged $7500.00 for the petition to revive an unintentionally abandoned application.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to the Office of Initial Patent Examination.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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DEC 28 2004

CLARK G. SULLIVAN, ESQ.
KING & SPALDING LLP
45TH FLOOR
191 PEACHTREE STREET, N.E.
ATLANTA GA 30303

In re Application of	:
Bryce M. Harvey et al	:
Serial No.: 10/952,674	: PETITION TO MAKE SPECIAL
Filed: September 29 29, 2004	:
Attorney Docket No.: 09028.105004	:

This is in response to applicants' petition filed October 29, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, VIII. Therefor the petition is **GRANTED**.

The following condition applies to the grant of this petition: If, upon examination, it is determined that a restriction requirement is necessary because of multiple inventions being claimed, applicant will be required to make an election without traverse of a single invention to be prosecuted. Failure to make an election without traverse will void the special status accorded in this decision.

The application will be forwarded the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at the general Office facsimile number, 571-273-8300.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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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
10/952,689	09/28/2004	2818	2492	SAND-01035US0	17	87	9

CONFIRMATION NO. 1914

CORRECTED FILING RECEIPT

OC000000014796889

28554
VIERRA MAGEN MARCUS HARMON & DENIRO LLP
685 MARKET STREET, SUITE 540
SAN FRANCISCO, CA 94105

Date Mailed: 12/20/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Gerrit Jan Hemink, Yokohama, JAPAN;
Shinji Sato, Chigasaki, JAPAN;

Power of Attorney: None

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 11/23/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/952,689

Projected Publication Date: 03/30/2006

Non-Publication Request: No

Early Publication Request: No

Title

Non-volatile memory with asymmetrical doping profile

Preliminary Class

365

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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11-14-06

TO SPE OF : ART UNIT 2189

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/952728 Patent No.: 7107392

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 check Ref. Cited

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Emma Young

Certificates of Correction Branch

703-308-9390 ext. 117

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes do not apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

Reginald D. Bragg

SPE

2189

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

ROYLANCE, ABRAMS, BERDO & GOODMAN, L.L.P.
1300 19TH STREET, N.W.
SUITE 600
WASHINGTON,, DC 20036

Mail Date: 04/21/2010

Applicant	: Hong-Sung Chang	: DECISION ON REQUEST FOR
Patent Number	: 7616598	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/952,729	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **883** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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www.uspto.gov

ROYLANCE, ABRAMS, BERDO & GOODMAN, L.L.P.
1300 19TH STREET, N.W.
SUITE 600
WASHINGTON,, DC 20036

Mail Date: 05/18/2010

Applicant : Hong-Sung Chang
Patent Number : 7616598
Issue Date : 11/10/2009
Application No : 10/952,729
Filed : 09/30/2004

: 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 **911** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

UNITED STATES PATENT AND TRADEMARK OFFICE

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NIXON PEABODY, LLP
401 9TH STREET NW
SUITE 900
WASHINGTON, DC 20004-2128

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OCT 0 2 2007

OFFICE OF PETITIONS

In re Application of
Osamu Nakamura et al
Application No. 10/952,754
Filed: September 30, 2004
Attorney Docket No. 740756-2775

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed October 1, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 4, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2826 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\Oct11\952754.wpd

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Walter Ottesen
Patent Attorney
P.O. Box 4026
Gaithersburg, MD 20885-4026

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JAN 27 2006

OFFICE OF PETITIONS

In re Application of

Zwimpfer, et al.

Application No. 10/952,756

Filed: September 30, 2004

Attorney Docket No. A 92148

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed on January 10, 2006.

The petition is **granted**.

This application was held abandoned on July 5, 2005, after no reply was received to the *Ex Parte Qualye* action mailed May 4, 2005. The notice set forth a period for reply of two months from its mailing date. A Notice of Abandonment was mailed on November 10, 2005. The instant petition was filed on January 10, 2006. Petitioner maintains that the notice of May 4, 2005, was never received and provides a copy of the relevant docket records as proof of the same.

Section 711.03(c)(II) of the *Manual of Patent Examining Procedure* ("MPEP") provides that in order to establish non-receipt of an Office action so as prove that the imposition of a holding of abandonment is improper, petitioner must: 1) provide a statement to the Office indicating that the Office action was not received by petitioner; 2) include in the statement an attestation to the fact that a review of the file jacket and docket records maintained by petitioner indicates that the Office action was not received; and 3) provide a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is, therefore, withdrawn.

The application file is being forwarded to Technology Center 1700, GAU 1724 for further processing.

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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P.O. Box 1450
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STAAS & HALSEY LLP
1201 NEW YORK AVENUE, N.W.
SUITE 700
WASHINGTON, DC 20005

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MAR 02 2010

In re Application of :
Sachiko Terai et al :
Application No. 10/952,763 : ON PETITION
Filed: September 30, 2004 :
Attorney Docket No. 826.1986

This is a decision on the petition, filed March 1, 2010 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 16, 2010 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2446 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).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MAY - 6 2005

In re Application of	:	
John W. Martin et al.	:	
Serial No. 10/952,766	:	DECISION ON PETITION
Filed: September 30, 2004	:	TO MAKE SPECIAL
For: NESTABLE ALUMINUM	:	
CONTAINER AND LID	:	

Applicant's petition, filed September 30, 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

John W. Martin
8975-20 Lawrence Welk Drive
Escondido, CA 92026

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NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON, DC 20004-2128

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Hisashi Ohtani, et al. :
Application No.: 10/952,774 :
Filed: September 30, 2004 :
Attorney Docket No.: 740756-2768 :

This is a decision on the petition, filed December 27, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 28, 2006, in the above-identified application, cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2826 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BRUCE H. TROXELL
SUITE 1404
5205 LEESBURG PIKE
FALLS CHURCH VA 22041

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MAR 2 7 2008

OFFICE OF PETITIONS

In re Application of	:	
Ling et al.	:	
Application No.: 10/952822	:	ON PETITION
Filing or 371(c) Date: 09/30/2004	:	
Title of Invention:	:	
SAFETY MECHANISM OF A	:	
ROTATIONAL TOOL	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed January 14, 2008, to revive the above-identified application.

This Petition is hereby **granted**.

Background

The above-identified application became abandoned for failure to timely reply to the Office communication, mailed December 14, 2006. The Office communication set a one (1) month period for reply. Extensions of time under 37 CFR 1.136(a) were available. No complete and proper reply having been received, the application became abandoned on March 15, 2007. A Notice of Abandonment was mailed September 21, 2007.

Applicant files the present petition and response to the Office communication. The renewed petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a response to the Restriction/Election Requirement; (2) the petition fee; and (3) the required statement of unintentional delay are filed with the present petition. Accordingly, the reply is accepted as having been unintentionally delayed.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

This application is being forwarded to Technology Center Art Unit 3724 for processing of the response in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

CC: BIRCH, STEWART, KOLASCH & BIRSCH, LLP
8110 GATEHOUSE ROAD
P.O. BOX 747
FALLS CHURCH, VA 22040-0747

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 2, 2007

TO SPE OF : ART UNIT 3612

SUBJECT : Request for Certificate of Correction for Appl. No. 10/952845 patent No.:7,159,915

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- [X] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

D. GLENN DAYOAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

SPE

3612
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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TROXELL LAW OFFICE PLLC
SUITE 1404
5205 LEESBURG PIKE
FALLS CHURCH, VA 22041

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MAR 26 2007

OFFICE OF PETITIONS

In re Application of :
Sen-Mei Cheng :
Application No. 10/952,861 : DECISION ON PETITION
Filed: September 30, 2004 :
Attorney Docket No. BHT-3125-248 :

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**.

This application became abandoned for failure to timely pay the issue and publication fees on or before June 28, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed March 28, 2006. Accordingly, the date of abandonment of this application is June 29, 2006. A Notice of Abandonment was mailed on August 1, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,400 and the publication fee of $300, (2) the petition fee of $1,500, 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 the undersigned at (571) 272-3218.

