REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT	Docket No. M0003/7000C1

Applicant:	William P. Santamore and Jeanne M. Lesniak
Serial No:	10/958,063
Filed:	October 4, 2004
For:	PREVENTION OF MYOCARDIAL INFARCTION INDUCED VENTRICULAR EXPANSION AND REMODELING
Examiner:	
Art Unit:	1614

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)
The undersigned hereby certifies that this document is being placed in the United States mail with first-class postage attached, addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on May 26, 2005.

Beverly Strasnick

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

Request
The undersigned hereby applies to withdraw as attorney or agent for the above-identified application for himself and any attorneys listed under customer number:

21127

The undersigned attorney states that he is authorized to request withdrawal on behalf of Paul E. Kudirka, Esq., M. Lawrence Oliverio, Esq., and Philip L. Conrad, Esq., and Paul D. Sorkin, Esq., and any other attorney listed under the above customer number.

The reasons for this request are:

The Assignee of Record has requested that responsibility for the above-identified application be transferred to new counsel listed below.

Correspondence Address
☐ The correspondence address is NOT affected by this withdrawal.
☒ Change the correspondence address and direct all future correspondence to:

6/16/05 DMC
Approved JMSC

Paul Davis, Esq.
Heller Ehrman LLP
275 Middlefield Road
Menlo Park, CA 94025

A copy of this petition is being sent to the assignee on an even date herewith by registered mail, return receipt requested, at assignee's last known address.

All papers and property that relate to the above-identified proceeding to which assignee is entitled are being returned to the assignee on even date herewith.

Any fees that have been paid by the assignee in advance, and which are unearned, are being refunded.

The Commissioner is hereby authorized to charge any fees under 37 C.F.R. §1.16 and §1.17 that may be required by this withdrawal, or credit any overpayment, to Deposit Account No. 02-3038. Thereafter, any authorization which may have been given to charge Deposit Account 02-3038 is also hereby withdrawn.

Respectfully submitted,

Date: 25 May 2005

John A. Rissman, Esq. Reg. No. 33,764
KUDIRKA & JOBSE, LLP
Customer Number 021127
Tel: (617) 367-4600 Fax (617) 367-4656

PAGE 3/3 * RCVD AT 5/26/2005 10:25:27 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-1/5 * DNIS:8729306 * CSID:617 387 4656 * DURATION (mm-ss):01-30

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	Company:	USPTO
	Facsimile No:	(703) 872-9306
	Telephone No:	
FROM:	**Name:**	John A. Rissman/Beverly Strasnick
RE:	**Our File Number:**	M0003/7000C1
	Your File Number:	10/958,063

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OFFICE OF COUNSEL, CODE 004
NAVAL SURFACE WARFARE CENTER, CARDEROCK DIVISION
9500 MACARTHUR BLVD.
WEST BETHESDA MD 20817

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AUG 1 4 2007

OFFICE OF PETITIONS

In re Application of :

IVANKO, David :
Application No. 10/958,074 : DECISION ON PETITION
Filed: October 4, 2004 : TO WITHDRAW
Attorney Docket No. **2896(203-3386)** : 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 April 2, 2007.

The request is **NOT APPROVED.**

A review of the file record indicates that Scott R. Boalick of the **OFFICE OF COUNSEL, CODE 004 NAVAL SURFACE WARFARE CENTER , CARDEROCK DIVISION** does not have power of attorney in this patent application nor is there any statement or evidence of record of employment in or otherwise being engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the below-listed address until otherwise properly notified by the 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: **MARK FARBER**
UNITED STATES SURGICAL,
A DIVISION OF TYCO HEALTHCARE GROUP LP
150 GLOVER AVENUE
NORWALK, CT 06856

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HASSE & NESBITT LLC
8837 CHAPEL SQUARE DRIVE
SUITE C
CINCINNATI OH 45249

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OFFICE OF PETITIONS

In re Application of :
Jon R. Anfinsen et al :
Application No. 10/958,095 : DECISION ON PETITION
Filed: October 4, 2004 :
Attorney Docket No. TCI-003M :

This is a decision on the petition, filed December 12, 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 **GRANTED**.

The application was held abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed January 4, 2005. The Notice set a period for reply of two (2) months from the mail date of the Notice. A Notice of Abandonment was mailed on September 12, 2005.

Although it appears that the Office of Initial Patent Examination has withdrawn the abandonment of this application, the record fails to disclose that any notice was ever mailed to applicant indicating that the holding of abandonment was withdrawn. Therefore, it is appropriate here to address the petition filed on December 12, 2005.

Petitioner states that a timely reply was mailed via certificate of facsimile transmission on April 14, 2005, which included the following papers: 2 pages of a response to the Notice to File Missing Parts; 1 page of a credit card form; 2 pages of the copy of the Notice to File Missing Parts; 1 page of a copy of an unsigned declaration for clarity; 1 page of a signed declaration; 4 pages of a copy of a preliminary amendment filed April 14, 2005, plus 1 page for the cover sheet bearing a certificate of facsimile transmission dated April 14, 2005. A copy of the

previously transmitted correspondence accompanies the present petition to withdraw the holding of abandonment. Additionally, petitioner has submitted a copy of his transmission report which evidences receipt of 12 pages on April 14, 2005 at 2:58:52. The transmittal letter for the reply to the Notice of January 4, 2005 indicates that a $65 late surcharge fee and a $225 two month extension of time fee is being authorized by a credit card.

The file record for this application shows that only four pages, which is a preliminary amendment, were received on April 14, 2005 and not 12 pages, as shown by the facsimile transmission report. The showing submitted is sufficient to establish under 37 CFR 1.8(b) that 12 pages, which included the reply to the Notice of January 4, 2005, were received in the USPTO on April 14, 2005 but were inadvertently not scanned into the Image File Wrapper of this case.

In view of the above, the Notice of Abandonment mailed September 12, 2005 is **vacated** and the holding of abandonment for failure to timely file a reply to the Notice of January 4, 2005 is hereby withdrawn.

The copy of the reply received with the petition will be accepted in place of the reply demonstrated to have been submitted by facsimile transmission on April 14, 2005.

This application is currently before Technology Center AU 1794 for action in due course.

Frances Hicks
Petitions Examiner
Office of Petitions

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SCOTT EVANS
1252 COUNTRY HILLS DR.
SANTA ANA CA 92705

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OFFICE OF PETITIONS

In re Application of
Brian Kelleher
Application No. 10/958,100
Filed: October 4, 2004
Attorney Docket No.: **KELL.001A**

ON PETITION

This is a decision on the petition filed December 16, 2007 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed March 19, 2007. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned June 20, 2007. Accordingly, a Notice of Abandonment was mailed December 12, 2007.

This matter is being referred to Technology Center 3734 for appropriate action on the amendment filed December 16, 2007.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

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1252 COUNTRY HILLS DR.
SANTA ANA, CA 92705

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In re Application of
Brian Kelleher
Application No. 10/958,100
Filed: October 4, 2004
Attorney Docket No. KELL.001A

ON PETITION

This is a decision in response to the petition, filed November 12, 2009, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to an Office communication mailed February 18, 2009. A Notice of Abandonment was mailed on October 21, 2009. In response, on November 12, 2009, the present petition was filed.

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

The application is being referred to Technology Center AU 3734 for consideration of the response filed November 12, 2009.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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COOPER & DUNHAM, LLP
1185 AVENUE OF THE AMERICAS
NEW YORK NY 10036

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OFFICE OF PETITIONS

In re Application of
Kelly et al.
Application No. 10/958,107
Filed: October 4, 2004
Attorney Docket No. 1166/72155

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 6, 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 October 30, 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 one month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is March 1, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 3768 or 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.

Charlema Grant
Petitions Attorney
Office of Petitions

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P.O. Box 1450
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Kevin Lynn Wildenstein
Southwest Intellectual Property Svcs., LLC
Suite 8
6700-B Jefferson NE
Albuquerque, NM 87109

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OFFICE OF PETITIONS

In re Application of	:	
Amor Brannin	:	DECISION ON REQUEST
Application No. 10/958,114	:	TO WITHDRAW FROM
Filed: October 4, 2004	:	RECORD
Attorney Docket No. BRANNIN	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed January 20, 2006.

The request is **NOT APPROVED**.

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 address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Andrea Smith at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

Conferee:

cc: Ms. Amor Brannin
5220 Overlook Drive
Albuquerque, NM 87122

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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CAMPBELL STEPHENSON LLP
11401 CENTURY OAKS TERRACE
BLDG. H, SUITE 250
AUSTIN, TX 78758

Mail Date: 04/21/2010

Applicant	: L. Peter Lothberg	: DECISION ON REQUEST FOR
Patent Number	: 7596146	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/958,122	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/04/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **821** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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CAMPBELL STEPHENSON LLP
11401 CENTURY OAKS TERRACE
BLDG. H, SUITE 250
AUSTIN, TX 78758

Mail Date: 05/18/2010

Applicant : L. Peter Lothberg
Patent Number : 7596146
Issue Date : 09/29/2009
Application No: 10/958,122
Filed : 10/04/2004

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **860** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

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

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

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

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GLOBAL PATENT DEPARTMENT
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OFFICE OF PETITIONS

In re Application of :
Diane T. Stephenson :
Application No. 10/958,145 : ON PETITION
Filed: October 4, 2004 :
Attorney Docket No. PHA 4281.1; (01619/1US; :

This is a decision on the petition under 37 CFR 1.137(b), filed June 7, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of continuing application filed June 7, 2006.

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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QUARLES & BRADY LLP
411 E. WISCONSIN AVENUE
SUITE 2040
MILWAUKEE WI 53202-4497

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OFFICE OF PETITIONS

In re Application of :
Naimer et al. :
Application No. 10/958,162 : ON PETITION
Filed: October 4, 2004 :
Attorney Docket No. 128380.00013 :

This is a decision on the petition, filed May 15, 2009, under 37 CFR 1.47(a), which is being treated under 37 CFR 1.183 to waive 37 CFR 1.131 to the extent that it requires that all of the named inventors execute the declaration filed thereunder.

The petition is granted to the extent *infra*.

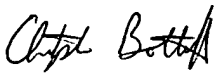
Petitioners assert that, while all of the named inventors contributed to the conception of the claimed invention which is under rejection, only Patrick G. Krohn, John R. Jorgenson and Joachim L. Naimer, as heir and legal representative of deceased inventor Hubert Naimer, have agreed to execute the attached declaration under 37 CFR 1.131 in support of establishing conception of the claimed invention prior to January 19, 2001.

As noted in MPEP 715.04, an adequate showing may lead to acceptance of a declaration under 37 CFR 1.131 executed by less than all the named inventors of the claimed subject matter in question. Under the facts presented, it is agreed that justice requires waiver of the rules to the extent that they require Patrick K. Glaze to declare. However, the favorable decision herein does not relieve applicants from their burden to establish that the invention was completed before the date of the reference and that the claimed invention was the product of the joint inventors. See In re Carlson, 79 F.2d. 900, 27 USPQ 400 (CCPA 1935).

Also, the $400.00 fee under 37 CFR 1.17(f), required for a petition under 37 CFR 1.183, has been charged to Deposit Account No. 17-0055 as authorized.

This application is being referred to Technology Center AU 2628 for further examination on the merits.

Inquiries regarding this decision may be directed to Christopher Bottorff at (571) 272-6692. Inquiries concerning the examination or status of the application should be directed to the Technology Center.



Christopher Bottorff
Petitions Examiner
Office of Petitions

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PATENT GROUP, WORLD TRADE CENTER WEST
155 SEAPORT BLVD
BOSTON, MA 02110

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OCT 0 5 2005

OFFICE OF PETITIONS

In re Application of
George G. Mueller et al
Application No. 10/958,168
Filed: October 4, 2004
Attorney Docket No. CKB-109.02

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

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 18, 2005, which is being treated under 37 CFR 1.78(a)(3) and 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

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

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The petition fails to comply with item (1) above.

The concurrently filed amendment to add the prior-filed applications on page one following the first sentence of the specification is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new

matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. *See* In re deSeversky, *supra*. *Note also* MPEP 201.06(c).

Accordingly, before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) and a substitute amendment[1] deleting the improper incorporation by reference statement is required.

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

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

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

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

---

[1] *Note* 37 CFR 1.121

Any questions concerning this matter may be directed to Wan Laymon at (571) 272-3220.

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
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/958,168	10/04/2004	2875	2386	C1104-7109.20	31	94	6

CONFIRMATION NO. 9507

37462
LOWRIE, LANDO & ANASTASI
RIVERFRONT OFFICE
ONE MAIN STREET, ELEVENTH FLOOR
CAMBRIDGE, MA 02142

FILING RECEIPT

OC000000014372263

Date Mailed: 11/16/2004

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)

George G. Mueller, Boston, MA;
Alfred D. Ducharme, Orlando, FL;
Kevin J. Dowling, Westford, MA;
Ihor A. Lys, Milton, MA;
Frederick M. Morgan, Quincy, MA;
Charles H. Cella, Pembroke, MA;

Assignment For Published Patent Application

Color Kinetics, Inc., Boston, MA

Power of Attorney: The patent practitioners associated with Customer Number **23628**.

Domestic Priority data as claimed by applicant

This application is a CON of 10/245,788 09/17/2002
which claims benefit of 60/322,607 09/17/2001
and is a CIP of 09/716,819 11/20/2000
which claims benefit of 60/166,533 11/18/1999
and claims benefit of 60/201,140 05/02/2000

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 US10/958,168

Projected Publication Date: 02/24/2005

Non-Publication Request: No

Early Publication Request: No

Title

Methods and apparatus for generating and modulating white light illumination conditions

Preliminary Class

362

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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FOLEY HOAG
PATENT GROUP, WORLD TRADE CENTER WEST
155 SEAPORT BLVD
BOSTON, MA 02110

COPY MAILED
MAR 30 2006
OFFICE OF PETITIONS

In re Application of
George G. Mueller et al
Application No. 10/958,168
Filed: October 4, 2004
Attorney Docket No. CKB-109.02

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

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed November 23, 2005, which is being treated under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of the prior-filed applications set forth in the amendment filed July 18, 2005.

The petition is **GRANTED**.

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

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(iii) and 1.78(a)(5)(iii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3) and 1.78(a)(6).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) in that (1) a reference to the prior-filed applications has been included in an amendment

to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii) and 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been previously 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 119(e) to the prior-filed applications satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. 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 inquiries concerning this decision may be directed to Wan Laymon at (571) 272-3220. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center AU 2875 for appropriate action on the amendment submitted July 18, 2005, including consideration by the examiner of the claim under 35 U.S.C. § §120 and 37 CFR 1.78(a)(2) for the benefit of the prior-filed nonprovisional application, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional application.

Frances Hicks
Lead Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/958,168	10/04/2004	2875	2386	ckb-109.02	31	94	6

CONFIRMATION NO. 9507

CORRECTED FILING RECEIPT

OC000000018404851

25181
FOLEY HOAG, LLP
PATENT GROUP, WORLD TRADE CENTER WEST
155 SEAPORT BLVD
BOSTON, MA 02110

Date Mailed: 03/29/2006

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 G. Mueller, Boston, MA;
Alfred D. Ducharme, Orlando, FL;
Kevin J. Dowling, Westford, MA;
Ihor A. Lys, Milton, MA;
Frederick M. Morgan, Quincy, MA;
Charles H. Cella, Pembroke, MA;

Assignment For Published Patent Application

Color Kinetics, Inc., Boston, MA

Power of Attorney: The patent practitioners associated with Customer Number **25181**.

Domestic Priority data as claimed by applicant

This application is a CON of 10/245,788 09/17/2002 ABN
which claims benefit of 60/322,607 09/17/2001
and is a CIP of 09/716,819 11/20/2000 PAT 7,014,336
which claims benefit of 60/166,533 11/18/1999
and claims benefit of 60/201,140 05/02/2000
and claims benefit of 60/235,678 09/27/2000
This application 10/958,168
is a CIP of 09/213,581 12/17/1998
which claims benefit of 60/071,281 12/17/1997
and claims benefit of 60/068,792 12/24/1997
and claims benefit of 60/078,861 03/20/1998
and claims benefit of 60/079,285 03/25/1998
and claims benefit of 60/090,920 06/26/1998

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 US10/958,168

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Methods and apparatus for generating and modulating white light illumination conditions

Preliminary Class

362

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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Mark A. Litman & Associates, P.A.
York Business Center
Suite 205
3209 West 76th Street
Edina, MN 55435

COPY MAILED

JAN 16 2008

OFFICE OF PETITIONS

In re Application of	:	
Andrew Stronach	:	
Application No. 10/958,192	:	DECISION ON PETITION
Filed: October 4, 2004	:	TO WITHDRAW
Attorney Docket No. 311.015US1	:	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 20, 2007.

The request is **APPROVED**.

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

The request was signed by Mark A. Litman 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 Andrew Stronach at the address indicated below.

There is no outstanding Office action at this time.

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Andrew Stronach**
14875 Bayview Avenue
Aurora, Ontario, L4G 3G8
Canada

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/958,192	10/04/2004	Andrew Stronach	311.015US1

CONFIRMATION NO. 2299

POWER OF ATTORNEY NOTICE

Mark A. Litman & Associates, P.A.
York Business Center
Suite 205
3209 West 76th St.
Edina, MN 55435

OC000000027730214

Date Mailed: 01/16/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/20/2007..

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

/tswilliams/

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

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DAVID S. RESNICK
NIXON PEABODY LLP
100 SUMMER STREET
BOSTON, MA 02110-2131

Mail Date: 04/21/2010

Applicant	: Paolo Renzi	: DECISION ON REQUEST FOR
Patent Number	: 7629324	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/958,204	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/04/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **981** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 15 2005

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

In re Application of	:	
Miyazaki et al.	:	
Serial No.: 10/958,225	:	PETITION TO MAKE SPECIAL
Filed: October 5, 2004	:	
Attorney Docket No.: 09299.0013	:	

This is in response to applicants' petition filed February 18, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(d), based on inventions relating to HIV. The $130.00 petition fee as required by 37 CFR 1.17(h) was charged to Deposit Account 06-0916.

Applicants have not satisfied the provisions set forth in M.P.E.P. 708.02, X. Specifically, applicants have failed to provide a statement explaining how the invention contributes to the diagnosis, treatment or prevention of HIV. Therefore, the petition is **DENIED**.

Should there be any questions with regard to this letter please contact Marianne C. Seidel by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile transmission at the general Office facsimile number, (703) 872-9306.

Marianne C. Seidel
Special Program Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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OCT 20 2005

OFFICE OF PETITIONS

In re Application of :
Susumu Miyazaki et al :
Application No. 10/958,225 : DECISION ON PETITION
Filed: October 5, 2004 : UNDER 37 CFR 1.313(c)(3)
Attorney Docket No. 09299.0013 :

This is a decision on the petition, filed October 13, 2005, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

Petitioner requests that the above-identified application be withdrawn from issue for express abandonment in favor of a continuing application filed pursuant to the provisions of 37 CFR 1.53(b). See 37 CFR 1.313(c)(3).

The application is hereby withdrawn from issue, and the abandonment is hereby recognized.

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

Frances Hicks
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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JUN 30 2009

OFFICE OF PETITIONS

HDLS Patent & Trademark Services
P.O. BOX 220746
CHANTILLY VA 20153-0746

In re Application of :
Wu et al. :
Application No. 10/958,291 : DECISION ON PETITION
Filed: October 6, 2004 :
Attorney Docket No. TAID 111 :

This is a decision on the petition, filed May 4, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This application was held abandoned for failure to respond to the final Office action mailed August 11, 2008. Although electronic records, such as PAIR, show a mail date for the Office action of February 4, 2008, USPTO records show a mail date of August 11, 2008. Accordingly, the final Office action is recognized as having been mailed on August 11, 2008, which date was recognized on the Notice of Abandonment mailed March 5, 2009.

Petitioner asserts that the final Office action dated August 11, 2008 was not received.

A review of the written record indicates no irregularity in the mailing of the final Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;
2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and
3. a copy of the docket record where the nonreceived Office action would have been

entered had it been received must be attached to and referenced in the practitioner' statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993). This standard must be met even though the mail date of the Office action may be contested.

The petition fails to satisfy all of the above-stated requirements. In this regard, although petitioner does state that the Office action was not received, no statement was made regarding the search of practitioner's records and the petition did not include a copy of the docket record where the nonreceived Office action would have been entered had it been received. The showing required must include a statement from the practitioner describing the docketing system and indicating that the docketing system is sufficiently reliable. *See* MPEP § 711.03(c), I, A.

Accordingly, absent the required evidence to establish nonreceipt of the final Office action, the petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

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 appropriate 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 delivered through one of the following mediums:

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
By internet:	EFS-Web www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6692.

Christopher Bottorff
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Wu et al. :
Application No. 10/958,291 : DECISION ON PETITION
Filed: October 6, 2004 :
Attorney Docket No. TAID 111 :

This is a decision on the renewed petition, filed May 4, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This application was held abandoned for failure to respond to the final Office action mailed August 11, 2008. Although electronic records, such as PAIR, show a mail date for the Office action of February 4, 2009, USPTO records show a mail date of August 11, 2008. Accordingly, the final Office action is recognized as having been mailed on August 11, 2008, which date was recognized on the Notice of Abandonment mailed March 5, 2009.

Petitioner asserts that the final Office action dated August 11, 2008 was not received.

A review of the written record indicates no irregularity in the mailing of the final Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;
2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and
3. a copy of the docket record where the nonreceived Office action would have been

entered had it been received must be attached to and referenced in the practitioner' statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993). This standard must be met even though the mail date of the Office action may be contested.

The renewed petition fails to satisfy all of the above-stated requirements. In this regard, petitioner does state that the Office action was not received and that a search of the file jacket and docket records indicate that the Office action was not received. However, the renewed petition did not include a copy of the practitioner's docket record where the nonreceived Office action would have been entered had it been received. Also, the record is not clear if the docket records searched were USPTO records or the practitioner's records.

Reviewing USPTO records through PAIR is not a "docketing system," contrary to petitioner's assertion. Such a system would involve the recording of information pertinent to the prosecution of the application by someone outside the USPTO. The docket records required for the showing that the Office action was not received are the records kept by the attorney, agent or individual responsible for prosecuting this application before the USPTO. 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.

As discussed in MPEP 711.03(c) I.A., 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. USPTO records in PAIR are not acceptable evidence.

Also, if the docket records searched were USPTO records, the statement that the docket records indicate that the Office action was not received is not acceptable. If records, other than USPTO records, exist for this application and those records were searched, this should be clearly stated in any renewed petition.

Accordingly, absent the required evidence to establish nonreceipt of the final Office action, the renewed petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

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 appropriate 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 delivered through one of the following mediums:

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
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Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6692.

Christopher Bottorff
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

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In re Application of :
Wu et al. :
Application No. 10/958,291 : DECISION ON PETITION
Filed: October 6, 2004 :
Attorney Docket No. TAID 111 :

This is a decision on the renewed petition under 37 CFR 1.181 (no fee), filed December 15, 2009, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the Office action mailed August 11, 2008.

Petitioner asserts that the Office action dated August 11, 2008 was not received.

A review of the written record indicates no irregularity in the mailing of the Notice, and, in the absence of any irregularity, there is a strong presumption that the Notice was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. In this regard, the showing required to establish the failure to receive the Notice must consist of the following:

1. a statement from practitioner stating that the Notice was not received by the practitioner;
2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Notice was not received; and
3. a copy of the docket record where the nonreceived Notice would have been entered and docketed had it been received must be attached to and referenced in the practitioner' statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).
The petition 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 AU 1795 technical support staff for re-mailing the Final Rejection of August 11, 2008. The period for reply will run from the mailing date of the Office action.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6692.

Christopher Bottorff
Petitions Examiner
Office of Petitions

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McDermott Will & Emery
600 13th Street, NW
Washington, DC 20005-3096

Mail Date: 05/12/2010

Applicant	: Catherine R. Kostlan	: DECISION ON REQUEST FOR
Patent Number	: 7615230	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/958,306	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/05/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1366** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 DIEGO CA 92101

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OFFICE OF PETITIONS

In re Application of :
YEH, et al. :
Application No. 10/958,317 :
Filed: October 4, 2004 :
Attorney Docket No. 50U6067.02 :

DECISION ON PETITION

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

The petition is GRANTED.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed November 2, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 3, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of a Notice of Appeal and fee of $500; (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay .

This application is being referred to Technology Center Art Unit 2625 for consideration of the Appeal Brief filed September 1, 2006.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/958,322	10/06/2004	Yuji Watanave	JP920030213US1	2441

7590 10/24/2007

Frederick W. Gibb, III
McGinn & Gibb, PLLC
Suite 304
2568-A Riva Road
Annapolis, MD 21401

EXAMINER	
WRIGHT, BRYAN F	
ART UNIT	PAPER NUMBER
4158	

MAIL DATE	DELIVERY MODE
10/24/2007	PAPER

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

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

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McGinn & Gibb, PLLC
Suite 304
2568-A Riva Road
Annapolis MD 21401

In re Application of: WATANAVE et al.
Application No. 10/958,322
Filed: October 6, 2004
For: ACCESS MANAGEMENT SYSTEM, ACCESS ADMINISTRATION APPARATUS, ACCESS ADMINISTRATION PROGRAM, ACCESS ADMINISTRATION METHOD, AND RECORDING MEDIUM

DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PILOT PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed September 19, 2007, to make the above-identified application special.

The petition is **DISMISSED**.

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

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;

(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;

(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);

(4) Examination of the U.S. application has not begun;

(5) Applicant must submit a copy of all the office actions from each of the JPO

application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;

(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and

(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition failed:

1) item (3) above, since the newly introduced claim 17 in the U.S. application does not have a sufficiently corresponding claim in the allowed Japanese application.

Accordingly, the Petition is **DISMISSED**.

Applicant is given a time period of ONE MONTH or THIRTY DAYS, whichever is longer, to correct the deficiencies. NO EXTENSION OF TIME UNDER 37 CFR 1.136 IS PERMITTED.

If the deficiencies are not corrected with the time period given, the application will await action in its regular turn.

Response must be faxed to Mano Padmanabhan at 571-273-4210 (RightFax) or 571-273-0308.

Telephone inquiries concerning this decision should be directed to Mano Padmanabhan at 571-272-4210.

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

Mano Padmanabhan
Quality Assurance Specialist, Technology Center 2100, Workgroup 2180
571-272-4210

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OFFICE OF PETITIONS

In re Application of :
Hitoshi Shiga et al :
Application No. 10/958,331 : DECISION GRANTING PETITION
Filed: October 6, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 260023US2SX :

This is a decision on the petition, filed December 8, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 2, 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 2824 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Petition under 37 CFR 1.48(b) to amend the inventorship.

Frances Hicks
Petitions Examiner
Office of Petitions

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

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

In re Application of :
Martin A. Lee et al :
Serial No.: 10/958,377 : PETITION DECISION
Filed: October 6, 2004 :
Attorney Docket No.: 1498-167 :

This is in response to the petition under 37 CFR 1.181, filed September 26, 2007, requesting withdrawal of the Finality of the Office action mailed March 27, 2007.

BACKGROUND

A review of the file history shows that the examiner mailed a first Office action to applicants on September 29, 2005, setting forth a two-way restriction requirement and a telephone election of Group I. Elected claims 1-10 and 15-21 were then rejected under 35 U.S.C. 112, first paragraph, as lacking enablement for the invention being claimed. Claims 1-10 and 15-21 were also rejected under 35 U.S.C. 112, second paragraph, as indefinite and the reasons pointed out. Claims 1-10 and 15-21 were then rejected for obvious double patenting over US 6,833,257.

Applicants replied on March 29, 2006, which amendment was non-compliant and was resubmitted on July 12, 2006, by amending the Title, description of the drawings and several claims. The rejections of record were also addressed.

The examiner mailed a Final Office action to applicants on September 8, 2006, setting forth a rejection of claims 1-10 and 15-22 under 35 U.S.C. 112, first paragraph, as lacking enablement for the invention being claimed Claims 1-10 and 15-22 were also rejected under 35 U.S.C. 112, first paragraph, as lacking written description in the specification. Claims 1-10 and 15-22 were further rejected under 35 U.S.C. 112, second paragraph, as indefinite. Claims 1-10 and 15-22 were rejected under 35 U.S.C. 103(a) as obvious over applicants' admissions in the specification.

Applicants filed a new amendment with RCE papers on March 8, 2007, further amending the Title, and claims 1 and 9 and canceling claims 11-14. Applicants also replied to all of the outstanding rejections of record.

The examiner mailed a new Final Office action to applicants on March 26, 2007, objecting to the drawings as not being clearly drawn. Claims 1-10 and 15-22 were again rejected under 35

U.S.C. 112, first paragraph, as lacking enablement. Claims 1-10 and 15-22 were further rejected under 35 U.S.C. 103(a) as obvious over applicants' admissions. The examiner also addressed applicants' arguments.

Applicants filed this petition on September 26, 2007, objecting to the finality of the Office action as premature in view of the filing of RCE papers. Applicants also filed a response to the Office action which has not been considered by the examiner pending decision on this petition.

DISCUSSION

Applicants request withdrawal of the finality of the Office action of March 23, 2007, on the basis that the examiner has introduced a new ground of rejection which was not necessitated by applicants' actions or amendments.

It is noted first that this petition can be considered untimely. 37 CFR 1.181(f) sets a time period of TWO MONTHS for filing of a petition regarding an examiner's Office action as being incorrect or in error. Applicants' petition was filed six months after the action complained of and is therefore untimely. However it will also be addressed on the merits.

Applicants state that the examiner has cited and relied upon new art in setting forth the rejections of record. However, it is noted that the rejections set forth in the Office action of March 26, 2007, are identical to rejections set forth in the Office action of September 8, 2006. The only rejections of record are a rejection under 35 U.S.C. 112, first paragraph, for lack of enablement which does not require any art be cited, although some art may be cited to support the actuality of a lack of enablement, and a rejection under 35 U.S.C. 103(a) over applicants' own specification which also does not require citation of new art. Both of the rejections appeared in the previous Office action. Thus no new rejection has been set forth, although new arguments may have been used in view of applicants' amendments to the claims to more fully explain the rejections.

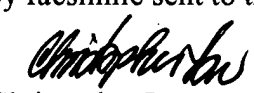
The finality of the Office action is not found to be in error.

DECISION

The petition is **DENIED** as both untimely and on the merits.

The application will be forwarded to the examiner for consideration of the amendment filed September 26, 2007, with this petition.

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.



Christopher Low
Acting Director, Technology Center 1600

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ROSHARON TX 77583-1590

In re Application of
Deaton
Application No. 10/958,438
Filed: 5 October, 2004
Attorney Docket No. 68.0172DIV2

ON PETITION

This is in response to the papers filed 7 December, 2004, supplemented on 9 February, 2005.and considered as a petition filed under 37 C.F.R. §1.47(b) .

The petition is **GRANTED**.[1]

In accordance with 37 C.F.R. §1.63(d), Petitioner submitted a copy of the executed oath or declaration filed in Application No. 10/105,762, filed on 25 March, 2002, of which the instant filing is a continuation (divisional) application. Furthermore, petitioner has submitted a copy of the decision, mailed on 15 September, 2003, granting a petition to accord §1.47 status to the prior application.

The above-identified application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(b). This application is hereby accorded Rule 1.47(b) status.

---

[1] The commentary at MPEP §201.06(c) provides in pertinent part:

* * *

New continuation or divisional applications filed under 37 C.F.R.§ 1.53(b) which contain a copy of an oath or declaration that is not signed by one of the inventors and a copy of the decision according 37 C.F.R. §1.47 status in the prior application, should be forwarded by the Office of Initial Patent Examination (OIPE) to the Office of Petitions before being forwarded to the Technology Center (TC). The Office of Petitions will mail applicant a letter stating that "Rule 47" status has been accorded to the continuation or divisional application, but will not repeat the notice to the nonsigning inventor nor the announcement in the *Official Gazette*. See 37 C.F.R. §1.47(c).

* * *

As provided in Rule 1.47(c), the Office previously Noticed the non-signing inventor at the address given in the Declaration of the filing of the parent of this application, therefore, no new Notice need be mailed.

Notice of the filing of this application will also be published in the Official Gazette.

Petitioner's deposit account, No. 50-0457, will be charged the $130.00 fee required by law for consideration of this Petition under 37 C.F.R. §1.47 as previously authorized.

This application is released to OIPE for further processing.

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

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

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Fred G. Pruner Jr.
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14910 Airline Road
Rosharon, TX 77583

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Director's Office
Group 3700

In re Application of: DEATON
Appl. No.: 10/958,438
Filed: October 5, 2004
For: VALVE CLOSING DEVICE

DECISION ON PETITION

This is a decision on the petition filed on February 28, 2006 by which petitioner requests withdrawal of the finality of the Office action dated January 25, 2006. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is dismissed.

Review of the record shows petitioner filed a Request for Continued Examination (RCE) with preliminary amendment on November 9, 2005. This preliminary amendment contained in pertinent part:

...including at least one ~~non-coiled~~ elongated elastically deformable member disposed at least partially around a path that follows the circumference of said longitudinal bore and being non-coiled about the path, said at least one ...

As can be seen, petitioner amended the claims from reciting a "non coiled member" to "a member...being non-coiled about the path". Petitioner argues due to these claim amendments, all of the claims are not directed to the same invention, thereby precluding a first action final in the RCE.

MPEP 706.07(h) states:
The action immediately subsequent to the filing of an RCE with a submission and fee under 37 CFR 1.114 may be made final only if the conditions set forth in MPEP §706.07(b) for making a first action final in a continuing application are met.

MPEP 706.07(b) states:
The claims of a new application may be finally rejected in the first Office action in those situations where (A) the new application is a continuing application of, or a substitute for, an earlier application, and (B) all claims of the new application (1) are drawn to the same invention claimed in the earlier application, and (2) would have been properly finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application.

Petitioner opines any change in the claim language must result in the claiming of a different invention, thus eliminating requirement (1) from MPEP 706.07(b) from being met. However, Office practice and the case law define "same invention" to mean patentably indistinct inventions. Case v. CPC Int 'l, Inc., 730 F.2d 745, 750, 221 USPQ 196, 200 (Fed. Cir. 1984); Aelony v. Arni, 547 F.2d 566, 570, 192 USPQ 486, 489-90 (CCPA 1977); Nitz v. Ehrenreich, 537 F.2d 539, 543, 190 USPQ 413, 416 (CCPA 1976); Ex parte Card, 1904 C.D. 383, 384-85 (Comm'r Pats. 1904). Here, it appears that "a member...being non-coiled about the path" would be patentably indistinct from the prior "non coiled member", indicating requirement (1) from MPEP 706.07(b) was met. This position is further supported by the fact that the examiner found the amended claims to be subject to the identical grounds and art rejections previously of record. Thus, requirement (2) from MPEP 706.07(b) was met.

As clearly outlined in MPEP 706.07, before final rejection is in order a clear issue should be developed between the examiner and applicant. While the rules no longer give to an applicant the right to "amend as often as the examiner presents new references or reasons for rejection," present practice does not sanction hasty and ill-considered final rejections. The applicant who is seeking to define his or her invention in claims that will give him or her the patent protection to which he or she is justly entitled should receive the cooperation of the examiner to that end, and not be prematurely cut off in the prosecution of his or her application. But the applicant who dallies in the prosecution of his or her application, resorting to technical or other obvious subterfuges in order to keep the application pending before the primary examiner, can no longer find a refuge in the rules to ward off a final rejection.

Here it is clear that the position of the examiner has been clearly expressed. Petitioner's preliminary amendment resulted in claims which were drawn to the same invention and were subject to the identical grounds and prior art rejections previously of record. Applicant's amendment failed to advance prosecution. For the foregoing reasons, it appears that the examiner's decision to make the Office action dated January 25, 2006 final was neither arbitrary nor capricious, and that the examiner's action was in accordance with the guidance set forth in MPEP 706.07. Accordingly, there appears to be no basis for granting the relief petitioner requests.