This application is being referred to Publishing Division for appropriate processing in accordance with this decision on petition.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

PAGE 1/1 * RCVD AT 2/23/2009 10:29:16 AM [Eastern Standard Time] * SVR:USPTO-EFXRF-6/25 * DNIS:2709990 * CSID:7033089051 * DURATION (mm-ss):00-40

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 20090223

DATE : 2/11/09

TO SPE OF : ART UNIT 2629

SUBJECT : Request for Certificate of Correction for Appl. No.: 10952876 Patent No.: 7414596 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

X **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: The Corrections recited in the Request for Certificate of Correction filed 01/30/2009 are all approved because they are all clerical or typographical mistakes, and they do not change the claim scopes.

SPE: CHANH NGUYEN AU: 2629

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

02/23/09 MON 10:13 FAX 7033089051 E-CLUSTER MAIL ROOM 001

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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JUN 16 2008
OFFICE OF PETITIONS

In re Application of	:	
Junya Maruyama et al	:	
Application No. 10/952,914	:	DECISION GRANTING PETITION
Filed: September 30, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 12732-271001/US7401	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 12, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 9, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2826 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS and 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.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

VENABLE LLP
P.O. BOX 34385
WASHINGTON DC 20043-9998

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JUL 29 2008

OFFICE OF PETITIONS

In re Application of	:	
Burk et al.	:	DECISION ON REQUEST
Application No. 10/952,916	:	FOR REVIEW OF
Filed: September 30, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. 40424-206536	:	

This letter is in response to the "REQUEST FOR REVIEW (PATENT TERM ADJUSTMENT)," filed January 31, 2008. Applicants request that the initial determination of patent term adjustment under 35 USC 154(b) be reviewed for accuracy.

The request for correction of the initial determination of patent term adjustment (PTA) is **GRANTED**. The determination of PTA at the time of the mailing of the Notice of Allowance is one hundred eight (108) days.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment at the time of the mailing of the Notice of Allowance is 108 days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On October 31, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 USC 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is two hundred (200) days.

The Office initially determined a patent term adjustment of five hundred fifteen (200) days based on an adjustment for PTO delay of two hundred eighty-nine (289) days, pursuant to 35 USC 154(b) and 37 CFR 1.703(a)(1), reduced by eighty-nine (89) days of applicant delay pursuant to 37 CFR 1.704(b).

Applicants request that the PTA calculation be reviewed for accuracy.

A review of the record reveals that Applicants should have been assessed an additional delay of ninety-two (92) days. On April 10, 2007, a final rejection was mailed. Applicants in response filed a Request for Continued Examination (RCE) on October 10, 2007.

37 CFR 1.704(b) states, in pertinent part that:

> An applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed.

Therefore, Applicants should have been assessed a reduction in patent term adjustment for the period of delay from July 10, 2007, (three (3) months from the date that the final rejection was mailed on April 10, 2007), to October 10, 2007 (the date the RCE was filed), or 92 days.

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is one hundred eight (108) days (289 days of PTO delay, reduced by 181 (89+92) days of Applicant delay). To the extent that applicants are aware of any specific error in the PTA calculation, applicants should so advise the Office.

As the instant letter was submitted to advise the Office of an error in Applicant's favor, the $200.00 application fee under 37 CFR 1.705(b) was not required, and has not been charged.

The Office thanks Applicants for their good faith and candor in bringing this matter to the attention of the Office.

The application is being forwarded to the Office of Data Management for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of adjusted PAIR calculation

Day : Monday
Date: 7/28/2008

PALM INTRANET

Time: 16:23:16

PTA Calculations for Application: 10/952916			
Application Filing Date:	09/30/2004	PTO Delay (PTO):	289
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	89
Post-Issue Petitions:	0	Total PTA (days):	108
PTO Delay Adjustment:	-92		

File Contents History

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44	07/28/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		92	
37	10/31/2007	MAIL NOTICE OF ALLOWANCE			
36	10/30/2007	ISSUE REVISION COMPLETED			
35	10/30/2007	DOCUMENT VERIFICATION			
34	10/29/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
33	10/29/2007	CASE DOCKETED TO EXAMINER IN GAU			
32	10/29/2007	NOTICE OF ALLOWABILITY			
31	10/22/2007	DATE FORWARDED TO EXAMINER			
30	10/10/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
29	10/22/2007	DATE FORWARDED TO EXAMINER			
28	10/10/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
27	10/22/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
26	10/10/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
25	10/10/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
24	04/10/2007	MAIL FINAL REJECTION (PTOL - 326)			
23	04/06/2007	FINAL REJECTION			
22	03/30/2007	DATE FORWARDED TO EXAMINER			
21	03/14/2007	RESPONSE AFTER NON-FINAL ACTION		89	19
20	03/14/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
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		INFORMATION DISCLOSURE STATEMENT			

17	09/30/2004	CONSIDERED			
16	07/24/2006	CASE DOCKETED TO EXAMINER IN GAU			
15	07/24/2006	CASE DOCKETED TO EXAMINER IN GAU			
14	05/16/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
13	09/30/2004	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
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11.7	09/30/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	09/30/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	05/16/2005	CASE DOCKETED TO EXAMINER IN GAU			
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6	11/17/2004	APPLICATION DISPATCHED FROM OIPE			
5	11/18/2004	APPLICATION IS NOW COMPLETE			
4	11/10/2004	CLEARED BY OIPE CSR			
3	11/10/2004	CASE CLASSIFIED BY OIPE			
2	10/29/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	09/30/2004	INITIAL EXAM TEAM NN			

Search Another: Application# _____ Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to OASIS | Home page

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ALEXANDRIA, VA 22313-1450
www.uspto.gov

MAIL

APR 25 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Mark J. Thronson
DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
2101 L Street NW
Washington DC 20037-1526

In re Application of :
OGAWA, IPPEI, et al. :
Application No. 10/952,918 :
Filed: September 30, 2004 :
For: **OPTICAL RECORDING MEDIUM AND INFORMATION RECORDING METHOD** :

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed March 8, 2005 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

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P.O. Box 1450
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HUNTON & WILLIAMS LLP/RAMBUS INC.
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET NW, SUITE 1200
WASHINGTON, DC 20006-1109

COPY MAILED

SEP 23 2005

OFFICE OF PETITIONS

In re Application of	:	
Scott Best et al	:	
Application No. 10/952,921	:	DECISION GRANTING PETITION
Filed: September 30, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 57941.000089	:	

This is a decision on the petition, filed July 20, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 13, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2819 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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POLSTER, LIEDER, WOODRUFF &
LUCCHESI
12412 POWERSCOURT DRIVE, SUITE 200
ST. LOUIS, MO 63131-3615

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JUL 13 2006
OFFICE OF PETITIONS

In re Application of

Linnie L. Moses

Application No. 10/952,955

Filed: September 29, 2004

Attorney Docket No. MOSL8767U1

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed June 27, 2006.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on October 17, 2005, after it was believed that no response was received to the election/restriction requirement mailed September 16, 2005. The action allowed a shortened statutory period for reply of one month from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A Notice of Abandonment was mailed on June 13, 20066, indicating that a reply to Office was not received.

The instant petition maintains that an election responsive to the Office action was transmitted via facsimile on October 12, 2005. A copy of the election containing a certificate of facsimile transmission dated October 12, 2005, accompanied the petition. The same person who signed the instant petition evidencing his personal knowledge that the election was actually transmitted on October 12, 2005, signs the certificate of transmission.

Based on the aforementioned, it appears that the application was improperly held abandoned as a proper response was transmitted prior to expiration of the period for reply. The holding of abandonment is withdrawn, accordingly. There is no fee for the instant petition. Deposit account 16-2201 will be refunded $130.00, in due course.