The application remains pending and is awaiting a reply to the final Office action.

PETITION DISMISSED

Karen M. Young

Karen M. Young, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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

THE FARRELL LAW FIRM, LLP
290 Broadhollow Road
Suite 210E
Melville, NY 11747

Mail Date: 04/21/2010

Applicant	: Jae-Hwan Chang	: DECISION ON REQUEST FOR
Patent Number	: 7623569	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/958,485	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/05/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1273** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Magnus H. Karlstedt
7055 Cleveland Drive
Punta Gorda, FL 33982

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AUG 16 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Magnus H. Karlstedt :
Application No. 10/958,491 :
Filed: October 5, 2004 :
Attorney Docket No. JJH-04-151-MK :

This is a decision on the petition under 37 CFR 1.137(b), filed on December 19, 2006, 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 August 21, 2006. A Notice of Abandonment was mailed on December 15, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of $700 for payment of the issue fee and $300 for payment of the publication fee; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Revocation of Power of Attorney and the Change of Correspondence Address filed on December 19, 2006, has been accepted and made of record.

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

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MAIL

MAR 14 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Edward Langer
c/o Shiboleth, Yisraeli, Roberts, Zisman & Co.
60th Floor
350 Fifth Avenue
New York NY 10118

In re Application of :
BARZILAY :
Application No. 10/958,498 : DECISION ON PETITION
Filed: OCTOBER 6, 2004 : TO MAKE SPECIAL
For: **METHOD AND SYSTEM FOR VERIFYING AND ENABLING USER ACCESS BASED ON VOICE PARAMETERS** :

This is a decision on the petition to make special filed January 11, 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 petition meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

This application will be acted on in accordance with its special status, and 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.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mail Date: 04/21/2010

Applicant	: Masanori Minamio	: DECISION ON REQUEST FOR
Patent Number	: 7580075	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/958,500	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/06/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1222** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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
IP Section
2323 Victory Avenue
Suite 700
Dallas, TX 75219

Mail Date: 04/21/2010

Applicant	: Fahd Pirzada	: DECISION ON REQUEST FOR
Patent Number	: 7570972	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/958,506	: OF WYETH
Filed	: 10/05/2004	:
		:

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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Wiggin and Dana, LLP
Attn : Patent Docketing
Once Century Tower
P.O. Box 1832
New Haven, CT 06508-1832

MAILED

MAR 30 2009

OFFICE OF PETITIONS

In re Application of :
Roy Hammett et al. :
Application No. 10/958,518 : DECISION ON PETITION
Filed: October 4, 2004 : TO WITHDRAW
Attorney Docket No. 102671-200 : 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 25, 2009.

The request is **APPROVED**.

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

The request was signed by Anthony P. Gangemi on behalf of all attorneys/agents associated with customer number 27267. All attorneys/agents associated with customer number 27267 have been withdrawn.

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

The correspondence address has been changed to that of the first signing inventor and is copied below.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Roy Hammett
16103 Carden Drive
Odessa, FL 33556

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/958,518	10/04/2004	Roy Hammett	102671-200

CONFIRMATION NO. 9391

POWER OF ATTORNEY NOTICE

27267
WIGGIN AND DANA LLP
ATTENTION: PATENT DOCKETING
ONE CENTURY TOWER, P.O. BOX 1832
NEW HAVEN, CT 06508-1832

Date Mailed: 03/30/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/25/2009.

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

/kainabinet/

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

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UNGARETTI & HARRIS LLP
INTELLECTUAL PROPERTY GROUP - PATENTS
70 WEST MADISON STREET
SUITE 3500
CHICAGO, IL 60602-4224

Mail Date: 04/20/2010

Applicant	: Roy Hammett	: DECISION ON REQUEST FOR
Patent Number	: 7578410	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/958,518	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/04/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **281** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUN 29 2010

OFFICE OF PETITIONS

JOHN D. CARPENTER
CHRISTIE, PARKER & HALE
350 W. COLORADO BOULEVARD, SUITE 500
PASADENA CA 91105

In re Patent No. 7,019,182	:	
Issue Date: March 28, 2006	:	
Application No. 10/958,519	:	ON PETITION
Filed: October 4, 2004	:	
Attorney Docket No. 300100-1076	:	

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.

It is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. 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.

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

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Larissa Piccardo
Baker Botts L.L.P.
910 Louisiana Street
Houston, TX 77002

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OFFICE OF PETITIONS

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

In re Application of :
Karl Denninghoff :
Application No. 10/958,528 : ON PETITION
Filed: October 5, 2004 :
Attorney Docket No. 42P22428

This is a decision on the petition under 37 CFR 1.137(b), filed March 29, 2006, to revive the above-identified application.

The instant application became abandoned on April 18, 2005, for failure to timely reply to the Notice to File Missing Parts, mailed February 16, 2005, which set a two (2) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed November 3, 2005.

The response in the form of a petition to accord status under 37 CFR 1.47(b) was filed with the instant petition. In view of the decision of even date granting the petition under 37 CFR 1.47(b) and all other requirements under 37 CFR 1.137(b) having been met, the petition is **GRANTED**.

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

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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SEP 14 2006

OFFICE OF PETITIONS

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

In re Application of :
Karl Denninghoff :
Application No. 10/958,528 : DECISION ACCORDING STATUS
Filed: October 5, 2004 : UNDER 37 CFR 1.47(b)
Attorney Docket No. 42P22428 :

This decision is in response th the petition filed March 29, 2006 under 37 CFR 1.47(b).

The petition is **GRANTED**.

The above-identified application was filed October 5, 2004 naming Karl Denninghoff as the sole inventor but without an executed Oath or Declaration. A Notice to File Missing Parts was mailed February 16, 2005 and in response, the instant petition was filed.[1] The petition claims that the inventor has been provided with a copy of the application but that he has failed to execute the Oath or Declaration.

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

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

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

(3) the petition fee;

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

(5) proof of proprietary interest, and

(6) proof of irreparable damage.

Petitioners have shown that the application papers were delivered to the last known address for the sole inventor, that the sole inventor has not to date returned an executed oath or declaration. Additionally, petitioners have paid the petition fee, included the last known address for Mr. Denninghoff, have shown with assignment documents that Intel Corporation has proprietary interest, has submitted a declaration

[1] A Petition to Revive was also filed on March 29, 2006. A decision on the petition is drafted under separate cover.

in compliance with 37 CFR 1.63 and 1.64 and has demonstrated that such action is necessary to prevent irreparable damage.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). In view thereof, this application is hereby accorded Rule 1.47(b) status.

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

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

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Takahiro Kiura
Oblon, Spivak
1940 Duke Street
Alexandria, VA 22314

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AUG 2 9 2008

In re Application of :
William Malecki et al. :
Application No. 10/958,533 : DECISION ON REQUEST FOR
Filed: October 10, 2004 : REVOCATION OF POWER
Attorney Docket No. 022128-000201US : OF ATTORNEY
:

This is a decision on the Request to Revoke the attorney or agent of record under 37 C.F.R. § 1.36(a), filed July 10, 2008.

The request is **NOT APPROVED.**

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

The request cannot be approved because compliance with 3.73(b) has not been satisfied. A proper chain of title and/or reel and frame numbers has not been provided on the Statement under 37 CFR 3.73(b). Refer to Form No. PTO/SB/96, which can be found at www.uspto.gov .

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 correspondence will be directed to the inventor until the Office is notified by the applicant or an assignee whom has properly intervened in this application.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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Cierra, Inc. &
Townsend & Townsend and Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

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AUG 2 9 2008

In re Application of	:	
William Malecki et al.	:	
Application No. 10/958,533	:	DECISION ON PETITION
Filed: October 4, 2004	:	TO WITHDRAW
Attorney Docket No. 022128-000201US	:	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 16, 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 Doug Portnow on behalf of all attorneys/agents associated with customer number 65689.

All attorneys/agents associated with customer number 65689 have been withdrawn.

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

The revocation of power of attorney and change of address filed on July 10, 2008 is not acceptable in that compliance with 37 CFR 3.73(b) has not been met. A proper statement under 3.73(b) setting forth the reel and frame numbers and/or chain of title must be submitted.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R. 3.71. Accordingly, all correspondence will be mailed to the first signing inventor at the address noted on the oath and declaration, since no assignee has properly intervened in this application. A courtesy copy of this decision will be mailed to address as indicated in the request to withdraw. If this firm would like to receive future correspondence, the proper power of attorney documents must be submitted or if an assignee has intervened compliance with 37 CFR 3.73(b) must be satisfied.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Takahiro Kiura
Oblon, Spivak
1940 Duke Street
Alexandria, VA 22314

cc: William Malecki
510 Clayton Street
San Francisco, CA 94117

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
10/958,533	10/04/2004	William Malecki	022128-000201US

CONFIRMATION NO. 9380

POWER OF ATTORNEY NOTICE

65689
CIERRA, INC. &
TOWNSEND & TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Date Mailed: 08/29/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/16/2008.

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

/kainabinet/

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

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THE H.T. THAN LAW GROUP
WATERFRONT CENTER SUITE 560
1010 WISCONSIN AVENUE NW
WASHINGTON DC 20007

In re Application of:
Adams, Paul et al
Serial No.: 10/958,574
Filed: Oct. 5, 2004
Docket: BIC-031
Title: FUEL CARTRIDGE WITH AN ENVIRONMENTALLY SENSITIVE VALVE

DECISION ON PETITION

This is a decision on the petition filed on Apr. 11, 2008 by which petitioner requests reconsideration and withdrawal of the restriction requirement mailed Mar. 22, 2007 and that non-elected claims 20-31, 34, 36-41, 47, 49-56 and 64-72 be rejoined and examined on the merits. Claims 1-19, 32, 33, 35, 42-46, 48 and 57-63 were elected for prosecution. This petition is being considered pursuant to 37 CFR § 1.144 and 37 CFR § 1.181, and no fee is required.

The petition is dismissed.

This application is a continuation of PCT /US05/35720 and was not filed under 35 USC § 371 and, therefore, the lack of unity requirement under PCT Rule 13.1 does not apply here. This decision will only address the propriety of the restriction requirement of Mar. 22, 2007 under the MPEP § 806.05 (C).

Discussion and Analysis

A review of the record reveals that on Mar. 22, 2007, a restriction requirement was made under 35 USC § 121 but not under 35 USC § 372 (correctly) between two groups of claimed inventions: I) claims 1-67 drawn to an environment sensitive valve, and II) claims 68-72 drawn to a fuel supply and a fuel cell. The Group I invention and Group II invention are related as subcombination and combination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP §806.05(c)). In the instant case, the combination as claimed does not

require the particulars of the subcombination as claimed because the combination does not require that the valve is sensitive to temperature. The subcombination has separate utility such as within a refrigeration system to regulate refrigerant flow.

In the petition, petitioner does not argue the groupings of the claims nor does he argue whether the inventions are distinct or independent. In addition, petitioner also does not argue the propriety of the election of species requirement. The only argument made in the petition is that the examiner's restriction requirement was improper because the examiner failed to show a serious search burden to the examiner. In support to this argument, petitioner provides a copy of the PCT International Search Report (ISR) conducted by a U.S. patent examiner as authorized officer of the International Search Authority (ISA) to show the examiner's restriction requirement of Mar. 22, 2007 was improper because no serious search burden can be shown as evidenced by the ISR in which the ISA "found no lack of unity".

In the instant application, the distinctness between the claimed inventions was justified in that the combination as claimed does not require the particulars of the subcombination for patentability and the subcombination as claimed has its own utility. This is clearly explained in the restriction requirement mailed on Mar. 22, 2007.

As part of any restriction requirement, the search and examination for each of the claimed inventions must be considered a serious burden on the examiner if restriction were not required. See MPEP 803 and 808.02. Aside from the classifications indicated in the requirement, the potential search for the injection device may involve several areas where environmental sensitive valve devices are located, for example, Classes 44, 137, 251, and 429. Additionally, text search inquiries would involve different search applications for at least some of the grouped inventions. The different classifications provided by the examiner are sufficient to show serious burden. Moreover, the potential additional classification and text searching possible is a sufficient showing of serious burden existing in examining the claims together and is considered implied by the requirement as set up by the examiner. Moreover, the assertion by petitioner that the ISA "found no lack of unity" is not necessarily true. It may be that the ISA chose not to do a holding of lack of unity. The U.S. examiner is not bound by what the ISA has done and certainly the issues developed in the prosecution of the U.S. application can differ from the ISR. Moreover, burden is not an issue under the Patent Cooperation Treaty (PCT) in establishing a holding of lack of unity. Unity is only an issue in the PCT application if a showing of a lack of unity is raised to be an issue. Therefore, the showing of the ISR in the corresponding PCT application does not establish that there is no burden in the U.S. application. Because the inventions are independent or distinct for the reasons given above in the U.S. application, and the inventions require a different field of search (see MPEP § 808.02), restriction for examination purposes as indicated is proper.

Under the circumstances, the examiner's restriction requirement mailed on Mar. 22, 2007 is proper. The request to have the restriction requirement withdrawn will not be granted.

Conclusion

For the reasons outlined above, the restriction requirement promulgated in the restriction requirement dated Mar. 22, 2007 is in accordance with proper Office procedure. Accordingly, the Office action stands. Petitioner's request to withdraw the restriction requirement is dismissed.

The application is being forwarded to Supervisory Patent Examiner of Art Unit 3744 for further examination and consideration of the latest amendment filed on Apr. 10, 2008. 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 Henry Yuen, Special Programs Examiner, at (571) 272-4530.

The petition is dismissed.

Karen M. Young

Karen M. Young, Director
Technology Center 3700

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THE H.T. THAN LAW GROUP
WATERFRONT CENTER SUITE 560
1010 WISCONSIN AVENUE NW
WASHINGTON DC 20007

10/9/08

In re Application of:
Adams, Paul et al
Serial No.: 10/958,574
Filed: Oct. 5, 2004
Docket: BIC-031
Title: FUEL CARTRIDGE WITH AN ENVIRONMENTALLY SENSITIVE VALVE

DECISION ON PETITION

This is a decision on the renewed petition filed on Sep. 24, 2008 to request reconsideration of the petition decision mailed on July 31, 2008 that denied withdrawal of the restriction requirement mailed on Mar. 22, 2007 in connection with the above-referenced application. This petition is being considered pursuant to 37 CFR § 1.144 and 37 CFR § 1.181, and no fee is required.

The petition is denied.

Background

The previous petition was dismissed. The requested withdrawal of restriction requirement of Mar. 22, 2007 was not granted. A standing restriction requirement under MPEP § 806.05 (C) based on claims directed to combination and sub-combination remains unchanged. The examiner had held there was a serious search burden if restriction were not required (MPEP 803 and 808.02). On review, the technology center director concurred with the examiner.

Discussion and Analysis

In the present renewed petition, petitioner asserts that the examiner's restriction requirement was not warranted because the examiner failed to show a serious search burden to the examiner. In support to this argument, petitioner provides a copy of the PCT International Search Report (ISR) conducted by a U.S. patent examiner as authorized officer of the International Search Authority (ISA) to show the examiner's restriction requirement of Mar. 22, 2007 was improper.

Petitioner opines that no serious search burden can be shown if a similar search has already been conducted by the Office and a copy of the search results was provided to the examiner.

In the instant application, petitioner did not argue whether the claims are directed to independent or distinct inventions. The only issue is whether or not the examiner has shown any serious search burden when the examiner has been provided with a copy of the international search report. It should be noted that the international search report is a not binding opinion in a US patent application regarding the search fields and patentability determination in accordance with Article 33, and particularly, 33(5)[1] of The Patent Cooperation Treaty. The U.S. examiner is not bound by what the ISA has done and certainly the issues developed in the prosecution of the U.S. application can differ from the International Search Report (ISR).

In the renewed petition, petitioner also argues that in the Office actions of Sep. 19, 2007 and Jan. 10, 2008, the examiner has applied references cited in the International Search report provided by the applicant, namely, US 3,038,664 to Gould, US 1,848,031 to Spencer, US 3,146,947 to Monroe, Jr., US 6,067,963 to Oi, and US 4,852,606 to Henekker. The citation of the prior art references demonstrably facilitated the examination of the elected claims. Petitioner concludes that it is more than likely that the same comprehensive search report can facilitate the examination of the remaining non-elected claims without a serious burden to the examiner. This line of arguments is purely speculative and totally ignores the potential search for the injection device involving several areas where environmental sensitive valve devices are located, for example, Classes 44, 137, 251, and 429. Additionally, text search inquiries would involve different search applications for at least some of the grouped inventions. The potential additional classification and text searching possible also is a sufficient showing of serious burden existing in examining the claims together and is considered implied by the requirement as set up by the examiner. The different classifications and searches as provided by the examiner are sufficient to show serious burden. Therefore, the showing of the ISR in the corresponding PCT application does not unequivocally establish that there is no serious search burden in the U.S. application. Because the inventions are independent or distinct for the reasons given above in the U.S. application, and the inventions require a different field of search (see MPEP § 808.02), restriction for examination purposes as indicated is deemed appropriate.

Under the circumstances, the examiner's restriction requirement mailed on Mar. 22, 2007 is proper. The request to have the restriction requirement withdrawn will not be granted.

---

[1] Article 33 of PCT: The International Preliminary Examination (1) The objective of the international preliminary examination is to formulate a preliminary and non-binding opinion on the questions whether the claimed inventions appears to be novel, to involve inventive step (to be non-obvious), and to be industrially applicable. (2) For the purposes of the international preliminary examination, a claimed invention shall be considered novel if it is not anticipated by the prior art as defined in the Regulations. (3) For purposes of the international preliminary examination, a claimed invention shall be considered to involve an inventive step if, having regard to the prior art as defined in the Regulations, it is not, at the prescribed relevant date, obvious to a person skilled in the art. (4) For the purposes of the international preliminary examination, a claimed invention shall be considered industrially applicable if, according to its nature, it can be made or used (in the technological sense) in any kind of industry. "Industry" shall be understood in its broadest sense, as in the Paris Convention for the Protection of Industrial Property. (5)The criteria described above merely serve the purposes of international preliminary examination. Any Contracting State may apply additional or different criteria for the purpose of deciding whether, in that State, the claimed invention is patentable or not. (6) The international preliminary examination shall take into consideration all the documents cited in the international search report. It may take into consideration any additional documents considered to be relevant in the particular case.

Conclusion

For the reasons outlined above, the restriction requirement promulgated in the restriction requirement dated Mar. 22, 2007 is in accordance with proper Office procedure. Accordingly, the requirement stands. Petitioner's request to withdraw the restriction requirement of Mar. 22, 2007 is denied.

The application is being forwarded to Supervisory Patent Examiner of Art Unit 3744 for further examination and consideration of the latest amendment filed on Sep. 11, 2008. 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" and 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(b).

Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4514.

Accordingly, the petition is denied.

Karen M. Young

Karen M. Young, Director
Technology Center 3700

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DICKSTEIN SHAPIRO LLP
1825 EYE STREET, NW
WASHINGTON, DC 20006

Mail Date: 04/21/2010

Applicant	: Alexander I. Krymski	: DECISION ON REQUEST FOR
Patent Number	: 7573516	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/958,592	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/06/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1167** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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FAY KAPLUN & MARCIN, LLP
150 BROADWAY, SUITE 702
NEW YORK NY 10038

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OFFICE OF PETITIONS

In re Application of :
BAIRD et al. :
Application No. 10/958,610 :
Filed: 10/05/2004 :
Attorney Docket No. 40146/00501-1819 :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 9, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed November 7, 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 8, 2007. A Notice of Abandonment was mailed on June 17, 2008.

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

This matter is being forwarded to Technology Center AU 2131.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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In re Patent No. 6961258
Issue Date: November 1,2005
Application No. 10958613
Filed: October 5,2004
Attorney Docket No. ITO.0527D2US (P11412D2)

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed February 8,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 8,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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KONSTANTINE J. DIAMOND
4010 E. 26th st.
Los Angeles, CA 90023

Mail Date: 04/22/2010

Applicant	: William P. Apps	: DECISION ON REQUEST FOR
Patent Number	: 7604122	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/958,618	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/04/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **723** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Plano, TX 75075

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OFFICE OF PETITIONS

In re Application of
SEE, Michael E. *et al*
Application No.: 10/958,620
Filing Date: October 05, 2004
Docket No.: 134923CNT2
For: DETERMINISTIC USER AUTHENTICATION SERVICE FOR COMMUNICATION NETWORK

DECISION

ON PETITION UNDER

37 CFR 1.137(b)

This is a decision on the petition to revive under 37 CFR 1.137(b) filed on June 22, 2005. The petition under 1.137(b) is hereby **DISMISSED** as **MOOT**.

The Notice to File Missing Parts of Nonprovisional Application mailed December 7, 2004 set a two (2) month period for reply, with extensions of time obtainable under 37 CFR 1.136(a). As such, applicant's response filed June 22, 2005 is timely. A five-month extension fee of $2,160.00 is required. This fee has been charged to Deposit Account No. 50-0838 as authorized.

In the papers filed June 22, 2005, petitioner submitted a declaration in compliance with 37 CFR 1.63, the surcharge fee and the petition to revive fee. The $1,500.00 petition to revive fee is not required and has been credited back to counsel's Deposit Account.

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: 571-272-3302

Brian Hearn
Petitions Examiner
Office of Petitions

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

Mail Date: 04/20/2010

Applicant	: Woo-Joon Chung	: DECISION ON REQUEST FOR
Patent Number	: 7605779	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/958,647	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/06/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1408** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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LABOPHARM, INC.
480 ARMAND-FRAPPIER BOULEVARD
LAVAL, QUEBEC, CANADA H7V 4B4

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APR 10 2006

OFFICE OF PETITIONS

In re Application of :
Vincent Lenaerts et al :
Application No. 10/958,662 : DECISION GRANTING PETITION
Filed: October 6, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 31989-2022 US :

This is a decision on the petition under 37 CFR 1.137(b), filed January 5, 2006 (and supplemented on April 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 Notice to File Missing Parts of Nonprovisional Application (Notice) mailed January 5, 2005, requiring submission of the following items to avoid the abandonment of the application: 1) $790 statutory basic filing fee; 2) executed oath or declaration; 3) $130 surcharge; 4) replacement drawings; and 5) additional claim fees totaling $6,570. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 8, 2005 (March 6, 2005, the due date, was a Sunday).

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 above-noted items required by the Notice of January 5, 2005; (2) the petition fee of $1,500; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of January 5, 2005 is accepted as having been unintentionally delayed.

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

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

Frances Hicks
Petitions Examiner
Office of Petitions

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DYKEMA GOSSETT PLLC
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1300 I STREET, NW
WASHINGTON DC 20005

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JUL 21 2005

OFFICE OF PETITIONS

In re Application of :
Pasuri et al. :
Application No. 10/958,667 : DECISION ON PETITION
Filed: 6 October, 2004 :
Atty Docket No. 66411-091 :

This is a decision on the petition filed on 24 June, 2005, requesting that the above-identified application, including two (2) sheets of drawings, be accorded a filing date of 6 October, 2004.

The petition is **GRANTED**.

On 6 October, 2004, the application was filed.

On 7 December, 2004, Initial Patent Examination Division mailed a Notice of Incomplete Nonprovisional Application, stating that the application had been deposited without drawings, and that application should reconsider whether drawings were necessary under 35 U.S.C. § 113 (first sentence). The Notice stated that the filing date would be the date of receipt of the missing drawings. An executed oath or declaration, the statutory basic filing fee, and a surcharge for their late filing was also required.

In response, on 14 December, 2004, petitioners filed a copy of their itemized return receipt postcard and a copy of two sheets of drawings. On 24 June, 2005, the present petition was filed, accompanied by authorization to charge the petition fee, surcharge, and basic filing fee.

Petitioners argue that two (2) drawing sheets was filed with the other application papers on 6 October, 2004, but were

subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioner's postcard receipt was supplied with the present petition. The postcard receipt shows an "Office-date" dated 6 October, 2004, and identifies the application by the first-named inventor's name, invention title, and attorney docket number, and acknowledges receipt of, *inter alia*, 2 sheets of drawings. Petitioners requests that the application, including the two (2) sheets of drawings, be accorded a filing date of 6 October, 2004.

A review of the record reveals that no sheets of drawings received on 6 October, 2004, are located among the application papers received on that date. However, the evidence is convincing that the application papers deposited on 6 October, 2004, included two (2) sheets of drawings, which were subsequently misplaced in the Office. Therefore, the application, including two (2) sheets of drawings, is entitled to a filing date of 6 October, 2004.

In view of the above, the petition is granted. No petition fee is due and none has been charged.

The application will be processed with the copy of the two (2) sheets of drawings supplied on 14 December, 2004, as a part of the original disclosure.

The application is being referred to Initial Patent Examination Division for further processing with a filing date of 31 March, 2005, using the application papers filed on that date, and the copy of two (2) sheets of drawings previously supplied, and for an indication in Office records that two (2) sheets of drawings were present on filing.

Telephone inquiries should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Paper No.

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APR 15 2008

OFFICE OF PETITIONS

KOLISCH HARTWELL, P.C.
520 SW YAMHILL STREET, Suite 200
PORTLAND OR 97204

In re Application of :
Zhenjun Diwu et al. :
Application No. 10/958,670 : DECISION ON PETITION
Filed: October 4, 2004 : PURSUANT TO
Attorney Docket No.: LJL 369CON : 37 C.F.R. § 1.181
Title: FLUORESCENT PH :
INDICATORS FOR INTRACELLULAR :
ASSAYS :

This is a decision on the petition filed March 3, 2008, pursuant to 37 C.F.R. § 1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed December 15, 2006, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on March 16, 2007. A notice of abandonment was mailed on June 29, 2007.

With this petition, Petitioner has asserted that a response was submitted to the Office on June 15, 2007, along with a three-month extension of time. Petitioner has submitted a copy of this response, and it is noted that it contains a certificate of mailing dated June 15, 2007.

Moreover, it is noted that both this response and a petition for a three-month extension of time have been located in the electronic file, and Office records reflect the receipt of $1020 (the fee that is associated with a petition for a three-month extension of time) on June 20, 2007; therefore, it is clear that

this response was timely submitted on June 15, 2007 and received on June 20, 2007.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that a response was timely submitted.

Accordingly, the petition under 37 C.F.R. § 1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

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 response to the non-final Office action that was received on June 20, 2007 can be processed.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[1]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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

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GUERIN & RODRIGUEZ, LLP
5 MOUNT ROYAL AVENUE
MOUNT ROYAL OFFICE PARK
MARLBOROUGH, MA 01752

Mail Date: 04/21/2010

Applicant	: Craig Parker	: DECISION ON REQUEST FOR
Patent Number	: 7590717	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/958,675	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/05/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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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OFFICE OF PETITIONS

DORSEY & WHITNEY
555 CALIFORNIA STREET, SUITE 1000
SAN FRANCISCO CA 94104

In re Application of :
Henry T. Fung :
Application No. 10/958,725 : ON PETITION
Filed: October 4, 2004 :
Attorney Docket No. A-70535-1/RMA (468937-38) :

This is a decision on the petition, filed February 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 February 7, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2116 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

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DYKEMA GOSSETT PLLC
39577 WOODWARD AVENUE
SUITE 300
BLOOMFIELD HILLS MI 48304-5086

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JAN 08 2010

In re Application of	:	
Henry T. Fung	:	
Application No. 10/958,725	:	NOTICE
Filed: October 4, 2004	:	
Attorney Docket No. 100544-0006	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

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

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

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

Inquiries related to this communication should be directed to Terri Johnson at (571) 272-2991.

Chris Bottorff
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10-07-08

TO SPE OF : ART UNIT 3991

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/958744 Patent No.: RE39921

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. 183

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: _____

ARDIN H. MARSCHEL
SUPERVISORY PATENT EXAMINER

SPE 1614 **Art Unit**

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HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

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DEC 12 2008

OFFICE OF PETITIONS

In re Application of :
QI, et al. :
Application No. 10/958,751 : DECISION GRANTING PETITION
Filed: October 5, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **2386.2029-000** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 10, 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 24, 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 2614 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner
Office of Petitions

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

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530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

Mail Date: 04/21/2010

Applicant	: David Cheng-Song Qi	: DECISION ON REQUEST FOR
Patent Number	: 7583621	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/958,751	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/05/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **893** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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AKZO NOBEL INC.
INTELLECTUAL PROPERTY DEPARTMENT
120 WHITE PLAINS ROAD 3RD FLOOR
TARRTOWN NY 10591

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JUL 09 2007

OFFICE OF PETITIONS

In re Application of :
Van Engelen, et al. :
Application No. 10/958,771 : ON PETITION
Filed: October 5, 2004 :
Attorney Docket No. ACO 6160 US1 :
For: COATING COMPOSITIONS COMPRISING A POLYISOCYANATE COMPOUND, A HYDROXYL-FUNCTIONAL FILM FORMING POLYMER, AND A NON VOLATILE BRANCHED MONOALCOHOL

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

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." Petitioner is advised that this is not a final agency decision.

This application became abandoned for failure to timely reply to the non-final Office action, mailed June 27, 2006, which set an extendable three month period for reply. No extensions of time or reply being received in the Office, the application became abandoned on September 28, 2006. A Notice of Abandonment was mailed on January 23, 2007.

A grantable petition pursuant to 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. 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 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

As a threshold matter, the instant petition does not satisfy requirement (2) above.

The large entity fee for filing a petition to revive an unintentionally abandoned application under 37 CFR 1.137(b) is $1,500.00. A review of Office records indicates that petitioners have not paid this fee.

The payment of the petition fee is a prerequisite to the filing of a petition to revive under 37 CFR 1.137(b). This requirement cannot be waived. MPEP 711.03(c)(III)(B). Therefore, consideration of the merits of the petition before receipt of the petition fee is prohibited.

Petitioners should submit the petition fee promptly.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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INTELLECTUAL PROPERTY DEPARTMENT
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TARRTOWN NY 10591

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AUG 0 6 2007

OFFICE OF PETITIONS

In re Application of :
Van Engelen, et al. :
Application No. 10/958,771 : ON PETITION
Filed: October 5, 2004 :
Attorney Docket No. ACO 6160 US1 :
For: COATING COMPOSITIONS COMPRISING A POLYISOCYANATE COMPOUND, A HYDROXYL-FUNCTIONAL FILM FORMING POLYMER, AND A NON VOLATILE BRANCHED MONOALCOHOL

This is a decision on the renewed petition under 37 CFR 1.137(b), filed July 12, 2007, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely reply to the non-final Office action, mailed June 27, 2006, which set an extendable three month period for reply. No extensions of time or reply being received in the Office, the application became abandoned on September 28, 2006. A Notice of Abandonment was mailed on January 23, 2007.

Applicants have submitted an amendment in reply to the June 27, 2006 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the June 27, 2006 non-final Office action, and authorization to charge the petition fee to deposit account no. 01-1350. The deposit account will be charged $1,500.00.

All of the requirements under 37 CFR 1.137(b) being met, the petition is granted.

After the mailing of this decision, the application will be returned to Technology Center AU 1714 for consideration of the amendment filed on February 6, 2007.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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APR 17 2007

OFFICE OF PETITIONS

MARJAMA & BILINSKI LLP
250 SOUTH CLINTON STREET
SUITE 300
SYRACUSE NY 13202

In re Application of :
Ynjiun Wang :
Application No. 10/958,779 : ON PETITION
Filed: October 5, 2004 :
Attorney Docket No. 283-415 :

This is a decision on the petition, filed April 13, 2007 and supplemented on April 16, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 28, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2876 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

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

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FISH & RICHARDSON P.C.
P.O. Box 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 04/20/2010

Applicant	: Anubha Rastogi	: DECISION ON REQUEST FOR
Patent Number	: 7639886	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/958,802	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/04/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1198** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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M. CARAGH NOONE
BRACCO RESEARCH USA
305 COLLEGE ROAD EAST
PRINCETON NJ 08540

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FEB 28 2005

OFFICE OF PETITIONS

In re Application of :
John J. Niedospial et al. :
Application No. 10/958,805 : DECISION ON PETITION
Filed: October 5, 2004 :
Attorney Docket No: RD-63C US Cip2-Con1 :

This is a decision on the paper filed January 18, 2004 in response to the Notice To File Corrected Application Papers mailed December 21, 2004, which is treated under 37 CFR 1.182.

The matter is **DISMISSED** as involving moot issues.

On October 5, 2004, applicant filed the above-identified application. However, on December 21, 2004, the Office of Initial Patent Examination mailed a "Notice to File Corrected Application Papers" stating that, a filing date had been assigned but that page 20 of the specification appeared to have been omitted.

The mailing of a "Notice of Omitted Items" permits the applicant to either: (1) promptly establish prior receipt in the PTO of the omitted item at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted item in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the omitted item was in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted item in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted item with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such item and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the "Notice of Omitted Items" (37 CFR 1.181(f)).

Finally, the third option is in the absence of electing options 1) or 2) above, to constructively opt to accept the filing date which has been accorded with the papers filed upon application. With option 3), no petition under 37 CFR 1.182 is necessary for that purpose.

In this case, a review of the file does not reveal that a petition and petition fee has been filed but instead the records of the file show that an amendment has been filed as well as the alleged omitted page (page 20) of the specification.

In the absence of a petition, since applicant neither admits nor denies that page 20 was present upon filing and in view of the amendment filed January 18, 2005 in response to the Notice, it appears that applicant is constructively electing to have the application accepted as filed on October 5, 2004 without page 20 of the specification.

The Office of Initial Patent Examination will be notified to process the application without page 20 of the specification as part of the original disclosure and the preliminary amendment will be retained in the file for review by the Examiner in due course.

Any further concerns specific to this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 2/25/08

Paper No.: _____

TO SPE OF : **Technology Center** 2863

10/958807

SUBJECT : Request for Certificate of Correction on Patent No.: 7257510 B2

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

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

Elisha Evans
Certificates of Correction Branch
Tel. No. 703-308-9390 EXT 110

Thank You For Your Assistance

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

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

Comments:

Please enter the certificate of correction because the applicant's intention to correct a typing error in the specification and cancel claims 27, 31, 39 and 43 do not affect the scope of the claimed invention.

XS

_____ 2863
SPE **Art Unit**

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

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JUL 18 2007

OFFICE OF PETITIONS

In re Application of :
Sereno, Paulo Celso De A. :
Application No. 10/958,833 : ON PETITION
Filed: October 5,2 004 :
Attorney Docket No. 60,130-2132; :
04ARM0049

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 21, 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 reply to the final Office action mailed October 13, 2006. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on January 14, 2007. A Notice of Abandonment was mailed May 30, 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 June 21, 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.** 10/958,833	**Applicant(s)** SERENO, PAULO CELSO DE A.
	Examiner Russell D. Stormer	**Art Unit** 3617

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

THE REPLY FILED 21 June 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____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: *7-10,14,15 and 18-20*.
   Claim(s) objected to: *None*.
   Claim(s) rejected: *21-28*.
   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: Amended claim 24 as proposed would still be properly rejected over Bonning et al in view of Bellamore. Bellamore is relied upon for its teaching of welding two discs of a wheel to one another. It is still felt that it would have been obvious to those of ordianry skill in the art to modify the weheel of Bonning et al to have the first and second discs welded together at the central opening 9 of the second disc of Bonning et al. Those of ordinary skill would realize that this could or would result in a stronger assemlby. The rejection does not imply that the press-fit would be replaced by the weld as suggested by Applicant in the last paragraph of page 8 of the response.