The application file is being forwarded Technology Center 3600 GAU 3617, for further processing including the consideration of the copy of the election filed June 27, 2006, which will be noted as having been timely received.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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CANTOR COLBURN LLP - SABIC (LEXAN/CYCOLOY)
20 CHURCH STREET
22ND FLOOR
HARTFORD CT 06103

MAILED

JUN 17 2009

OFFICE OF PETITIONS

In re Application of	:	
Sanjoy K. CHOWDHURY et al.	:	
Application No. 10/952,963	:	DECISION ON PETITION
Filed: September 29, 2004	:	
Attorney Docket No. **125792-4**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 12, 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 06, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed January 05, 2009. Accordingly, the date of abandonment of this application is April 07, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1510 and the publication fee of $300, (2) the petition fee of $1620; and (3) a proper statement of unintentional delay. Accordingly, the Issue Fee and the Publication Fee payment are 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 the Office of Data Management for processing into a patent.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : October 26,2007

TO SPE OF : ART UNIT 2881

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/952,969 Patent No.: 7102141 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: _____

_____

_____

_____

_____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE Art Unit

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Fliesler Meyer, LLP
Four Embarcadero Center
Suite 400
San Francisco, CA 94111

OCT 1 8 2005

In re Application of:	:	
Talroza et al.	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Serial No.: 10/952,977	:	
Filed: September 29, 2004	:	
Attorney Docket No.: **QPTC 1000US3 DBB**	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed June 24, 2005.

The request is **DISMISSED** as moot.

A review of the application file record reveals that D. Benjamin Borson was never properly appointed as attorney for the applicant. Although the law firm Fliesler Meyer, LLP, was designated to receive the correspondence from the Patent and Trademark Office, there was no power of attorney given. Accordingly, the present request is moot and must be dismissed.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant. There are no attorneys of record in this application. Payment of the issue fee and publication fee ~~is~~ was due October 1, 2005.

Inquiries related to this decision should be directed to Edward Westin at (571) 272-1638.

Edward Westin

Edward Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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DUFT BORNSEN & FISHMAN, LLP
1526 SPRUCE STREET
SUITE 302
BOULDER CO 80302

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MAR 3 1 2009

OFFICE OF PETITIONS

In re Application of	:	
Hands et al.	:	
Application Number: 10/952978	:	ON PETITION
Filing Date: 09/29/2004	:	
Attorney Docket Number: HANDS	:	
1-2-1-1	:	

This is a decision on the petition to withdraw the holding of abandonment filed on February 11, 2009.

The petition is **DISMISSED**.

The application became abandoned on December 6, 2008, for failure to file a timely reply to the non-final Office action mailed on August 5, 2008, which set a three (3)-month shortened statutory period for reply.

On November 5, 2008, a one (1)-month petition for extension of time and fee were received.

On December 5, 2008, applicants attempted to file a petition and extension of time for a one (1)-month extension of time.

On January 5, 2009, an untimely amendment was filed. Accordingly, on February 5, 2009, a Notice Requiring Extension of Time Fee was mailed, stating that the appropriate extension of time fee was missing.

Petitioners assert that they "have been misinformed by the application assistant [*sic*] helpline about the extension fee," and were not told that a two (2)-month extension of time was required to file a timely reply.

Petitioners' argument has been considered, but is not convincing.

At the outset, in order to make the reply filed on January 5, 2008, a petition and the fee for a two (2) month extension of time were required to be filed on or before January 5, 2008. Pursuant to 37 CFR 1.136(a)(2), the date on which the petition and the fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The expiration of the time period is determined by the amount of the fee paid.

A review of the record is that petitioner filed a petition for a one (1) month extension of time on November 5, 2008, and improperly attempted to petition again for a one (1) month extension of time on December 5, 2008. Rather, a two (2) month extension of time, currently $490.00, and the fee set forth therefor, was required to make a reply filed on January 5, 2008, a timely reply to the non-final Office action mailed on August 5, 2008.

MPEP 710.02(e) states that the fees for extensions of time under 37 CFR 1.136(a) are set forth in 37 CFR 1.17(a). The fees itemized at 37 CFR 1.17(a) are cumulative. Thus, if an applicant has paid an extension fee in the amount set forth in 37 CFR 1.17(a)(1) for a 1-month extension of time and thereafter decides that an additional 1 month is needed, the proper fee would be the amount set forth in 37 CFR 1.17(a)(2) less the amount set forth in 37 CFR 1.17(a)(1) which was previously paid.

As such, the showing of record is that the proper extension of time was not timely obtained. A delay resulting from the lack of knowledge or improper application of the patent statutes, rules of practice or the MPEP constitutes an avoidable mistake.[1] Withdrawal of the holding of abandonment is not merited when applicant, or applicant's representative makes an avoidable mistake.

---

[1] A delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP does not constitute an "unavoidable" delay. See Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (N.D. Ind. 19870; Vincent v. Mossinghoff, 230 USPQ 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (Comm'r Pat. 1891).

Petitioners should also note that 37 CFR 1.2 states that 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. As such, petitioner is not entitled to rely on oral advice from Office employees. Further, while the Office attempts to timely notify applicants of deficiencies in their responses in a manner permitting a timely correction, the Office has no obligation to timely notify applicants of deficiencies in their responses in a manner permitting a timely correction. See In re Colombo, Inc., 33 USPQ2d 1530, 1532 (Comm'r Pat. 1994).[2]

Further in this regard, it is noted that $230.00 towards the two (2) month extension of time fee has been submitted with the subject petition. An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply.[3] In this respect, the extendable period for reply to the Office action mailed on August 5, 2008, expired on February 5, 2008. Accordingly, the extension of time request filed on February 11, 2009, is unnecessary. Petitioner may request that the $230.00 submitted with the subject petition be applied to the fee for a petition to revive, as discussed below, or may request a refund of the $230.00.

In summary, the showing of record is that a timely reply was not filed within the maximum extendable period for reply. Accordingly, the application was properly held abandoned.

ALTERNATE VENUE

Petitioners may wish to consider filing a petition under 37 CFR 1.137(b), which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

---

[2] See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985); see also In re Colombo, Inc., 33 USPQ2d 1530, 1532 (Comm'r Pat. 1994)(while the Office attempts to notify applicants of deficiencies in their responses in a manner permitting a timely correction, the Office has no obligation to notify parties of deficiencies in their responses in a manner permitting a timely correction).

[3] See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).

(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 8 June, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

A copy of the form for filing a petition under 37 CFR 1.137(b) to revive an application unintentionally abandoned is enclosed herewith for petitioners' convenience. A copy of the fee schedule is also enclosed.

Any request for reconsideration must be filed within **TWO (2) MONTHS** of the date of this decision. This time period is not extendable.[4]

Further correspondence with respect to this matter should be addressed as follows:

---

[4] See 37 CFR 1.181(f).

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571)273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Cf: PTO/SB/64

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DUFT BORNSEN & FISHMAN, LLP
1526 SPRUCE STREET
SUITE 302
BOULDER, CO 80302

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OFFICE OF PETITIONS

In re Application of :
Randall K. Hands, et. al. :
Application No. 10/952,978 : ON PETITION
Filed: September 29, 2004 :
Attorney Docket No. HANDS 1-2-1-1 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 14, 2009, to revive the above-identified application.

The application became abandoned for failure to file a reply to the non-final Office action mailed on August 5, 2008. A Notice of Abandonment was mailed on April 13, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 2165 for review of the amendment filed on January 5, 2009.

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
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HENSLEY KIM & HOLZER, LLC
1660 LINCOLN STREET
SUITE 3000
DENVER, CO 80264

Mail Date: 04/20/2010

Applicant	: Michael M. Lee	: DECISION ON REQUEST FOR
Patent Number	: 7660945	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/952,981	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/29/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1214** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Patterson, Thuente, Skaar & Christensen, P.A.
4800 IDS Center
80 South 8th Street
Minneapolis MN 55402-2100

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OFFICE OF PETITIONS

In re Application of	:	
Thomas et al.	:	
Application No. 10/952985	:	
Filing or 371(c) Date: 09/29/2004	:	ON PETITION
Attorney Docket Number:	:	
3329.02US08	:	

This is a decision on the "Petition to Expunge Unintentionally Submitted Information", filed May 16, 2005. The petition to expunge is properly treated under 37 C.F.R. § 1.59. The delay in treating this petition is regretted.

This Petition under 37 C.F.R. § 1.59 is hereby **granted**.

Petitioner files the present petition to expunge unintentionally submitted information, and in support of the petition states that 1) that except for the unintentionally submitted material, the information has not otherwise been made public; 2) removal of the information is necessary to avoid irreparable harm caused to Applicant 3) the privileged communication does not constitute material information under 37 CFR 1.56, and 4) Petitioner will retain the communication for the period of any patent to issue on the present application.

The MPEP 724.05(II), Information Unintentionally Submitted in Application, provides

> A petition to expunge information unintentionally submitted in an application (other than information forming part of the original disclosure) may be filed under 37 CFR 1.59(b), provided that:
> (A) the Office can effect such return prior to the issuance of any patent on the application in issue[1];

[1] The Office will not return the documents from the physical file because it is the Office's policy not to remove papers from files that have been scanned. The Office will, however, "close" the images in the application or patent that was the subject of the petition, so that no information about the recorded document will appear when someone searches for that application or patent number in the electronic file.

(B) it is stated 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;
(C) the information has not otherwise been made public;
(D) there is a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted;
(E) it is established to the satisfaction of the Director that the information to be returned is not material information under 37 CFR 1.56; and
(F) the petition fee as set forth in 37 CFR 1.17(g) is included.

The petition satisfies the above requirements. Accordingly, the petition is granted.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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SEP 18 2007

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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

In re Application of	:
Kristin L. Arienti et al	:
Serial No.: 10/952,989	: PETITION DECISION
Filed: September 29, 2004	:
Attorney Docket No.: PRD2126NP	:

This is in response to the petition under 37 CFR 1.144, filed July 17, 2007, requesting withdrawal of an improper restriction requirement.

BACKGROUND

A review of the file history shows that this application was filed under 35 U.S.C. 111 on September 29, 2004, and contained claims 1-137 (pages 21-47). In a first Office action, mailed April 2, 2007, the examiner required restriction between the inventions claimed by setting forth 24 representative groups and one omnibus group. The 24 main groups were divided based on variables W, X, Y, Z and n. For each group an election of species was required and for Group XXV, further restriction could be required. The groups are not set forth herein due to the large number thereof. The examiner reasoned that the various chemical compounds set forth and defined by the variables were so significantly different that one would not suggest the others and to search all would be burdensome. Groups I-XXIV were indicated as related to Group XXV as product and processes of using and were properly restricted, but subject to possible rejoinder.

Applicants replied on April 11, 2007, electing Group XIX with traverse and identified a species, as required. Applicants argued that there is no undue burden to search and examine all of the claims and that the requirement for restriction was not clearly set forth due to overlapping scope of the Groups.

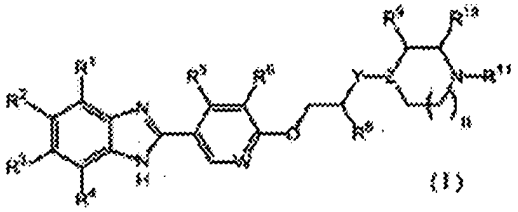
The examiner mailed an ex parte Quayle Office action to applicants on May 17, 2007. The action indicated that the elected claims, 1 and 3-30 were allowable, but objected to as containing non-elected subject matter. Having examined the species and related compounds of Group XIX, the examiner indicated that claims 1, 3-31, 33-59, 61-87 and 89-114, insofar as they fell within the elected Group, were allowable. The examiner closed prosecution with an *Ex parte Quayle* action setting a two month shortened statutory period for cancellation of non-elected subject matter from the claims.

Applicants replied on July 17, 2007, without filing an amendment, but by filing this petition asserting that the restriction requirement is improper.

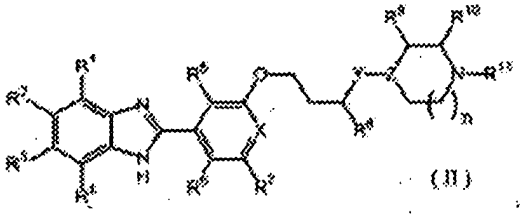
DISCUSSION

Applicants' petition lists nine reasons for review of the requirement and its impropriety which will be discussed seriatum.

A review of claim 1 shows that two different structures are set forth, as shown below:



(I)



(II)

A conservative estimate of the number of compounds covered by this claim is 1.6×10^{13}, taking into account that W, X and Z have two different values, Y has at least four values and "n" has at least three values and all of the values for each R group. It is also noted that various ring adjacent R groups can form additional fused ring structures. All compounds have in common the tetra-substituted benzimidazole structure at the left of the above structures (1.3 million possible variations) which is well known, but is not considered to be directly related to the properties ascribed the compouinds. Claims 1-30 are directed to compounds, *per se*, with claims 29 and 30 specifically identifying, by name, 103 and 74 individual compounds respectively. Claims 31-58 are to a pharmaceutical composition of the compounds of claims 1-28 for treating an H_4 receptor mediated condition; claims 59-86 are pharmaceutical compositions for inhibiting leukocyte recruitment; and claims 87-114 characterize the compounds as anti-inflammatory compounds. Claims 115-132 are to treating an inflammatory condition and are associated with numerous conditions. Claims 133-136 are to a method of treating the H_4 receptor mediated condition and claim 137 is to a method of inhibiting leukocyte recruitment.

Applicants first assert that the restriction requirement does not clearly define the inventions as independent and distinct and, secondly, divisional practice cannot be effectively pursued. Applicants assert that, for example, claims in which the value of "n" is 1 have been included in Groups where the value of "n" is 0 and so forth. It is noted that the examiner has clearly set forth the value of each significant variable (X, Y, Z, W and n) in each Group. Considering the number

of claims and the enormous number of possible compounds covered, placing a claim in a group to which it does not belong is understandable and a correctable error. For example, to assess each of the 177 compounds set forth in claims 29 and 30 as to what the values of X, Y, Z, W and n are would be a time consuming exercise which applicants can better accomplish.

Applicants thirdly assert that the restriction is improper because it deprives the record of subsequent obvious double patenting rejection assertions. Again, considering the large number of compounds claimed, applicants are in much better position to assess potential obvious double patenting situations than the examiner. Further, applicants will be required to limit claims in this application to allowed subject matter and thus can clearly ascertain whether any potential obvious double patenting instances exist.

Applicants also assert that they cannot make a meaningful election among the groups. However, applicants have made a meaningful election and know the metes and bounds of the group elected as well as having pointed out specific examples and species in the specification to support the election of species. Again, the restriction requirement among the compounds is based on five variables and their values which are clearly defined in the requirement and any minor errors in the requirement do not void the requirement.

Applicants assert as a fifth point that the restriction requirement is improper because it fails to establish a clear record and deprives applicants of the ability to establish such a record. However the requirement is clearly set forth and applicants are free to point out any errors in the grouping of claims. Since the majority of claims do not limit more than one of the five major variables, the examiner found it more expeditious to group all of the compounds claims together in each group.

Applicants assert as a sixth point that a search of the subject matter of the claims of the various groups should not present an undue burden on the Office. As noted above, the claims encompass more than 1.6×10^{13} compounds which would have to be searched separately according at least to the values of each of the five variables and the individual values of the R groups. Such a search and analysis of results would be costly, time consuming and unduly burdensome. Applicants are invited to make such a search, analyze the results and prepare a patentability report in a reasonable amount of time. The reasons given by the examiner for requiring restriction and election of species are proper.