The teachings of Bonning et al are not destroyed as suggested by Applicant, nor would the wheel of Bonning et al be rendered unsatisfactory as argued on page 8. Bonning et al seeks to provide a strong, lightweight wheel assembly. To weld the discs 1 and 2 together would not destroy any teachings of Bonning et al inasmuch as the discs may be adhesively joined in addition to the press-fit. (See lines 54-57 of column 2 of Bonning et al) Thus, there is also motivation to weld, or otherwise permanently join the discs of Bonning et al, and the wheel with a weld would be just as satisfactory as a wheel with the press-fit only. Although not stated in the final rejection, the weld could be substituted for the adhesive in the wheel of Bonning et al.

The fact that adding a welding step to the assembly might increase costs or manufacturing time for the wheel is irrelevant because those of ordinary skill in the art would know this and choose the features of the wheel and manufacturing steps accordingly, based on intended use of the wheel, desired costs, etc.

That Bellamore has structure which is different from that of Bonning et al is not pertinent to the issues because Bellamore teaches the welding of two disc portions of a wheel, and the other structure of the wheel of Bellamore is not relevant inasmuch as Bellamore is not used as the base reference. To modify the wheel of Bonning et al to have the two discs welded as taught by Bellamore would not require the wheel of Bonning et al to incorporate all of the other features of the wheel of Bellamore as suggested by Applicant. The wheels of the references need not be physically combinable to render the claims obvious, as Applicant is well-aware. Rather, it is the teachings of a modifying reference that are applied to a base reference in a rejection based on 35 U.S.C. 103.

Further, the amended claims would require further consideration since Bellamore would have to be considered as a possible base reference due to the amendment.

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Robert E. Cannuscio
Drinker Biddle & Reath LLP
One Logan Square
18th & Cherry Streets
Philadelphia, PA 19103-6996

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OFFICE OF PETITIONS

In re Application of :

Michael Edward Sekerich :

Application No. 10/958,856 : DECISION ON PETITION
Filed: October 5, 2004 : TO WITHDRAW
Attorney Docket No. 8092-151 (193942) : 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 28, 2006.

The request is **APPROVED.**

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

The request was signed by Robert E. Cannuscio on behalf of all attorneys of record who are associated with Customer No. 23973

All attorneys/agents associated with the Customer No. 23973 have been withdrawn.

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

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

There is an outstanding Office action mailed May 6, 2005 that requires a reply from the applicant.

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Michael Edward Sekerich**
216 N. Pascack
Spring Valley, NY 10977

cc: **Lewis Hendler, Esq.**
LN International, Inc.
P.O. Box 689
Huntington Valley, PA 19006

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Paper No.

Michael Edward Sekerich
216 N. Pascack
Spring Valley NY 10977

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JAN 18 2007

OFFICE OF PETITIONS

In re Application of	:	
Michael Edward Sekerich	:	
Application No. 10/958,856	:	DECISION ON
Filed: October 5, 2004	:	PETITION
Attorney Docket No.	:	
8092-151(193942)	:	

This is a decision on the PETITION TO WITHDRAW HOLDING OF ABANDONMENT NON-RECEIPT OF OFFICE ACTION (MPEP §711.03(c)(I)(A) filed October 18, 2006.

The above-identified application became abandoned for failure to file a timely and proper reply to the non-final Office action mailed May 6, 2005. This Notice set a three month shortened statutory period for reply, with extensions of time obtainable under 37 CFR §1.136(a). No reply having been received and no extensions obtained, the above-identified application became abandoned effective August 7, 2005. The instant petition precedes the mailing of a courtesy Notice of Abandonment.

Based on their review of PAIR, applicant filed the instant petition, asserting that the Office action mailed May 6, 2005 was never received and requesting that the holding of abandonment be withdrawn. Applicant points to the indication in PAIR that the Office action addressed to the business address of record was returned to the Patent Office as proof of non-receipt.

A review of the application file reveals an irregularity in the mailing of the Office action mailed May 6, 2005. Even though the Office action was addressed to the correspondence address of

record, the mailing was returned to the Office as undeliverable as addressed. In addition, the petition includes a statement from the practitioner stating that the Office communication was not received by the practitioner. The practitioner does not attest to a search of the file jacket indicating that the Office action was not received or provide docket records. Nonetheless, given the irregularity in the mailing, it is concluded that petitioner has made an adequate showing of non-receipt.

In view thereof, the holding of abandonment is hereby **WITHDRAWN**.

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

No fee is required on petition under § 1.181.

Pursuant to the withdrawal of attorney filed November 28, 2006 and granted by decision mailed January 4, 2007, this decision is being mailed to the correspondence address of record.

Technology Center AU 3723 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical support staff to withdraw the holding of abandonment and for re-mailing of the non-final Office action mailed May 6, 2005 and for restarting of the period for reply.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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PATENT DEPARTMENT
98 SAN JACINTO BLVD., SUITE 1500
AUSTIN TX 78701-4039

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OFFICE OF PETITIONS

Applicant: Kirker et al.
Appl. No.: 10/958,894
Filing Date: October 5, 2004
Title: CLEANING HOLLOW CORE MEMBRANE FIBERS USING VIBRATION
Pub. No.: US 2005/0077227 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 July 7, 2005, for the above-identified application

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains a material error, as the publication does not include the claims filed with the application.

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

The request for corrected publication received on July 7, 2005, 2005, was not timely filed under 37 CFR 1.221(b).

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

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

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

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

By facsimile: 571-273-8300

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

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

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AUG 17 2007

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

AKIN GUMP STRAUSS HAUER & FELD LLP
ONE COMMERCE SQUARE
2005 MARKET STREET, SUITE 2200
PHILADELPHIA, PA 19103

In re Application of
HERR, JEREMY
Serial No.: 10/958,898
Filed: October 5, 2004
For: PREPARATION OF PRODUCTION DATA FOR A PRINT JOB USING A STILL IMAGE PROXY OF A PAGE DESCRIPTION LANGUAGE IMAGE FILE

DECISION ON PETITION
ACCEPTANCE OF COLOR DRAWINGS

This is a decision on the petition pursuant to 37 C.F.R. § 1.84(a)(2), filed October 5, 2004, and filed again on 7/31/07 requesting acceptance of color drawings.

The petition requests that the color drawings/photographs, noted as Figures 1, 2A, 2B, 3-6, 8-15 and 18-21 be accepted in lieu of black and white drawings.

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

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

A review of the file record reveals that applicant has provided three sets of color drawings, filed simultaneously with the subject petition and the required amendment to the specification.

Petitioner has satisfied the requirements of 37 C.F.R. §1.84(a)(2). Accordingly, the petition is **GRANTED**.

The application file will be forwarded to the examiner for action in appropriate turn.

Krista M. Zele
Special Program Examiner
Technology Center 2600

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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SYNOPSYS, INC./BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 Oakmead Parkway
Sunnyvale, CA 94085-4040

Mail Date: 04/21/2010

Applicant	: Bing Tian	: DECISION ON REQUEST FOR
Patent Number	: 7620917	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/958,899	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/04/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **613** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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BARNES & THORNBURG LLP
P.O. BOX 2786
CHICAGO IL 60690-2786

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OFFICE OF PETITIONS

In re Application of	:	
BLOCK, et al.	:	
Application No. 10/958,905	:	DECISION GRANTING PETITION
Filed: October 5, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 28022-97138	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 22, 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 June 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 3764 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Mónica A. Graves
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

Stephen Michael Patton
P.O. Box 381454
Germantown, TN 38183

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OFFICE OF PETITIONS

In re Application of :
POSSELIUS et al. :
Application No. 10/958,921 : DECISION ON PETITION
Filed: October 5, 2004 : TO WITHDRAW
Attorney Docket No. 17682 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 17, 2006.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, no longer legally representing the assignee, does not meet any of the conditions set forth in 37 CFR 10.40 as the assignee has not intervened in accordance with 37 CFR 3.71.

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

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

David Bucci
Petitions Examiner
Office of Petitions

cc: CNH AMERICA LLC
Intellectual Property Law Department
P.O. Box 1895, MS 641
New Holland, PA 17557

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JOHN V STEWART
1308 HENRY BALCH DRIVE
ORLANDO FL 32810

12/4/08

In re Application of:
MAUL, KENNETH L.
Serial No.: 10/958,933
Filed: Oct. 5, 2004
Docket: n/a
Title: METHOD FOR CONDUCTING SPORTS TOURNAMENTS WITH WAGERING

DECISION ON PETITION
UNDER 37 CFR 1.91

This is a decision on the petition for request entry of exhibit supporting the affidavits filed under 37 CFR 1.132.

The petition filed on Nov. 17, 2008 requests entry of exhibit filed with the RCE and Rule 132 affidavits under 37 CFR 1.91[1] and includes the required petition and the required fees as set forth in 37 CFR 1.17(h). The fee of $130.00 was charged against the Deposit Account in accordance with 37 CFR 1.17(h) as authorized in the petition.

The request to enter the exhibit and the petition comply with the requirements as set forth in 37 CFR 1.91. Accordingly, the requested entry of the exhibit in the file record is granted. Currently, the exhibit has been placed in a separate artifact file.

The application is being forwarded to the examiner for consideration of the submission filed with the RCE on Nov. 17, 2008. Telephone inquiries concerning this decision should be directed to Henry C. Yuen at 571-272-4856.

Petition is **granted**.

Donald T. Hajec, Director
Technology Center 3700

[1] § 1.91 Models or exhibits not generally admitted as part of application or patent. (a) A model or exhibit will not be admitted as part of the record of an application unless it: (1) Substantially conforms to the requirements of § 1.52 or § 1.84; (2) Is specifically required by the Office; or (3) Is filed with a petition under this section including: (i) The fee set forth in § 1.17(h); and (ii) An explanation of why entry of the model or exhibit in the file record is necessary to demonstrate patentability. (b) Notwithstanding the provisions of paragraph (a) of this section, a model, working model, or other physical exhibit may be required by the Office if deemed necessary for any purpose in examination of the application. (c) Unless the model or exhibit substantially conforms to the requirements of § 1.52 or § 1.84 under paragraph (a)(1) of this section, it must be accompanied by photographs that show multiple views of the material features of the model or exhibit and that substantially conform to the requirements of § 1.84.

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ONE JOHN DEERE PLACE
MOLINE IL 61265

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OFFICE OF PETITIONS

In re Application of	:	
Schlesser et al.	:	
Application No. 10/958,939	:	ON PETITION
Filed: October 5, 2004	:	
Attorney Docket No. 16005D1-US	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 13, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the Issue Fee Transmittal, along with 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 response has been accepted as having been unintentionally delayed.

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

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

Liana Chase
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Patent No. 7,561,312	
Proudfoot et al.	
Issue Date: July 14, 2009	
Application No. 10/958,940	DECISION ON REQUEST FOR
Filed: October 4 2004	RECONSIDERATION OF
Attorney Dkt. No. 16113-1326001	PATENT TERM ADJUSTMENT
Title: Systems and Methods For	
Glare Removal Using Polarized	
Filtering In Document Scanning	

This is in response to the " Application For Patent Term Adjustment Under 37 CFR §1.705(d)" filed September 14, 2009. Patentees request that the patent term be adjusted from 644 days to 1004 days.

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

On July 14, 2009, the above-identified application matured into US Patent No. 7,561,312 with a patent term adjustment of 644 days. This request for reconsideration of patent term adjustment (including the required fee) was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant to Wyeth, a PTO delay under 35 U.S.C. §154(b)(1)(A) overlaps with a delay under 35 U.S.C. §154(b)(1)(B) only if the delays "occur on the same day." Patentees maintain that the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), 360 of 427 days, does not overlap with the 736 day period of adjustment due to examination delay, pursuant to 37 CFR §1.702(a), as these periods do not occur on the same day.

Patentees submit that the total period of adjustment for Office delay is the sum of the period of three-year delay (427 days) and the period of examination delay (736 days) to the extent these periods do not overlap. As such, patentees assert entitlement to a patent term adjustment of 1004 days (736 days *plus* 427 days less 67 days of overlap less 92 days of applicant delay).

The Office finds that as of the day before the date the filing of the request for continued examination (RCE) on December 3, 2008, the application was pending three years and 426 days after its filing date. An entry of a period of adjustment of 736 days was entered for Office delay. Further, an undisputed reduction of 92 days for applicants' failure to engage in reasonable efforts to conclude prosecution was taken. At issue is whether patentee should accrue an additional 426 days of patent term adjustment for the Office taking in excess of three years to issue the patent as well as 736 days for Office failure to take a certain action within a specified time frame (or examination delay).

Patentee's calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

Likewise, 37 CFR 1.703(f) provides that:

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

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

permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

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

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

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the filing date October 4, 2004 until the day before the filing of the RCE on December 3, 2008. Prior to the issuance of the patent, 736 days of patent term adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application.

The Office did not delay 736 days and then delay an additional 426 days. Accordingly, 736 days of patent term adjustment for

Office delay (not 736 days and 426 days) was properly entered because the entire period of delay of 426 days attributable to the delay under 37 CFR 1.702(b) overlaps with the 736 days attributable to grounds specified in § 1.702(a)(1).

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment.

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent was 644 (736-92) days.

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

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

/Kery A. Fries/

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

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MINNEAPOLIS, MN 55440-1022

Mail Date: 04/20/2010

Applicant	: Robert A. Proudfoot	: DECISION ON REQUEST FOR
Patent Number	: 7561312	: RECALCULATION of PATENT
Issue Date	: 07/14/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/958,940	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/04/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1003** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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XILINX, INC
ATTN: LEGAL DEPARTMENT
2100 LOGIC DR
SAN JOSE CA 95124

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OFFICE OF PETITIONS

In re Application of :
Mohan et al. :
Application No. 10/958,962 : DECISION ON PETITION
Filed: October 5, 2004 :
Attorney Docket No. X-1582 US :

This is a decision on the petition, filed February 18, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This application was held abandoned for failure to timely pay the issue and publication fees on or before January 14, 2009, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed October 14, 2008. A Notice of Abandonment was mailed on February 10, 2009.

Petitioner asserts that the Notice of Allowance dated October 14, 2008 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner. The statement should also describe the system used for recording an Office action received at the correspondence address of record and establish that the docketing system was sufficiently reliable;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the master docket for the firm docket record where the nonreceived Office action would have been entered had it been received must be attached to and referenced in the practitioner's statement. If no master docket exists, the practitioner should so state and provide other evidence such, as but not limited: to the application file jacket, incoming mail log; calendar; reminder system or individual docket record for the application in question

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition fails to satisfy all of the above-stated requirements. Item(s) (1) and (3) has not been satisfied.

As to item (1), petitioner has failed to provide a statement describing the system used for recording correspondence and establish that the docketing system was sufficiently reliable.

As to item (3), a review of the docket records shows that petitioner has failed to provide master docket records for the firm. Nor has petitioner stated that a master docket does not exist. 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. See MPEP 711.03(c). Petitioner has only provided an individual docket record.

Accordingly, absent the required evidence to establish nonreceipt of the Notice of October 14, 2008, the petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

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 $810.00 petition fee.

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

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

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

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

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

Charlema Grant
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Mohan et al. :
Application No. 10/958,962 : DECISION ON PETITION
Filed: October 5, 2004 :
Attorney Docket No. X-1582 US :

This is a decision on the renewed petition, filed April 22, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the Notice of Allowance and Fees Due mailed October 14, 2008, which set a three (3) month statutory period for reply. A Notice of Abandonment was mailed on February 10, 2009.

Petitioner asserts that the Notice of Allowance and Fees Due dated October 14, 2008 was not received. On renewed petition, practitioner states that Xilinx, Inc does not maintain a master docket.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner. The statement should also describe the system used for recording an Office action received at the correspondence address of record and establish that the docketing system was sufficiently reliable;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the master docket for the firm docket record where the nonreceived Office action would have been entered had it been received must be attached to and referenced in the practitioner's statement. 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 master docket exists, the practitioner should so state and provide other evidence such, as but not limited: to the application file jacket, incoming mail log; calendar; reminder system or individual docket record for the application in question

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

In light of the submission of the $1510 issue fee on February 18, 2009, this application is being referred to the Office of Data Management for processing into a patent.

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

Charlema Grant
Petitions Attorney
Office of Petitions

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ALBUQUERQUE NM 87102

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In re Patent No.

7,071,881

Application No. 10/958,964

Filed: October 4, 2004

Issued: July 4, 2006

Attorney Docket No. 31451-EM-2057

: DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.182 to correct the name of a joint inventor named on the above-cited patent.

The petition is **dismissed.**

The instant petition was filed on July 5, 2006, to correct the name of the second named inventor to the application. It is noted that the petition was not filed until after the issue fee was paid. The subject application matured into United States Patent No. 7,071,881 on July 4, 2006, without the requested correction to the inventor's name. The inventor's name cannot be corrected by a petition under 37 CFR 1.182 because the application has matured into a patent. The petition is dismissed, accordingly.

Petitioner may file a request under 37 CFR 3.81 and a certificate of correction requesting the correction to the inventor's name. The fee for the request is $130.00 and the fee for the certificate of correction is $130.00.

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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Paper No.

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OFFICE OF PETITIONS

In re Patent No. 7,547,556	:	DECISION
Hunter et al.	:	DISMISSING REQUEST FOR
Issue Date: June 16, 2009	:	RECONSIDERATION OF PATENT
Application No. 10/958,969	:	TERM ADJUSTMENT
Filed: October 5, 2004	:	UNDER 37 CFR 1.705
Attorney Docket No.	:	
65689CPD2(43382)(PATENT)	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)," filed on August 8, 2009. Patentees request that the Patent Term Adjustment for the above-identified patent be increased from 893 days to at least 1152 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 893 days.

BACKGROUND

On June 16, 2009, the above-identified application matured into U.S. Patent No. 7,547,556, with a revised Patent Term Adjustment of 893 days. On August 8, 2009, the subject request for reconsideration was filed.

The Office determined that the 489 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b) overlaps with the 900 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1) and (a)(2) accorded prior to the filing of the request for continued examination. As such, no additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the applicant delay of seven (7) days, the patent issued with a revised patent term adjustment of 893 (900 - 7) days.