Applicants assert in a seventh and eighth point that closing of prosecution on the merits at this time is improper. However, having determined the elected species and related compounds of Group XIX to be free of the prior art and to meet all other requirements for patentability, it is proper for prosecution to be closed and to require applicants to cancel non-elected subject matter. Such action is intended to prohibit prolonged prosecution once an elected invention has been found patentable. The examiner could have opted to cancel the non-elected subject matter by examiner's amendment, however, due to complexity and number of claims it is proper to request applicants to do so. (It is noted that applicants have filed an amendment which does not respond to the requirements set forth in the *ex parte Quayle* action.) All that is required to institute such an action is to have all of the elected claims (or in this case the restricted subject matter of the

claims) be allowable since non-elected claims are withdrawn and not under prosecution, similar to the *Ex parte Quayle* decision.

Lastly applicants argue that the claim disposition is unclear. To an extent applicants are correct in this assertion. The summary sheet indicates claims 1 and 3-30 as being objected to and claims 2 and 31-137 as being withdrawn. However, the conclusion of the Office action indicates that claims 1, 3-31, 33-59, 61-87 and 89-114 have been allowed with respect to elected Group XIX. Clearly the conclusion of the Office action indicates that rejoinder of appropriate claims has been considered and effected as indicted by the claims indicated allowable with respect to Group XIX. Claims which have been allowed have clearly been examined and the examiner gives reasons for their allowance over the closest prior art.

The only insufficiency in the examiner's initial Office action is in failing to separate claims 31-137 into various groups based on method of intended use, etc, with appropriate reasoning. Such does not directly affect the propriety of the restriction requirement with respect to the compounds, *per* se, and their potential rejoinder upon allowance of a set of compound claims. However, the deficiency has been overcome by the indicated allowance some of these claims.

DECISION

The petition is **DENIED** for the reasons set forth above.

The application will be forwarded to the examiner for consideration of the response filed July 17, 2007, and further action not inconsistent with this decision.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number, 571-273-8300.

John LeGuyader
Director, Technology Center 1600

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Kimberly Luna, Paralegal
Allegiance Corporation
1430 Waukegan Road
McGaw Park, IL 60085

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AUG 28 2007

OFFICE OF PETITIONS

In re Application of :
Rupert A. Staudner :
Application No. 10/952,991 :
Filed: September 29, 2004 :
Attorney Docket No. SPEC-6221 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed on August 3, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to respond to the non-final Office action mailed July 12, 2006. A Notice of Abandonment was mailed on February 16, 2007.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(iii)(C) and (D). The instant petition lacks item(s) (2).

Petitioner authorizes the Office to charge $1,500 to the deposit account listed on the Fees Transmittal Form. However, the Fee Transmittal Form filed on August 3, 2007 fails to list a suitable deposit account number. Therefore, revival of the above application cannot occur until the $1,500 petition fee has been received.

Further, 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. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts

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) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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Kimberly Luna, Paralegal
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1430 Waukegan Road
McGaw Park, IL 60085

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JAN 3 1 2008

OFFICE OF PETITIONS

In re Application of :
Rupert A. Staudner :
Application No. 10/952,991 : ON PETITION
Filed: September 29, 2004 :
Attorney Docket No. SPEC-6221 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed on October 29, 2007, to revive the above-identified application.

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

While the assignee attempted to intervene in the above-identified application, the Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address filed on October 29, 2007, does not comply with the requirements of 37 CFR 3.73(b). Although the required statement under 37 CFR 3.73(b)(1)(i) has been provided, the Office has no record of an assignment and $40 fee recorded for the above application[1]. Therefore, the Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address filed on October 29, 2007 cannot be accepted at this time.

In accordance with 37 CFR 1.34(a), the signature of Daniel C. Stelter appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts.

This application is being referred to Technology Center Art Unit 3673 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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[1] A separate copy (i.e., a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08

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DONALD R. HEINER, ESQ.
71 MOUNT VERNON STREET
RIDGEFIELD PARK NJ 07660

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OFFICE OF PETITIONS

In re Application of	:	
MACKIEWICZ, Lawrence	:	
Application No. 10/952,998	:	DECISION ON PETITION
Filed: September 30, 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**.

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, retiring from the practice of law, does not meet any the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272- 2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **LAWRENCE MACKIEWICZ**
593 HICKORY BUSH ROAD
KINGSTEN, NY 12401

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CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA, CA 91109-7068

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JAN 0 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Smith and Jayadev	:	
Application No.: 10/953,056	:	
Filed: September 29, 2004	:	DECISION ACCORDING
Attorney Docket No: 52364/SDB/B600	:	STATUS UNDER
For: DATA STORAGE CONTROLLER	:	RULE 47(b)

This is in response to the petition under 37 CFR 1.47(b), filed September 29, 2004.

The petition is **GRANTED**.

The above-identified 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.

The above-identified application was filed on September 29, 2004, with the instant petition under 37 CFR 1.47(b) in which petitioner argued that the 37 CFR 1.47(b) applicant, Broadcom Corporation, was not able to obtain the signature of the joint inventors on the oath or declaration required by 37 CFR 1.63. Petitioner provided corroborative statements and exhibits and provided a copy of assignment agreements executed by the joint inventors assigning their rights to the invention to the 37 CFR 1.47(b) applicant.

By the instant petition evidentiary documents, petitioner has established that the 37 CFR 1.47(b) applicant has sufficient proprietary interest to proceed with prosecution of the application without the joint inventors.

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.

The declaration executed by the authorized representative of Broadcom Corporation filed September 29, 2004, is noted and made of record.

This application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Balakrishna Jayadev
3626 Rollingside Drive
San Jose, CA 95148

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JAN 0 4 2005

OFFICE OF PETITIONS

In re Application of :
Smith and Jayadev :
Application No. 10/953,056 : LETTER
Filed: September 29, 2004 :
Attorney Docket No. 52364/SDB/B600 :
For: DATA STORAGE CONTROLLER

Dear Mr. Jayadev:

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(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 joint inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63. It should be further noted that any assignee of record of the entire interest in the application may request that the inventor(s) be excluded from access to the application. If the request is granted, you will be informed of that fact and will only be permitted to inspect the application on sufficient showing of why such inspection is necessary to conserve your rights. See *MPEP* 106, citing, *In re The Kellog Switchboard & Supply Company*, 1906 C.D. 274 (Comm'r Pat. 1906).

Telephone inquiries regarding this communication should be directed to Petitions Attorney Kenya A. McLaughlin at (571) 272-3222. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

CHRISTIE, PARKER & HALE, LLP
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PASADENA, CA 91109-7068

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Wilfred Smith
4960 Almaden Expwy., 4340
San Jose, CA 95118

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JAN 0 4 2005

OFFICE OF PETITIONS

In re Application of
Smith and Jayadev
Application No. 10/953,056
Filed: September 29, 2004
Attorney Docket No. 52364/SDB/B600
For: DATA STORAGE CONTROLLER

: LETTER

Dear Mr. Smith:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(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 joint inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63. It should be further noted that any assignee of record of the entire interest in the application may request that the inventor(s) be excluded from access to the application. If the request is granted, you will be informed of that fact and will only be permitted to inspect the application on sufficient showing of why such inspection is necessary to conserve your rights. See *MPEP* 106, citing, *In re The Kellog Switchboard & Supply Company*, 1906 C.D. 274 (Comm'r Pat. 1906).

Telephone inquiries regarding this communication should be directed to Petitions Attorney Kenya A. McLaughlin at (571) 272-3222. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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CHICAGO IL 60661

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OFFICE OF PETITIONS

In re Application of :
Wilfred A. SMITH et al. :
Application No. 10/953,056 : DECISION ON PETITION
Filed: September 29, 2004 :
Attorney Docket No. 17432US02 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 03, 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 December 12, 2007, which set a shortened statutory period for reply of three (3) months. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is March 13, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,540.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office action of December 12, 2007 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

This application is being referred to Technology Center AU 2182 for processing of the RCE and amendment submitted in accordance with 37 CFR 1.114.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

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APR 3 0 2009

OFFICE OF PETITIONS

In re Application of Mason et al. :
Application No. 10/953,103 :
Filing Date: September 28, 2004 :
Attorney Docket No. 2004P15705US :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(b), filed February 4, 2009, 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 October 14, 2008, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on January 14, 2009.

The instant petition requests revival of the application.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

(1) the reply required to the outstanding Office action or notice, unless previously filed,
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

As to item (1), petitioner has submitted a reply to the Notice of Allowance in the form of payment of the issue fee and publication fee.

As to item (2), petitioner has submitted the required petition fee of $1,620.

As to item (3), 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. However, the petition is signed by Attorney Richard Finkelstein. Attorney

Finkelstein was not an attorney or agent of record at the time the application became abandoned. Therefore, it appears Attorney Finkelstein 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 Finkelstein 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 unnecessary since the 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.

The Office is mailing a courtesy copy of the instant decision to the address on the petition which is different than the address of record. However, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

The Office of Data Management, Patent Publication Branch, will be informed of the instant decision and the application will be issued as a patent in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

[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).

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/953,104	09/28/2004	2171	900	2004P15706US	7	20	3

CONFIRMATION NO. 3449

UPDATED FILING RECEIPT

OC000000015572887

28524
SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

Date Mailed: 03/25/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Andrew Mason, Sunnyvale, CA;
Michael Sharland, Santa Clara, CA;

Power of Attorney: The patent practitioners associated with Customer Number **28524**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 11/23/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/953,104

Projected Publication Date: 03/30/2006

Non-Publication Request: No

Early Publication Request: No

Title

Systems and methods for providing user status information

Preliminary Class

707

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No.

DARBY & DARBY P.C.
P.O. BOX 770
Church Street Station
New York NY 10008-0770

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JAN 22 2008

OFFICE OF PETITIONS

In re Application of Travis Mickle, Suma Krishnan, James Scott Moncrief, Christopher Lauderback, and Christal Mickle Application No. 10/953,110 Filing Date: September 30, 2004 Attorney Docket No. 20342/1202691-US3 Title: ABUSE-RESISTANT HYDROCODONE COMPOUNDS	DECISION ON PETITION PURSUANT TO 37 C.F.R. § 1.182

This is a decision on the petition under 37 C.F.R. § 1.182, filed October 25, 2007, to change the name of one of the joint inventors.

Petitioner has requested that the inventor formerly known as "Christal Miller" be listed as "Christal Mickle." Petitioner has submitted a portion of the petition fee[1], as well as an affidavit signed by both names.

The petition pursuant to 37 C.F.R. § 1.182 is **GRANTED**. The inventors are now listed as:

Travis Mickle
Suma Krishnan
James Scott Moncrief
Christopher Lauderback
Christal Mickle

---

1 The remainder of said petition fee will be charged to Petitioner's Deposit Account in due course.

A corrected filing receipt has been enclosed.

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 the undersigned at (571) 272-3225[2]. All other inquiries concerning the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

Encl. Corrected filing receipt

2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/953,110	09/30/2004	1654	1640	20342/1202691-US3	15	7

CONFIRMATION NO. 9341

CORRECTED FILING RECEIPT

7278
DARBY & DARBY P.C.
P.O. BOX 770
Church Street Station
New York, NY 10008-0770

OC000000027831921

Date Mailed: 01/22/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Travis Mickle, Charlottesville, VA;
Suma Krishnan, Blacksburg, VA;
James Scott Moncrief, Christiansburg, VA;
Christopher Lauderback, Blacksburg, VA;
Christal Mickle, Charlottesville, VA;

Assignment For Published Patent Application

New River Pharmaceuticals Inc., Radford, VA

Power of Attorney: The patent practitioners associated with Customer Number 07278

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/507,012 09/30/2003
and claims benefit of 60/567,800 05/05/2004
and claims benefit of 60/568,011 05/05/2004

Foreign Applications

If Required, Foreign Filing License Granted: 12/15/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/953,110**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

ABUSE-RESISTANT HYDROCODONE COMPOUNDS

Preliminary Class

514

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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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).

Docket No.: 20342/1202691-US3
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Travis Mickle et al.

Application No.: 10/953,110

Confirmation No.: 9341

Filed: September 30, 2004

Art Unit: 1654

For: ABUSE-RESISTANT HYDROCODONE COMPOUNDS

Examiner: Maury A. Audet

PETITION UNDER 37 C.F.R. 1.182 TO CHANGE INVENTOR'S NAME

MS Office of Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The Declaration filed on February 8, 2005 for the present U.S. Patent Application had different a inventor's name, Christal Miller. This petition is accompanied by a declaration of the inventor whose name changed because of her recent marriage.

Christal Miller's last name has changed from "MILLER" (maiden name) to "MICKLE" due to her marriage, which occurred on July 30, 2005 in Pembroke, Virginia.

In view of the declaration signed by the inventor whose name changed, Applicants respectfully requested that the inventor's name be changed for the above-referenced application as follows:

Christal Miller to Christal Mickle

Adjustment date: 01/22/2008 CKHLOK
10/26/2007 INTEFSW 00008405 10953110
01 FC:1464 -130.00 OP

01/22/2008 CKHLOK 00000009 040100 10953110
01 FC:1462 270.00 DA 130.00 OP

A petition fee of $130 and a declaration by the above-named inventor attesting to the name change are included with this petition.

Applicants respectfully request that the declaration filed concurrently herewith be accepted in view of this petition.

The Commissioner is authorized to charge any deficiency of up to $300.00 or credit any excess in this fee to Deposit Account No. 04-0100.

Dated: October 25, 2007

Respectfully submitted,

By /FB/ Flynn Barrison (53,970)
Anna D. DiGabriele
Registration No.: 59,933
DARBY & DARBY P.C.
P.O. Box 770
Church Street Station
New York, New York 10008-0770
(212) 527-7700
(212) 527-7701 (Fax)
Attorneys/Agents For Applicants

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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JAN 03 2008

OFFICE OF PETITIONS

DARBY & DARBY P.C.
P.O. BOX 770
Church Street Station
New York NY 10008-0770

In re Application of	:	
Mickle at al.	:	
Application No. 10/953,116	:	DECISION ON PETITION
Filed: September 30, 2004	:	
Attorney Docket No. 20342/1202690-US4	:	

This is a decision on the petition under 37 CFR 1.182, filed, November 5, 2007, to change the name of inventor "Christal Miller" to – Christal Mickle --.

The petition is **GRANTED**.

Office records have been updated to reflect the inventor's change of name. A corrected Filing Receipt, which reflects the inventor's change of name, accompanies this decision on petition.

The Office is in receipt of $130.00. However, the current petition fee is $400.00. Accordingly deposit account no. 04-0100 will be charged the $270.00 difference.

It should be noted that an application data sheet was not provided with the petition. While the petition is granted, the patent may not reflect the correct spelling of inventor's name. See MPEP 605.04(c).

The issue fee in this case was paid on November 16, 2007. Therefore, the printing of the patent may have progressed to the point where the correct spelling of the inventor's name could not be included on the front page of the Letters Patent. In such event, petitioner may request a certificate of correction pursuant to the provisions of 37 CFR 1.323 and pay the required fee of $100.

Any questions concerning this matter may be directed to undersigned at (571) 272-3215.

This application is being referred to the Office of Patent Publication for issuance into a patent.