On August 8, 2009, patentees 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 1152 days under the court's interpretation of the overlap provision as set forth in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant to Wyeth, a PTO delay under §154(b)(1)(A) overlaps with a delay under §154(b)(1)(B) only if the delays "occur on the same day." Patentees maintain that the total non-overlapping PTO delay under §154(b)(1)(A) & (B) is 1159 (900 + 490 - 231 overlap) days as these periods do not occur on the same day. Further, given the applicant delay of seven (7) days, patentees assert entitlement to 1152 (1159 - 7) days of patent term adjustment.

OPINION

On February 6, 2009, an RCE was filed. The filing of an RCE cuts off the ability to accumulate any additional patent term adjustment under the three-year pendency provision. The period beginning on the day the RCE is filed to the issue date of the patent is excluded from the period under § 1.702(b). Accordingly, the period in this instance is 489 days, rather than 490 days as calculated by patentees, counting the number of days in the period beginning on October 5, 2007, three years after the date the application was filed, and ending on February 5, 2009.

Nevertheless, patentees' interpretation of the period of overlap has been considered, but found inconsistent with the Office's interpretation of the overlap provision, 35 U.S.C. 154(b)(2)(A). 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

As explained in *Explanation of 37 CFR 1.703(f) 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).

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 (or, in an international application, the date that the national stage commenced under 35 U.S.C. 371(b) or (f), 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, October 5, 2004, and ending on the day prior to the date of filing of a request for continued examination (RCE), February 5, 2009 (not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). The relevant period ends with the filing of the RCE as the three-year time frame specified in 35 U.S.C. 154(b)(1)(B) does not include the period subsequent to the filing of the RCE. 35 U.S.C. 154(b)(1)(B)(i).

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1) and (a)(2), 900 days of patent term adjustment were accorded during the pendency of the application for Office delay prior to the filing of the request for continued examination. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 489 days of patent term adjustment accrued for Office issuance of the patent more than 3 years after the filing date of the application.

The 489 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 900 days of patent term adjustment under 37 CFR 1.702(a)(1) and (a)(2). Entry of both the 900 days and the 489 days is neither permitted nor warranted. Considering the

applicant delay of seven (7) days, the correct patent term adjustment is 893 days.

CONCLUSION

In view thereof, no change will be made in the revised determination of patent term adjustment at the time 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.

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Douglas I. Wood, at (571) 272-3231.

Christina L. Donnell for

Anthony Knight
Supervisor
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 7-30-09 Paper No.: _____

TO SPE OF : ART UNIT 1797

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/958,969 Patent No.: 7547556

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

FOR IFW FILES: Should COC 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: _____

/Vickie Kim/
SPE

1797
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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KELLY BAUERSFELD LOWRY & KELLEY, LLP
6320 CANOGA AVENUE
SUITE 1650
WOODLAND HILLS, CA 91367

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MAR 10 2005

OFFICE OF PETITIONS

In re Application of	:	
Chaoui et al.	:	
Application No. 10/958,984	:	DECISION DISMISSING
Filed: October 4, 2004	:	PETITION UNDER
For: AUTOMATIC BLOOD ANALYSIS	:	37 CFR 1.47(a)
AND IDENTIFICATION SYSTEM	:	

This is in response to a Petition Under 37 CFR 1.47(a), filed January 18, 2005, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor.

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)"; 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).

Background

The above-identified application was filed on October 4, 2004, without an executed oath or declaration. In response, the Office mailed a Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice"), on November 16, 2004, requiring *inter alia*, a properly signed oath or declaration; the basic filing fee, and a late filing fee oath or declaration surcharge.

In response to the Notice, Applicant files the instant petition and fees and includes a check (or checks) in the amount of

$724.00[1]. The Office deducted the following small entity fees: filing fee ($395.00); late filing fee oath or declaration surcharge ($65.00); claims in excess of twenty ($125.00). There remained $149.00.

The instant petition

Applicant is advised that the petition fee (among others), has increased to $200.00 effective December 8, 2004. Applicant must provide the petition fee prior to consideration of the merits of Applicant's petition.

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

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

Telephone inquiries concerning this matter should be directed to Petitions Attorney Derek L. Woods at (571) 272-3232.

Derek L. Woods
Attorney/Advisor
Office of Petitions

[1] No authorization to charge a deposit account has been located among the application papers filed.

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APR 29 2005

OFFICE OF PETITIONS

In re Application of	:	
Chaoui et al.	:	
Application No. 10/958,984	:	DECISION GRANTING
Filed: October 4, 2004	:	STATUS UNDER
For: AUTOMATIC BLOOD ANALYSIS	:	37 CFR 1.47(a)
AND IDENTIFICATION SYSTEM	:	

This is in response to a Petition Under 37 CFR 1.47(a), filed January 18, 2005, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor[1].

The petition is **granted**.

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

Petitioner has shown that the non-signing inventor, Sam Chaoui, refuses to join in the application.

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

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

Telephone inquiries concerning this matter should be directed to Petitions Attorney Derek L. Woods at (571) 272-3232.

Derek L. Woods
Attorney/Advisor
Office of Petitions

[1] A petition under 37 CFR 1.47(b) is filed when none of the inventors have executed the oath/declaration.

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Mr. SAM CHAOUI
21647 HIGH BLUFF ROAD
WEST HILLS, CA 91765

In re Application of :
Chaoui et al. :
Application No. 10/958,984 : LETTER
Filed: October 4, 2004 :
For: AUTOMATIC BLOOD ANALYSIS :
AND IDENTIFICATION SYSTEM :

COPY MAILED

APR 29 2005

OFFICE OF PETITIONS

Dear Mr. Chaoui:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3232. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Petitions Attorney
Office of Petitions

cc: KELLY BAUERSFELD LOWRY & KELLEY, LLP
6320 CANOGA AVENUE
SUITE 1650
WOODLAND HILLS, CA 91367

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date : March 6, 2007

Patent No. :7,162,139
Inventor(s) : Yuki Matsui et al.
Issued :January 9, 2007
Title :SURFACE LIGHT SOURCE DEVICE AND DISPLAY DEVICE

Re: Request for Certificate of Correction

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

Any inquiry concerning this communication should be directed to Ms. A. Green at (703) 308-9380 ext. 123.

For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 or (703) 308- 9380 Ext. 123

Johathan P. Osha
Osha – Liang LLP
1221 McKinney St., LTE 2800
Houston, Texas 77010

CBN/arg

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OSHA LIANG L.L.P.
1221 MCKINNEY STREET
SUITE 2800
HOUSTON TX 77010

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OFFICE OF PETITIONS

In re Application of	:	
Matsui et al.	:	
Application No. 10/958998	:	DECISION
Filing or 371(c) Date: 10/05/2004	:	ON PETITION
Patent No.: 7162139	:	
Issue Date: 01/09/2007	:	
Attorney Docket Number:	:	
15115/136001	:	

This is a decision on the correspondence entitled "Request for Certificate of Correction Pursuant to 37 CFR 1.323," filed April 12, 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 petition is properly treated under 37 CFR 3.81(b)[1]. The delay in treating this petition is regretted.

The Petition is **granted**.

Applicant has submitted the request for certificate of correction, and fee as required by 3.81(b). Further, Office assignment records reflect that Omron Corporation, is the assignee of record. As the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed after issuance of this application into a patent.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction after issuance of this application into a patent.

Derek L. Woods
Attorney
Office of Petitions

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

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JJGJR.: 07-05

Paper No: __

GUERIN & RODRIGUEZ, LLP
5 MOUNT ROYAL AVENUE
MOUNT ROYAL OFFICE PARK
MARLBOROUGH MA 01752

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JUL 18 2005

OFFICE OF PETITIONS

In re Application of
Sandhu, et al.
Application No. 10/959,037
Filed: 5 October, 2004
Attorney Docket No. NOR-045

ON PETITION

This is a decision on the petition under ¶(a) of 37 C.F.R. §1.47, filed on 31 March, 2005.

The petition is **GRANTED**.

BACKGROUND

The record indicates:

- the application was filed on 5 October, 2004, without, *inter alia*, a fully executed oath or declaration;

- the Office mailed a Notice of Missing Parts (*inter alia*, oath/declaration) on 7 December, 2004, and on 31 March, 2005, Petitioner filed, *inter alia*, (with a request and fee for an extension of time) an oath/declaration signed by the inventors (Sandhu, Guo, Fizzell, Rodrigues and Zhang, on behalf of themselves and) save for the non-signing inventor Steve Rycroft (Mr. Rycroft), and the instant petition and statement (Michael A. Rodriguez (Reg. No. 41,272), including statement of the current/valid mailing address of Mr. Rycroft, along

with a statement indicating that a copy of the entire application (specification: description abstract claims and drawings) was sent to Mr. Rycroft at his last known address, and that he had not responded with a signed oath/declaration.

Lastly, Petitioner has submitted a declaration in compliance with 37 C.F.R. §1.63 and §1.64.

This application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(a).

This application hereby is **ACCORDED status under 37 C.F.R. §1.47(a)**.

As provided under 37 C.F.R. §1.47(a), the Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition.

Notice of the filing of this application also will be published in the Official Gazette.

This file is being forwarded to OIPE for processing as necessary to reflect the instant decision before being released for examination in due course.

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

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

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WENDEROTH, LIND & PONACK, L.L.P.
2033 K STREET N. W.
SUITE 800
WASHINGTON DC 20006-1021

MAILED
26 MAY 2006

In re Application of
Youhei KOIDE, et al.
Application No. 10/959,094
Filed: October 7, 2004
For: **COMMUNICATION TERMINAL AND METHOD USED THEREIN**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed April 17, 2006 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

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

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

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

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

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

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

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MAR 09 2009

OFFICE OF PETITIONS

In re Application of :
NAKAMICHI et al. : DECISION ON APPLICATION
Application No. 10/959,178 : FOR PATENT TERM ADJUSTMENT
Filed: October 7, 2004 :
Docket No. 01197.0243 :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT - PRE-GRANT," filed June 26, 2008. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from 312 days to 338 days.

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

The Office has updated the PAIR screen to reflect that the correct patent term adjustment determination at the time of the mailing of the notice of allowance is **338 days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On April 21, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 312 days. On June 26, 2008, applicants timely submitted the instant application for patent term adjustment[1].

[1] The Office records show that the issue fee was received on July 11, 2008.

A review of the application history supports a conclusion that the number of days reduced for applicants' delay is correct.

Applicants assert the period of reduction under 37 CFR 1.704(b) of 26 days for the filing of a response to the corrected nonfinal Office action on February 26, 2008, is not warranted. Applicants explain that they contacted the Examiner to inform him of errors in the nonfinal Office action mailed on October 31, 2007. Applicants state that at their request the Examiner issued a corrected nonfinal Office action on November 26, 2007, and restarted the period for reply as of the mailing date of the corrected Office action. Therefore, applicants contend that the Office should have used the November 26, 2007 mailing date of the corrected nonfinal Office action for the purpose of calculating any reduction of patent term pursuant to 37 CFR 1.704(b). Applicants assert that they filed a response within three months of the mailing date of the corrected nonfinal Office action, and thus, no reduction is warranted under 37 CFR 1.704(b).

Upon review of the application history, the Office has concluded that applicants are correct. Under the circumstances of this application, the reduction of 26 days is not warranted. Accordingly, the period of reduction of 26 days is being removed.

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance is **338 days** (366 days of Office delay - 28 days of applicant delay).

The $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

The application is being forwarded to the Office of Data Management for issuance of the patent.

The patent term adjustment indicated on the patent (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.

Telephone inquiries specific to 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

PALM INTRANET

Day : Friday
Date: 3/6/2009
Time: 11:34:44

PTA Calculations for Application: 10/959178			
Application Filing Date:	10/07/2004	PTO Delay (PTO):	366
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	54
Post-Issue Petitions:	0	Total PTA (days):	338
PTO Delay Adjustment:	26		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
65	03/06/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	26		
54	04/21/2008	MAIL NOTICE OF ALLOWANCE			
53	04/17/2008	ISSUE REVISION COMPLETED			
52	04/14/2008	DOCUMENT VERIFICATION			
51	04/14/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
50	04/14/2008	NOTICE OF ALLOWABILITY			
44	03/04/2008	DATE FORWARDED TO EXAMINER			
43	02/26/2008	RESPONSE AFTER NON-FINAL ACTION		26	40
42	11/26/2007	MAIL NOTICE OF RESTARTED RESPONSE PERIOD			
41	11/21/2007	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)			
40	10/31/2007	MAIL NON-FINAL REJECTION			
39	10/29/2007	NON-FINAL REJECTION			
38	10/04/2007	CASE DOCKETED TO EXAMINER IN GAU			
37	08/15/2007	DATE FORWARDED TO EXAMINER			
36	08/07/2007	RESPONSE AFTER NON-FINAL ACTION		28	34
35	08/07/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
34	04/10/2007	MAIL NON-FINAL REJECTION			
33	04/02/2007	NON-FINAL REJECTION			
32	03/09/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
31	01/18/2007	DATE FORWARDED TO EXAMINER			
30	01/08/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
29	12/08/2006	MAIL RESTRICTION REQUIREMENT	366		-1
28	12/07/2006	REQUIREMENT FOR RESTRICTION / ELECTION			

27	08/16/2006	MISCELLANEOUS INCOMING LETTER			
26	08/15/2006	CASE DOCKETED TO EXAMINER IN GAU			
25	04/18/2006	CASE DOCKETED TO EXAMINER IN GAU			
24	07/08/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
23	07/08/2005	CASE DOCKETED TO EXAMINER IN GAU			
22	03/09/2005	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
21.7	03/09/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	03/09/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	04/21/2005	PRELIMINARY AMENDMENT			
19	04/08/2005	CORRESPONDENCE ADDRESS CHANGE			
18	04/01/2005	APPLICATION RETURN FROM OIPE			
17	04/01/2005	APPLICATION IS NOW COMPLETE			
16	04/01/2005	APPLICATION RETURN TO OIPE			
15	04/01/2005	APPLICATION DISPATCHED FROM OIPE			
14	04/01/2005	APPLICATION IS NOW COMPLETE			
13	03/09/2005	ADDITIONAL APPLICATION FILING FEES			
12	10/07/2004	CLAIM PRELIMINARY AMENDMENT			
10	03/09/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
9	03/09/2005	TRANSLATION OF CLAIMS INTO ENGLISH			
7	03/09/2005	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
6	03/09/2005	TRANSLATION OF SPECIFICATION INTO ENGLISH			
4	01/06/2005	CLEARED BY L&R (LARS)			
3	11/10/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
2	10/28/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	10/07/2004	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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TROXELL LAW OFFICE
SUITE 1404
5205 LEESBURG PIKE
FALLS CHURCH VA 22041

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NOV 0 7 2008

OFFICE OF PETITIONS

In re Application of

Jeffrey Lien

Application No. 10/959,206

Filed: October 7, 2004

Attorney Docket No. BHT-3199-46

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed March 26, 2007.

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

This application was held abandoned on September 30, 2006, after it was believed that no response was received to the final Office action mailed June 29, 2006. 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 March 8, 2007, indicating that a reply to the final Office action was not received.

Petitioner states that an amendment responsive to the final Office action was filed on June 29, 2006. A review of the application file reveals that an amendment was filed on September 29, 2006. Based on the aforementioned, it appears that the application was improperly held abandoned as a response was received prior to expiration of the period for reply. The holding of abandonment is withdrawn, accordingly.

The application file is being directed to Technology Center, GAU 2811 for further processing including consideration of the amendment filed September 29, 2006.

Further inquires 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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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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NOVOZYMES NORTH AMERICA, INC.
500 FIFTH AVENUE
SUITE 1600
NEW YORK NY 10110

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JUL 07 2005

OFFICE OF PETITIONS

In re Application of :
Korgel et al. :
Application No. 10/959,247 : ON PETITION
Deposited: October 7, 2004 :
Attorney Docket No.:040897-0119 :
Title of Invention: Light-Emitting :
Nanoparticles and Method of Making :
Same

This is a decision on the petition filed May 2, 2005, requesting that the above-identified nonprovisional application be accorded a filing date of October 7, 2004.

Application papers in the above-identified application were deposited on October 7, 2004. However, on April 19, 2005, the Office of Initial Patent Examination 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.[1]

In response, on May 2, 2005,for the purposes of this decision, a copy of omitted figures 1-35. Applicants indicated that the drawings were not new matter and requested a filing date October 7, 2004.

Upon further review of the petition and the application file it is evident the claims presented with the original disclosure included method claims. 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). See MPEP 601.01(f).

Since the application should have been accorded a filing date and

[1] See 35 U.S.C. 111(a)(4)

a Notice of Omitted Parts should have been issued rather than a Notice of Incomplete Application, the application will be accorded the requested filing date of October 7, 2004 without drawings.

The petition is granted to the extent indicated above. The petition fee will be refunded.

If petitioner desires, an amendment seeking entry of the drawing may be submitted. In view of the incorporation by reference of the prior application 10/109,578, figures 1-35 would not be considered new matter, if the figures were part of the disclosure of the prior application. The examiner will make a determination whether the drawings should be entered.

The application is being forwarded to the Office of Initial Patent Examination to accord the application a filing date of **October 7, 2004**, without any drawings.

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

Charlema R. Grant
Petition Attorney
Office of Petitions

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OFFICE OF PETITIONS

LOURDES B. SANTIAGO
8596 ROOSEVELT AVENUE
MIDWAY CITY, CA 92655

In re Application of :
Santiago, et al. :
Application No. 10/959,274 : ON PETITION
Filed: October 5, 2004 :
Attorney Docket No. N/A :

This is a decision on the petition under 37 CFR 1.181, filed February 10, 2005, to withdraw the holding of abandonment. The petition was recently forwarded to this office for review.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the non-final Office action mailed June 15, 2005. Accordingly, this application became abandoned on September 16, 2005. A Notice of Abandonment was mailed on January 13, 2006.