Charlema Grant
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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/953,116	09/30/2004	1654	1465	20342/1202690-US4	13	1

CONFIRMATION NO. 9334

CORRECTED FILING RECEIPT

7278
DARBY & DARBY P.C.
P.O. BOX 770
Church Street Station
New York, NY 10008-0770

OC000000027546219

Date Mailed: 01/03/2008

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 write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Travis Mickle, Charlottesville, VA;
Suma Krishnan, Blacksburg, VA;
James Scott Moncrief, Christiansburg, VA;
Christal Mickle, Charlottesville, VA;
Christopher Lauderback, Blacksburg, VA;
Thomas Piccariello, Blacksburg, VA;

Assignment For Published Patent Application

New River Pharmaceuticals Inc., Radford, VA

Power of Attorney: The patent practitioners associated with Customer Number 07278

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/507,012 09/30/2003
and claims benefit of 60/567,800 05/05/2004
and claims benefit of 60/568,011 05/05/2004
and is a CIP of 10/923,257 08/23/2004
and is a CIP of 10/156,527 05/29/2002 PAT 7,060,708
which claims benefit of 60/366,258 03/22/2002

Foreign Applications

If Required, Foreign Filing License Granted: 12/16/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/953,116**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
Title

ABUSE-RESISTANT HYDROCODONE COMPOUNDS

Preliminary Class

514

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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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 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DARBY & DARBY P.C.
P.O. BOX 770
Church Street Station
New York NY 10008-0770

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DEC 1 0 2007

OFFICE OF PETITIONS

In re Application of Mickle et al. Application No. 10/953119 Filing or 371(c) Date: 09/30/2004 Attorney Docket Number: 54719.000107	: : : : : :	ON PETITION

This decision is in response to the Petition under 37 CFR 1.182 to change inventor's name, filed November 2, 2007.

The MPEP 605.04(b), Correction of Inventorship in an Application, provides

> [e]xcept for correction of a typographical or transliteration error in the spelling of an inventor's name, a request to have the name changed from the typewritten version to the signed version or any other corrections in the name of the inventor(s) will not be entertained, unless accompanied by a petition under 37 CFR 1.182 together with an appropriate petition fee.[1]

The petition is hereby **granted**.

The name of inventor Christal Miller has been changed to Christal Mickle and the name Christal Mickle has been entered and made of record in the above-identified application.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Corrected Filing Receipt

[1] The petition fee increased to $400.00 effective December 8, 2004. The balance due, $270.00, has been charged to Petitioner's deposit account as authorized in the petition.

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
10/953,119	09/30/2004	1654	1165	54719.000107	16	2

CONFIRMATION NO. 9328

CORRECTED FILING RECEIPT

OC000000027164356

7278
DARBY & DARBY P.C.
P.O. BOX 770
Church Street Station
New York, NY 10008-0770

Date Mailed: 12/07/2007

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Travis Mickle, Charlottesville, VA;
Suma Krishnan, Blacksburg, VA;
James Scott Moncrief, Christiansburg, VA;
Christopher Lauderback, Blacksburg, VA;
Christal Mickle, Charlottesville, VA;

Assignment For Published Patent Application

New River Pharmaceuticals Inc., Radford, VA

Power of Attorney: The patent practitioners associated with Customer Number 07278

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/567,800 05/05/2004
and claims benefit of 60/507,012 09/30/2003
and claims benefit of 60/567,802 05/05/2004
and claims benefit of 60/568,011 05/05/2004

Foreign Applications

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 **US 10/953,119**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

** SMALL ENTITY **
Title

PHARMACEUTICAL COMPOSITIONS FOR PREVENTION OF OVERDOSE OR ABUSE

Preliminary Class

514

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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Johnson & Stainbrook, LLP
412 Aviation Boulevard
Suite H
Santa Rosa, CA 95403

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OFFICE OF PETITIONS

In re Application of	:	
Leonid N. Grigorov	:	
Application No. 10/953,122	:	DECISION ON PETITION
Filed: September 28, 2004	:	TO WITHDRAW
Attorney Docket No. RTSI/0005.C2	:	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 **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 Craig M. Stainbrook 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 an outstanding Office action mailed December 20, 2007 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Room Temperature Superconductor, Inc.**
301-A North Main Street
Sebastopol, CA 95472

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/953,122	09/28/2004	Leonid N. Grigorov	RTSI/0005.C2

CONFIRMATION NO. 2348

POWER OF ATTORNEY NOTICE

OC000000029811748

28778
JOHNSON & STAINBROOK, LLP
412 AVIATION BOULEVARD
SUITE H
SANTA ROSA, CA 95403

Date Mailed: 05/07/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/19/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tswilliams/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/953,126	09/29/2004	James P. Edwards	PRD2125NP	2330

27777 7590 12/04/2009
PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

EXAMINER
WILLIS, DOUGLAS M

ART UNIT	PAPER NUMBER
1624	

MAIL DATE	DELIVERY MODE
12/04/2009	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.

Commissioner for Patents
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P.O. Box 1450
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DEC 0 4 2009

Jesus Joanos I Timoneda
PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

In re Application of	:
Edwards et al.	:
Serial No.: 10/953,126	:DECISION ON PETITION
Filed: 29 September 2004	:
Attorney Docket No.: PRD2125NP	:

This letter is in response to the Petition under 37 C.F.R. 1.144 and 1.181 filed on 16 July 2009 requesting review and withdrawal of the restriction requirement mailed on 25 June 2008. The delay in acting upon this petition is regretted.

BACKGROUND

This application was filed under 35 U.S.C. 111(a) and as such is subject to US restriction practice.

On 25 June 2008, the examiner mailed a restriction requirement in which the claims were divided into 6 groups. The examiner also required an election of species.

On 11 December 2008, Applicants elected Group VI, claims 113-132, and the compound of Formula 1 on page 32, example 1 of the specification, with traverse.

On 31 March 2009, the examiner mailed to applicants a non-final Office action, in which the examiner considered the traversal and made the restriction requirement FINAL. Claims 1-112 were withdrawn from consideration. Claims 113-132 were examined with respect to the elected species. The following grounds of rejection were applied:

> Claims 113-132 were rejected under 35 U.S.C. § 112, first paragraph, for scope of enablement; and

Claims 116-119, 122-123, 126-132 were rejected under 35 U.S.C. § 112, second paragraph, for indefiniteness.

On 30 June 2009, applicants filed a response to the Office action.

On 16 July 2009, applicants filed this petition under consideration.

On 15 September 2009, the Examiner mailed a final Office action which maintained the restriction requirement and withdrew claims 1-112 from consideration.

DISCUSSION

The petition and file history have been carefully considered.

MPEP 803 sets forth the following criteria for restriction between patentably distinct inventions

> (A) The inventions must be independent (see MPEP § 802.01, § 806.06, § 808.01) or distinct as claimed (see MPEP § 806.05 - § 806.05(j)); and
> (B) There would be a serious burden on the examiner if restriction is >not< required (see MPEP § 803.02, § 808, and § 808.02).

Concerning the restriction between the elected Group VI, a method of making a product of Group I and the product of Group I, on page 2 of the first Office action on the merits, the examiner stated that "the elected species, as shown above was found to be free of the prior art." Moreover, the examiner stated that they had "expanded the forthcoming prosecution to include all claims relevant to the genus of Group VI for a first Office action and prosecution on the merits." Because the elected product species is free of the prior art and there is no prior art rejections pending in the application on the full scope of the genus of Group VI, there would be no serious burden to now rejoin the product claims for examination. For this reason, the restriction between the product of Group I and Group VI, the method of making the product of Group I, is withdrawn.

Turning now to the restriction between a product of Group I and the processes of Groups II-V, the four methods of use all require administration of the product of claim 1. MPEP 806.05(h) sets forth the following guidance for distinction between products and process of use:

> The burden is on the examiner to provide an example, but the example need not be documented. If the applicant either proves or provides a convincing argument that the alternative use suggested by the examiner cannot be accomplished, the burden is on the examiner to support a viable alternative use or withdraw the requirement

The examiner has required restriction between product and processes of use by providing a materially different product that could be used in the process, i.e., that non-steroidal anti-inflammatory agents or fexofenadine could be used in the treatment methods of Groups II-V.