Petitioner asserts that an amendment was timely submitted on September 13, 2005. In support, petitioner has submitted a copy of the originally filed amendment. The copy of the amendment contains an executed Certificate of Mailing under 37 CFR 1.8 dated September 13, 2005 and was received by the Office on September 16, 2005.

Accordingly, the petition is granted and the holding of abandonment is withdrawn.

The file is being forwarded to Technology Center 3600 for review of the amendment filed March 13, 2006, *in due course*.[1]

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

[1] The amendment was submitted in response to a "Notice of Non-Compliant Amendment" that was mailed on February 9, 2006.

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Swanson & Bratschun, LLC
1745 Shea Center Dr.
Suite 330
Highlands Ranch, CO 80129

SEP 20 2005

In re Application of:
Dietz et al.
Serial No.: 10/959,293
Filed: October 5, 2004
Attorney Docket No.: **4220-91-2**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed February 25, 2005.

The request is **DISMISSED** as moot.

A review of the application file record reveals a proper revocation and power of attorney to the attorneys of Sheridan Ross PC, law firm, was filed on July 27, 2005. As such, the power of attorney for the attorneys and agents requesting withdrawal has already been revoked. Accordingly, the present request is moot, and must be dismissed.

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

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

cc: Sheridan Ross PC
1560 Broadway
Suite 1200
Denver, CO 80202

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OFFICE OF PETITIONS

BRACEWELL & GIULIANI LLP
P.O. BOX 61389
HOUSTON TX 77208-1389

In re Application of

NEWMARK, David
Application No. 10/959,295
Filed: October 05, 2004
Attorney Docket No. **061790.000003.004**

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 24, 2010.

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 Jeffrey Whittle on behalf of all attorneys of record who are associated with customer No. 35979. All attorneys/agents associated with the Customer Number 35979 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the inventor David Newmark at the address indicated below. There is an outstanding Office action mailed December 18, 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: **DAVID NEWMARK**
15821 VENTURA BLVD., SUITE 570
ENCINO CA 91436

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

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JAN 24 2008

OFFICE OF PETITIONS

In re Application of :
Mitsuo SATOH, et al :
Application No. 10/959,309 : DECISION ON PETITION
Filed: October 7, 2004 : TO WITHDRAW
Attorney Docket No. BJS-249-365 : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 14, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Buhler & Associates Patent Law, has been revoked by the applicant of the patent application on November 29, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

The correspondence address of record is the address indicated below.

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: **MR. ALFRED ZAHER**
BLANK ROME LLP
ONE LOGAN SQUARE
130 NORTH 18TH STREET
PHILADELPHIA, PA 19193-6998

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11TH FLOOR
ARLINGTON, VA 22203

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OFFICE OF PETITIONS

In re Application of :
Shigeru Iida, et al. :
Application No. 10/959,310 : DECISION ON PETITION
Filed: October 7, 2004 : TO WITHDRAW
Attorney Docket No. Q104624 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed September 14, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Nixon & Vanderhye, PC has been revoked by the assignee of the patent application on November 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: MR. ALFRED ZAHER
BLANK ROME, LLP
ONE LOGAN SQUARE
130 NORTH 18TH STREET
PHILADELPHIA, PA 19103-6998

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SEP 26 2008

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

In re Application of:
Armour et al.
Serial No.: 10/959,318
Filed: October 7, 2004
Attorney Docket No.: **BJS-39-302**

DECISION ON PETITION FOR A COMPLETE OFFICE ACTION AND TO RESET REPLY PERIOD

This is in response to petitioner's petition under 37 CFR. § 1.181(a), filed on September 24, 2008, to issue a complete Office action and to reset the period for responding from the mail date of the new Office action.

BACKROUND

Specifically, petitioner states the final Office action of September 10, 2008 is incomplete because the Office action does not include a consideration of the Supplemental Amendment of August 22, 2008, which was e-filed and available to the examiner on August 22, 2008.

DISCUSSION

Petitioner's argument is persuasive that the Office action was incomplete in that the Office action failed to consider the Supplemental Amendment of August 22, 2008.

Applicants' petition is **GRANTED**.

This application will be forwarded to the examiner for an action not inconsistent with this decision.

Should there be any questions about this decision, please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile at 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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Nixon & Vanderhye, PC
901 North Glebe Road, 11th Floor
Arlington, VA 22203

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APR 23 2008

OFFICE OF PETITIONS

In re Application of :
Tsuyoshi Yamada et al. :
Application No. 10/959,322 : DECISION ON PETITION
Filed: October 7, 2004 : TO WITHDRAW
Attorney Docket No. Q104625 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 14, 2007.

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

A review of the file record indicates that the power of attorney to Nixon & Vanderhye, PC has been revoked by the assignee of the patent application on November 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 Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Sughrue-265550**
2100 Pennsylvania Ave., NW
Washington, DC 20037-3213

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

MORGAN & FINNEGAN, L.L.P.
3 WORLD FINANCIAL CENTER
NEW YORK NY 10281-2101

In re Application of
KANJO ORINO
Application No. 10/959350
Filed: October 6, 2004
Attorney Docket No. **1232-5520**

DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PILOT PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed October 12, 2007, to make the above-identified application special.

The request and petition are **GRANTED**.

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

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

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

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

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

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

John Peng
TC 2600
Quality Assurance Specialist

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

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MAY 08 2009

OFFICE OF PETITIONS

In re Application of
Edgar H. **CALLAWAY JR, et al.**
Application No. 10/959,359
Filed: October 6, 2004
Attorney Docket No. **CML01971M**

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed February 12, 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, July 25, 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 October 26, 2008.

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

37 CFR 1.137(d) requires a terminal disclaimer dedicating to the public a terminal part of the term of any patent granted on the above-identified application or any patent granted on any continuing application that contains a specific reference under 35 U.S.C. 120, 121, or 365(c) to the above-identified application. ***Since the application is not a utility or plant application filed before June 8, 1995, a terminal disclaimer is not required.*** Accordingly, the terminal disclaimer filed with the instant petition is unnecessary. Petitioner may request a refund of the $140 fee by writing to the following address: Mail Stop 16, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

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

The application is being referred to Technology Center Art Unit 2611 for consideration of the amendment filed February 12, 2009.

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

Brian W. Brown
Petitions Examiner
Office of Petitions

cc: **RANDALL S. VAAS**
600 NORTH US HIGHWAY 45
LIBERTYVILLE, IL 60048

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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EDELL, SHAPIRO & FINNAN, LLC
1901 RESEARCH BOULEVARD
SUITE 400
ROCKVILLE, MD 20850

Mail Date: 06/16/2010

Applicant	: Ornan Gerstel	: DECISION ON REQUEST FOR
Patent Number	: 7634196	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/959,366	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/06/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1388** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 19928
ALEXANDRIA VA 22320

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OFFICE OF PETITIONS
ON PETITION

In re Application of :
Jiro Asai et al :
Application No. 10/959,369 :
Filed: October 7, 2004 :
Attorney Docket No. 115675.01 :

This is a decision on the petition, filed February 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 14, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2834 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

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COMMISSIONER FOR PATENTS
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Paper No. _____

Date : February 27, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

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FEB 27 2006

OFFICE OF PETITIONS

SUBJECT : Withdrawal from Issue of

Applicant(s) :Jiro Asai et al
Application No. :10/959,369
Filed :October 7, 2004

The above-identified application has been assigned Patent No. 7,005,770 and an issue date of February 28, 2006.

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

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of February 28, 2006:

> "All reference to Patent No. 7,005,770 to Jiro Asai et al of Japan for PERMANENT-MAGNET ROTOR FOR AN INNER ROTOR TYPE ELECTRIC ROTARY MACCHINE AND MAGNET-SAVING TYPE ROTOR FOR A SYNCHRONOUS MOTOR appearing in the Official Gazette of February 28, 2006 should be deleted since no patent was granted."

Karen Creasy

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

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

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CREW, LLP
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO CA 94111

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OFFICE OF PETITIONS

In re Application of	:	
Moss et al.	:	ON APPLICATION
Application No. 10/959,392	:	FOR
Filed: October 5, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. 015280-561300US	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION UNDER 37 C.F.R. § 1.705(b) filed December 9, 2008. Applicants request that the determination of patent adjustment be corrected from four hundred thirty-four (434) days to a minimum of nine hundred ninety (991) days, with an additional term to be added if the patent issues after April 14, 2009.

For the reasons set forth below, 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 four hundred thirty **(430)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

To the extent that the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, 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). It is noted that at the time of this decision, the patent has not issued.

Applicants are 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. Applicants 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, 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 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.

However, a review of the application history reveals that entry of an additional period of reduction for applicant delay is warranted. The Office mailed a Notice to File Missing Parts of Application on October 29, 2004. Applicants did not file a response until February 2, 2005, three months and 4 days later. Accordingly, pursuant to 37 CFR 1.704(b), the Office should have entered a period of reduction of 4 days.

It is noted that applicants' response bore a certificate of mailing dated January 28, 2005. However, in this regard, applicants' attention is directed to 37 CFR 1.703(f), which provides that "[t]he date indicated on any certificate of mailing or transmission under § 1.8 shall not be taken into account in this calculation" of patent term adjustment. See also, Comment 10, *Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule*, 65 Fed. Reg. 54366 (September 18, 2000). As discussed in MPEP 2731,

> the date indicated on a certificate of mailing is used only to determine whether the correspondence is timely (including whether any extension of the time and fee are required) so as to avoid abandonment of the application or termination or dismissal of proceedings. The actual date of receipt of the correspondence in the Office is used for all other purposes. See 37 CFR 1.8(a). Thus, while the date indicated on any certificate of mailing or transmission under 37 CFR 1.8 will continue to be taken into account in determining timeliness, the date of filing (37 CFR 1.6) will be the date used in a patent term adjustment calculation. Applicant may wish to consider the use of the "Express Mail Post Office to Addressee " service of the United States Postal Service (37 CFR 1.10) or facsimile transmission (37 CFR 1.6(d))[or filing by the Office's Electronic Filing System (EFS)] for replies to be accorded the earliest possible filing date for patent term adjustment calculations. Alternatively, applicant may choose to mail correspondence with sufficient time to ensure that the correspondence is received in the Office (and stamped with a date of receipt) before the expiration of the three-month period.

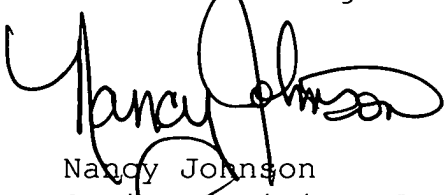
Thus, it is concluded that applicants did fail to engage in reasonable efforts to conclude prosecution of the application by delaying in replying to the Notice to File Missing Parts of Application mailed October 29, 2004.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is four hundred thirty (430) days.

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

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

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



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Day : Thursday

PALM INTRANET

Date: 1/8/2009
Time: 17:29:10

PTA Calculations for Application: 10/959392			
Application Filing Date:	10/05/2004	PTO Delay (PTO):	485
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	51
Post-Issue Petitions:	0	Total PTA (days):	430
PTO Delay Adjustment:	-4		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
77	01/08/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		4	
65	10/02/2008	MAIL NOTICE OF ALLOWANCE			
57	09/29/2008	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
56	09/23/2008	ISSUE REVISION COMPLETED			
55	09/23/2008	DOCUMENT VERIFICATION			
54	09/29/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
53	09/29/2008	CASE DOCKETED TO EXAMINER IN GAU			
52	09/29/2008	CORRESPONDENCE ADDRESS CHANGE			
51	09/24/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
50	09/29/2008	EXAMINER'S AMENDMENT COMMUNICATION			
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45	08/01/2008	DATE FORWARDED TO EXAMINER			
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23	02/02/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
22	04/18/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
21.7	04/18/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	04/18/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	12/08/2005	CORRESPONDENCE ADDRESS CHANGE			
19	04/22/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
18.7	02/02/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	02/02/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	02/02/2005	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
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15	03/24/2005	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
14	03/01/2005	APPLICATION RETURN FROM OIPE			
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9	01/28/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
8	12/22/2004	CLEARED BY L&R (LARS)			
7	11/09/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
6	11/09/2004	CASE CLASSIFIED BY OIPE			

5	10/29/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	10/22/2004	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
3	10/19/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	10/05/2004	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	10/05/2004	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO CA 94111

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APR 13 2010

OFFICE OF PETITIONS

In re Patent No. 7,494,813	:	DECISION ON REQUEST
Moss et al.	:	FOR
Issue Date: February 24, 2009	:	RECONSIDERATION OF
Application No. 10/959,392	:	PATENT TERM ADJUSTMENT
Filed: October 5, 2004	:	and
Atty Docket No. 015280-561300US	:	NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION

This is a decision on the petition filed on April 23, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by nine hundred thirty-eight (938) 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 nine hundred thirty-eight (938) days is **GRANTED**.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) on December 9, 2008. 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 **nine hundred thirty-eight (938)** days.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,494,813 B2

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

INVENTOR(S) : Moss 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 453 days

Delete the phrase "by 453 days" and insert – by 938 days--

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DIW Feb-06

THE BLACK & DECKER CORPORATION
701 EAST JOPPA ROAD, TW199
TOWSON MD 21286

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FEB 22 2006

OFFICE OF PETITIONS

In re Application of	:	
Kathy DeKeyser	:	DECISION ON PETITION
Application No. 10/959,413	:	
Filed: 6 October, 2004	:	
Atty Docket No. JK01450	:	

This is a decision on the petition, filed on 31 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 3 October, 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 1 June, 2006, is enclosed herewith.

Receipt of the revocation and power of attorney filed with the present petition is acknowledged.

The application is being referred to Technology Center Art Unit 2859 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
Notice Regarding Change of Power of Attorney
Notice of Acceptance of Power of Attorney

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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/959,413	10/06/2004	Kathy DeKeyser	JK01450

CONFIRMATION NO. 1926

28268
THE BLACK & DECKER CORPORATION
701 EAST JOPPA ROAD, TW199
TOWSON, MD 21286

Date Mailed: 02/21/2006

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

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 06/01/2006.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/959,413	10/06/2004	Kathy DeKeyser	PC 04-6-1

CONFIRMATION NO. 1926

OC000000018103278

28268
THE BLACK & DECKER CORPORATION
701 EAST JOPPA ROAD, TW199
TOWSON, MD 21286

Date Mailed: 02/21/2006

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/31/2006.

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

DOUGLAS I WOOD
OP (571) 272-3231

ATTORNEY/APPLICANT COPY

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/959,413	10/06/2004	Kathy DeKeyser	PC 04-6-1

CONFIRMATION NO. 1926

OC000000018103270

23531
SUITER WEST SWANTZ PC LLO
14301 FNB PARKWAY
SUITE 220
OMAHA, NE 68154

Date Mailed: 02/21/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/31/2006.

- 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).

DOUGLAS I WOOD
OP (571) 272-3231

NEW ATTORNEY/AGENT COPY

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JUN 07 2007

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

In re Application of	:	
Martin Neeman et al	:	
Serial No.: 10/959,417	:	PETITION DECISION
Filed: October 7, 2004	:	
Attorney Docket No.: 28554	:	

This is a decision on the PETITION FOR ACCEPTANCE OF COLOR DRAWINGS UNDER 37 CFR 1.84(a)(2). The petition was filed May 17, 2007. Entry of color drawings requires: 1) three sets of the color drawings, 2) a proper amendment to the specification indicating color photographs or drawings are present in the file, and 3) the required fee under 37 CFR 1.17(h).

A review of the application record indicates that the petition meets all of the requirements for acceptance of color drawings. This is not to be construed that all of the drawings are accepted, only that the color drawings are acceptable.

The petition is **GRANTED**.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile transmission at 571-273-8300.

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

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WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON, DC 20036

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AUG 30 2005

OFFICE OF PETITIONS

Application of	:	
Hamada et al.	:	
Application No. 10/959,432	:	DECISION GRANTING PETITION
Filed: October 7, 2004	:	UNDER 37 CFR 1.55(c)
Attorney Docket No. 042858	:	

This is a decision on the petition under 37 CFR 1.55(c), filed June 1, 2005, for acceptance of an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of the filing date of Japanese Patent Application No. 2003-3501, filed October 8, 2003.

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 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).

The above-identified pending nonprovisional application was filed on October 7, 2004, which is after November 29, 2000 and within 12 months of October 8, 2003 (the filing date of the foreign application to which benefit is now being claimed). An executed oath/declaration was received upon filing of the above-identified application, which identifies the foreign application for which priority is claimed by application number, country and filing date. A copy of the oath/declaration was included with the instant petition. Petitioner submitted $130.00 for the $1370.00 petition fee, but provided authorization to charge any additional fees needed. Accordingly, an additional $1240.00 will be charged to petitioner's deposit account. 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 filing receipt accompanies this decision on petition.

This matter is being referred to Technology Center AU 2817 for examination in due course and for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a)-(d).

Any inquiries directly pertaining to this matter may be directed to Paralegal Liana Chase at (571) 272-3206.

/Frances Hicks/

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

ATTACHMENT: Corrected Filing Receipt

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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Oliver Wackerl	: DECISION ON REQUEST FOR
Patent Number	: 7664581	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/959,439	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/05/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1267** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 DIEGO, CA 92122

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OFFICE OF PETITIONS

In re Application of :
Mikael Bourges-Sevenier :
Application No. 10/959,460 : DECISION ON PETITION
Filed: October 6, 2004 : TO WITHDRAW
Attorney Docket No. 41657-0003 : 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, 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 the petitioner was not appointed by customer number.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: N. ERIC JORGENSEN
VICE PRESIDENT & GENERAL COUNSEL
MINDEGO, INC.
3465 SIERRA ROAD
SUITE 1000
SAN JOSE, CA 95132-3000

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MORRISTOWN, NJ 07962

Mail Date: 04/20/2010

Applicant	: Douglas A. Nafis	: DECISION ON REQUEST FOR
Patent Number	: 7575668	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/959,469	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/06/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **751** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

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MAR 15 2006

OFFICE OF PETITIONS

Applicant: Cottard et al.
Appl. No.: 10/959,486
Filing Date: October 7, 2004
Title: COMPOSITIONS FOR OXIDATION DYEING KERATIN FIBERS COMPRISING AT LEAST ONE THICKENING POLYMER COMPRISING AT LEAST ONE FATTY CHAIN AND AT LEAST ONE FATTY ALCOHOL CHOSEN FROM MONOGLYCEROLATED FATTY ALCOHOLS AND POLYGLYCEROLATED FATTY ALCOHOLS
Attorney Docket No.: 5725.0825-01
Pub. No.: US 2005/0076458 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), received on June 14, 2005, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error, as dependent claim 18, formula (III), "R_2" is misprinted as "R_1".