Applicants are correct that the distinction between products and processes must be established based on the inventions *as claimed*. This is consistent with MPEP 806.01, which states "In passing upon questions of double patenting and restriction, it is the claimed subject matter that is considered and such claimed subject matter must be compared in order to determine the question of distinctness or independence."

Moreover, the petition asserts that the process inventions of Groups II-V are not distinct because the process claims depend from and thereby require the product of Group I. In view of their dependency, the process claims do not encompass use of non-steroidal anti-inflammatory agents, statins or fexofenadine. For this reason, the alternative use proposed by the examiner is not viable.

MPEP 806.05(h) states

> If the applicant either proves or provides a convincing argument that the alternative use suggested by the examiner cannot be accomplished, the burden is on the examiner to support a viable alternative use or withdraw the requirement.

In this instance, because the initial reasons to establish distinction are not viable, this decision will establish distinction by providing the following viable alternative use for the product:

> Invention I and Invention of Groups (II-V) are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product. See MPEP § 806.05(h). In the instant case, the product may be used in a materially different use, such as in vitro product safety and efficacy screening.

Concerning the restriction between Group II, III, IV and V, the claims differ in their preamble as follows:

> Group II: a method of treating or preventing inflammation
> Group III: a method of treating or preventing an H4 receptor mediated condition
> Group IV: a method of modulating an H4 receptor
> Group V: a method of inhibiting leukocyte recruitment in a subject

However, all of these methods require comparable use (administering or exposing) of the same product of claim 1. The specification discloses on page 3, lines 29-33 that

> "Modulation of H4 receptors controls the release of inflammatory mediators and inhibits leukocyte recruitment, this providing the ability to prevent and/or treat H4- mediated diseases, including the deleterious effects of allergic responses such as inflammation."

Because the methods all require administration of or exposure of the same compound in order to treat conditions and disorders which share a common pathway, distinction between Groups II-V cannot be maintained.

DECISION

The petition is **GRANTED-IN-PART** for the reasons set forth above.

The restriction requirement between product, Group I, Claims 1-39, and the process of making, Group VI, Claims 113-132, is hereby withdrawn.

The restriction requirement between Groups II, III, IV and V is hereby withdrawn.

The restriction requirement between rejoined product Groups (I and VI) and rejoined process Groups (II-V) is maintained, pending allowability of all claims directed to the product.

The final Office action mailed 15 September 2009 is withdrawn in view of the fact that it was mailed prior to the mailing of this petition decision. Accordingly, the finality is hereby withdrawn.

The application will be forwarded to the examiner for preparation of an Office action consistent with this decision, which addresses all claims for rejoined Groups I and VI (claims 1-39 and 113-132) which read upon the elected species, following the guidance in MPEP 803.02 with respect to examination practice for Markush claims. Should the product claims become allowable, the examiner is directed to following MPEP 821.04(b) concerning potential rejoinder of claims for using the allowable product.

Should there be any questions about this decision, please contact Quality Assurance Specialist Julie Burke, by letter addressed to Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-0512 or by facsimile sent to the general Office facsimile number, 571-273-8300.

Remy Yucel
Director, Technology Center 1600

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BAYER MATERIAL SCIENCE LLC
100 BAYER ROAD
PITTSBURGH, PA 15205

Mail Date: 04/20/2010

Applicant	: Christian Wamprecht	: DECISION ON REQUEST FOR
Patent Number	: 7659341	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/953,164	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/29/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **73** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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
227 WEST MONROE STREET
SUITE 4400
CHICAGO, IL 60606-5096

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OFFICE OF PETITIONS

In re Application of
Kurt Thomas Bowen, et al.
Application No. 10/953,196
Filed: September 29, 2004
Attorney Docket No. 077128-0136

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 3, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed December 26, 2006, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 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 election, (2) the petition fee of $1500, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642.

This application is being referred to Technology Center AU 1772 for appropriate action by the Examiner in the normal course of business on the reply received August 3, 2007.

April M. Wise
Petitions Examiner
Office of Petitions

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101 COLUMBIA ROAD
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MORRISTOWN NJ 07962-2245

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APR 16 2007

OFFICE OF PETITIONS

In re Application of
Bernard S. Fritz et al.
Application No. 10/953,197
Filed: September 28, 2004
Attorney Docket No. **H0007455-0760(1100.128010**

: 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 October 12, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of prior-filed non-provisional applications.

This petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

In response to the non-Final Office Action mailed July 12, 2006, petitioner submits a priority claim to claim priority to application nos. 10/225,325 and 10/304,773. The response submitted concurrently with the instant petition as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i). In this regard, the priority claim is not in the proper form and must be in an amendment, not physically part of any other document as the response and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments

are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made.

Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. *See* MPEP Section 201.11, Reference to Prior Nonprovisional Applications.

Before the petition under 37 CFR §§ 1.78(a)(3) can be granted, a renewed petition and either an Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121 or 37 CFR 1.76(b)(5)) to correct the above matters are required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By fax: (571) 273-8300
ATTN: Office of Petitions

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Charles Pearson
Director,
Office of Petitions

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P O BOX 2245
MORRISTOWN NJ 07962-2245

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JUN 15 2007

OFFICE OF PETITIONS

In re Application of
Bernard S. Fritz et al.
Application No. 10/953,197
Filed: September 28, 2004
Attorney Docket No. **H0007455-0760(1100.128010**

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the renewed petition filed April 25, 2007, under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of prior-filed non-provisional 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.

A petition filed October 12, 2006 was dismissed in a decision mailed April 16, 2007 because the concurrently filed amendment, in response to the non-Final Office Action mailed July 12, 2006, as drafted was unacceptable. The priority claim was not in the proper form as it was not physically part of another document and as such, did not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that

amendments are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made.

Also, the status of each nonprovisional parent application (if it is patented or abandoned) following the filing date of the parent nonprovisional application was not indicated, *See* MPEP Section 201.11, Reference to Prior Nonprovisional Applications.

Comes now petitioner with the instant renewed petition and amended specification.

All the above requirements having been satisfied, the late claim for priority under 35 U.S.C. 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applicationsunder 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 2877 for appropriate action on the amendment filed April 25, 2007, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. 120 to the prior-filed applications.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/953,197	09/28/2004	2877	2242	H0007455-0760(1100.128010	43	6

CONFIRMATION NO. 2258

CORRECTED FILING RECEIPT

OC000000024379009

128
HONEYWELL INTERNATIONAL INC.
101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN, NJ 07962-2245

Date Mailed: 06/15/2007

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)

Bernard S. Fritz, Eagan, MN;

Power of Attorney:

John Shudy Jr--31214
David Crompton--36772
Glenn Seager--36926
Brian Tufte--38638
James Wickhem--41376
Matthew Luxton--41960
Gregory Ansems--42264
Kris Fredrick--42554
James Rodgers--48306
Mark Schroeder--53566

Domestic Priority data as claimed by applicant

This application is a CIP of 10/225,325 08/21/2002 PAT 6,970,245
and is a CIP of 10/304,773 11/26/2002

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 US10/953,197

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Cytometer having telecentric optics

Preliminary Class

356

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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
10/953,213	09/29/2004	3636	385	BA-22898	2	3	1

CONFIRMATION NO. 1798

CORRECTED FILING RECEIPT

OC000000014746585

178
BUCKNAM AND ARCHER
1077 NORTHERN BOULEVARD
ROSLYN, NY 11576

Date Mailed: 12/14/2004

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Applicant(s)

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Assignment For Published Patent Application

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Domestic Priority data as claimed by applicant

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 US10/953,213

Projected Publication Date: 03/30/2006

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Folding deckchair

Preliminary Class

297

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