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

The error noted by requestor in claim 1, wherein "R_2" is misprinted as "R_1" is not a material Office error under 37 CFR 1.221. The error noted by requestor with respect to the typographical error in this published application is due to the poor quality of the text in the application. Some of the text in the chemical formula including the subscript is handwritten. The text of the application must be written by either a typewriter or machine printed in dark ink. See 37 CFR 1.52.

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

Applicants have been advised to file applications having larger text, which is cleaner and with sufficient clarity and contrast to permit reproduction to avoid errors in the patent application publication process. See 37 CFR 1.52. When, the text in the application, which is small and close together, which makes it blurry and not clear, also makes it difficult to read and to electronically reproduce by digital imaging and optical character recognition.

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

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

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

By facsimile: 571-273-8300

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

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

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Grossman, Tucker, Perreault & Pfleger, PLLC
c/o Intellevale
P.O. Box 52050
Minneapolis, MN 55402

MAILED

JUL 06 2010

OFFICE OF PETITIONS

In re Application of :
Greg J. Regnier, et. al. :
Application No. 10/959,488 : ON PETITION
Filed: October 5, 2004 :
Attorney Docket No. P19971 :

This is a decision on the petition under 37 CFR 1.137(a), filed December 30, 2009, to revive the above-identified application.

The petition is **dismissed**.

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

The instant petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Douglas J. Ryder appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d). The instant petition lacks item (3).

The application became abandoned as a result of petitioner's failure to file a response to the final Office action mailed February 2, 2009. Since no extensions of time under the provisions of 37 CFR 1.136(a) was obtained, the application became abandoned on May 3, 2009. A Notice of Abandonment was mailed on September 30, 2009.

In the present petition, petitioner states,"The receipt of the Final Office Action was never docketed by the support staff so that the attorneys of record did not know that a response was due."

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). 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).

A delay resulting from an error (e.g., a docketing error) on the part of an employee in the performance of a clerical function may provide the basis for a showing of "unavoidable" delay, provided it is shown that: (1) the error was the cause of the delay at issue; (2) there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance; (3) and the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care. See MPEP 711.03(c)(III)(C)(2).

An adequate showing requires statements by all persons with direct knowledge of the circumstances surrounding the delay, setting forth the facts, as they know them. Petitioner must supply a thorough explanation of the docketing and call-up system in use and must identify the type of records kept and the person responsible for the maintenance of the system. This showing must include copies of mail ledger, docket sheets, filewrappers and such other records as may exist which would substantiate an error in docketing, and include an indication as to why the system failed in this instance to provide adequate notice that a reply was due. Petitioner must also supply information

regarding the training provided to the personnel responsible for the docketing error, degree of supervision of their work, examples of other work functions carried out, and checks on the described work which were used to assure proper execution of assigned tasks.

In view of the above, the showing of record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a). See MPEP 711(c)(II)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

If petitioner cannot provide the evidence required to establish under the 37 CFR 1.137(a) that the delay in providing the required reply to the Office action mailed on February 2, 2009 was unavoidable, or simply does not wish to, petitioner should consider filing a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § '41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $1,640 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

If Mr.Ryder desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to the address given in the present petition. Thereafter, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

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

Andrea Smith
Petitions Examiner
Office of Petitions

David Bucci
Petitions Examiner

cc: Douglas J. Ryder
Ryder, Lu, Mazzeo & Konieczny, LLC
c/o CPA Global
P. O. Box 52050
Minneapolis, MN 55402

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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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DEC 0 2 2005

OFFICE OF PETITIONS

In re Application of :
Peter King :
Application No. 10/959,498 : ON PETITION
Filed: October 7, 2004 :
Attorney Docket No. 30011479-2 :

This is a decision on the petition under 37 CFR 1.137(b) filed October 7, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed November 22, 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 24, 2005.

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, the $1,590 extension of time submitted 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 as authorized.

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

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

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 1, 2006

TO SPE OF : ART UNIT ~~2877~~ 2886 (T.R.C)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/959500 Patent No.: 7,084,977 B2

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

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

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

Elisha Evans

Certificates of Correction Branch

703-308-9390 ext. 110

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

_____

_____

_____

_____

_____ 2886

SPE **Art Unit**

OIPE
SEP 2 8 2006
PATENT & TRADEMARK OFFICE
IAP48

10/959500

PATENT
Attorney Docket No. 9108.0005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re U.S. Patent No.: 7,084,977 B2

Inventor: HIROSHI NOMURA

Issue Date.: August 1, 2006

For: EXPOSURE APPARATUS AND METHOD OF MEASURING MUELLER MATRIX OF OPTICAL SYSTEM OF EXPOSURE APPARATUS

Certificate
OCT 0 2 2006
of Correction

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

Sir:

REQUEST FOR CERTIFICATE OF CORRECTION

Pursuant to 35 U.S.C. § 255, and 37 C.F.R. § 1.323, this is a request for a Certificate of Correction in the above-identified patent. The mistakes identified in the appended Form are of a clerical or typographical nature, or of minor character, and resulted from errors made in good faith by patentee. A check in the amount of $100 (the fee set forth in 37 C.F.R. § 1.20(a)) is attached. Should a check not be appended or should any additional fees be needed, authorization is hereby given to charge any fees due in connection with the filing of this request to Deposit Account No. 06-0916.

Two (2) copies of PTO Form 1050 are appended. The complete Certificate of Correction involves one (1) page. Issuance of the Certificate of Correction containing the correction is earnestly requested.

09/29/2006 SDENBOB1 00000013 7084977
01 FC:1811 100.00 OP

OCT 0 3 2006

The corrections listed on the attached PTO Form 1050 include a change to Fig. 1 to remove the arrowhead from the line connecting blocks 5 and 6. Applicant submits one sheet of Replacement Drawings containing a corrected version of Fig. 1. The correction to Fig. 1 is minor in character and fully supported by the specification of the above-referenced patent at, for example, column 4, lines 48-63.

The corrections on the attached PTO Form 1050 also include a change to claim 4, changing "s_0' and s_0'" to --s_0' and s_1'--, conforming claim 4 to the originally-filed specification of the above-referenced patent. This typographical error occurred as a result of correcting other typographical errors in the originally-filed specification of the above-referenced patent related to subscripts, superscripts, and Greek characters, in the Reply to Office Action filed November 7, 2005. The correction to claim 4 is of a typographical nature and is fully supported by the originally-filed specification of the above-referenced patent at, for example, page 45, lines 25 and 26. Moreover, because the correction to claim 4 is made to conform claim 4 to the originally-filed claim 4 which was examined and allowed by the Examiner in the Office Action mailed September 7, 2005, the correction does not require reexamination.

In view of the foregoing remarks, Applicants submit that the criteria set forth in 37 C.F.R. § 1.323 has been satisfied, and request that the Office timely issue the requested Certificate of Correction.

OCT 03 2006

Please charge any required fees not included herewith to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, L.L.P.

Dated: 9/28/06

By: _____
Richard V. Burgujian
Reg. No. 31,744

OCT 03 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.	7,084,977 B2	Page 1 of 1
APPLICATION NO.:	10/959,500	
ISSUE DATE:	August 1, 2006	
INVENTOR:	Nomura	

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

Claim 4, column 25, line 49, change "s_0' and s_0'" to --s_0' and s_1'--.

Change Fig. 1 to remove the arrowhead from the line connecting blocks 5 and 6.

MAILING ADDRESS OF SENDER

Finnegan, Henderson, Farabow,
Garrett & Dunner, L.L.P.
901 New York Avenue, N.W.
Washington, D.C. 20001-4413

OCT 03 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.	7,084,977 B2	Page 1 of 1
APPLICATION NO.:	10/959,500	
ISSUE DATE:	August 1, 2006	
INVENTOR:	Nomura	

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

Claim 4, column 25, line 49, change "s_0' and s_0'" to --s_0' and s_1'--.

Change Fig. 1 to remove the arrowhead from the line connecting blocks 5 and 6.

MAILING ADDRESS OF SENDER

Finnegan, Henderson, Farabow,
Garrett & Dunner, L.L.P.
901 New York Avenue, N.W.
Washington, D.C. 20001-4413

OCT 03 2006

REPLACEMENT SHEET

OIPE
SEP 28 2006
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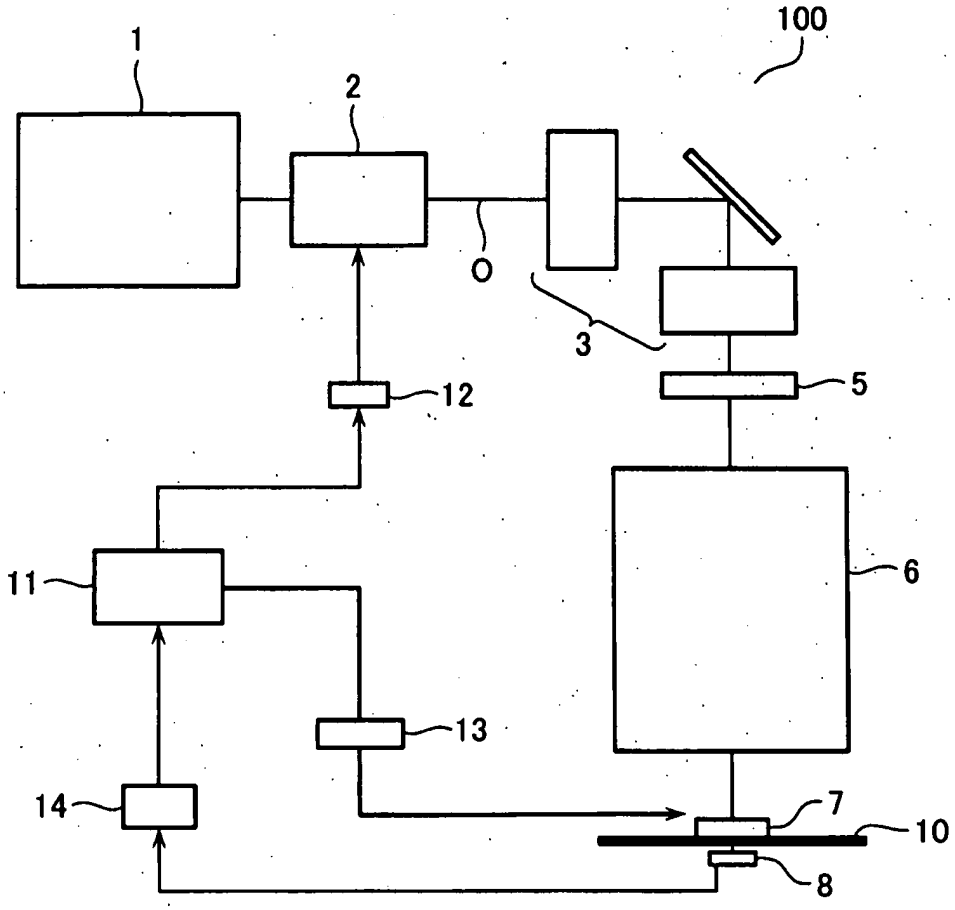
FIG. 1



SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 070807

DATE : November 1, 2006

TO SPE OF : ART UNIT 2877

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/959500 Patent No.: 7,084,977 B2

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

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

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

Elisha Evans

Certificates of Correction Branch

703-308-9390 ext. 110

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

Gregory J. Toatley, Jr.
Supervisory Patent Examiner

2877

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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CASELLA & HESPOS
274 MADISON AVENUE
NEW YORK, NY 10016

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OFFICE OF PETITIONS

In re Application of :
Kazunori Yamashita :
Application No. 10/959,506 : DECISION GRANTING PETITION
Filed: October 6, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. FP04-257US :

This is a decision on the petition under 37 CFR 1.137(b), filed August 25, 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 August 21, 2006, as required by the Notice of Allowance and Fee(s) Due mailed May 19, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the issue and publication fees ($1,400 and $300, respectively); (2) the $1,500 petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue and publication fees are accepted as having been unintentionally delayed.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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ARMSTRONG, KRATZ, QUINTOS,HANSON & BROOKS, LLP
1725 K STREET, NW
SUITE 1000
WASHINGTON DC 20006

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AUG 0 4 2006

OFFICE OF PETITIONS

In re Application of :
Ken Morito :
Application No. 10/959,507 : ON PETITION
Filed: October 7, 2004 :
Attorney Docket No. 040493 :

This is a decision on the petition, filed July 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 June 14, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 3663 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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OCT 13 2006

OFFICE OF PETITIONS

Orum & Roth LLC
53 W. Jackson Boulevard
Chicago IL 60604-3606

In re Application of :
ERIKSSON :
Application No. 10/959,520 : DECISION ON PETITION
Filed: October 06, 2004 : TO WITHDRAW
Attorney Docket No. 13986 : FROM RECORD
:

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

The request is **APPROVED**.

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

The request was signed by Catherine L. Gemrich.

Catherine L. Gemrich has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

A Review of the file discloses that a non-final Office action was mailed on September 27, 2006, which set forth a one month shortened statutory period for reply. Extensions of time under 37 CFR 1.136(a) are available. To date, there is no indication that a reply to the Office action of September 27, 2006 has been received.

Telephone inquiries concerning this decision should be directed to Patricia Volpe at 571-272-6825.

David Bucci
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
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WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

Mail Date: 04/21/2010

Applicant	: Yuqing Gao	: DECISION ON REQUEST FOR
Patent Number	: 7610191	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/959,523	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/06/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1346** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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www.uspto.gov

WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

Mail Date: 05/18/2010

Applicant : Yuqing Gao
Patent Number : 7610191
Issue Date : 10/27/2009
Application No: 10/959,523
Filed : 10/06/2004

: 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 **1410** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

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

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

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

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OFFICE OF PETITIONS

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

In re Application of
William Speth, et al.
Application No. 10/959,528
Filed: October 6, 2004
Attorney Docket No. 11927/152

ON PETITION

This is a decision in response to the petition, filed March 24, 2009, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 16, 2008, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on December 17, 2008. This decision precedes the mailing of a Notice of Abandonment. On March 24, 2009, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay[1].

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,110 extension of time fee submitted with the petition on March 24, 2009 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The application is being referred to Technology Center AU 3695 for appropriate action by the Examiner in the normal course of business on the amendment received March 24, 2009.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While 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, 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, Virginia 22313-1450
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SPRINT
6391 SPRINT PARKWAY
KSOPHT0101-Z2100
OVERLAND PARK, KS 66251-2100

Mail Date: 04/21/2010

Applicant	: Michael K. Bugenhagen	: DECISION ON REQUEST FOR
Patent Number	: 7646720	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/959,546	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/06/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1345** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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TOWNSEND AND TOWNSEND AND CREW LLP/ORACLE
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 04/21/2010

Applicant	: Vineet Marwah	: DECISION ON REQUEST FOR
Patent Number	: 7634510	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/959,565	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/05/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **331** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 26 2010

OFFICE OF PETITIONS

NORRIS MCLAUGHLIN & MARCUS, P.A.
721 ROUTE 202-206
P.O.BOX 5933
BRIDGEWATER, NJ 08807-5933

In re Application of

James D. Ralph, et al.
Application No. 11/959,571
Filed: October 6, 2004
Attorney Docket No. 104084-012US

DECISION ON PETITION
TO MAKE SPECIAL UNDER
37 CFR 1.102(c)(1)

This is a decision on the petition under 37 CFR 1.102(c)(1), filed February 9, 2010, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement from applicant's representative that he is in possession of proof of applicant Thomas Nelson Troxell's age. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 3775 for action on the merits commensurate with this decision.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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PAUL HASTINGS JANOFSKY & WALKER LLP
875 15TH STREET, NW
WASHINGTON, DC 20005

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DEC 23 2009

OFFICE OF PETITIONS

In re Application of
Badri K. Narayanan et al
Application No. 10/959,587
Filed: October 6, 2004
Attorney Docket No. LEEE200441

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 5, 2009.

The request is **APPROVED**.

The request was signed by Robert M. Masters on behalf of the practitioners who are associated with Customer No. 36183.

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 copied address below until otherwise properly notified by the applicant.

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Badri K. Narayanan
26011 Lakeshore Blvd.
Apt. 414
Euclid, OH 44132

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/959,587	10/06/2004	Badri K. Narayanan	LEEE20044]

CONFIRMATION NO. 3482

POWER OF ATTORNEY NOTICE

36183
PAUL, HASTINGS, JANOFSKY & WALKER LLP
875 15th Street, NW
Washington, DC 20005

Date Mailed: 12/23/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/05/2009.

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

/idingle/

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

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/959,587	10/06/2004	Badri K. Narayanan	LEEE200441

CONFIRMATION NO. 3482

POA ACCEPTANCE LETTER

Badri K. Narayanan
26011 Lakeshore Blvd.
Euclid, OH 44132

Date Mailed: 12/23/2009

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/05/2009.

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

/idingle/

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 4/9/09 Paper No.: ____

TO SPE OF : ART UNIT 1649

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/959611 Patent No.: 7235374/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

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: _____

J Stucker — SPE
1649 — Art Unit

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JAN 25 2005

Paper No. 111704

HOGAN & HARTSON LLP
ONE TABOR CENTER, SUITE 1500
1200 SEVENTEENTH STREET
DENVER, CO 80202

In re Application of:	:	
ABE WATAMURA	:	DECISION ON PETITION
Serial No.: 10/959,617	:	TO MAKE SPECIAL
Filed: October 06, 2004	:	
Attorney Docket No.: WATA0003	:	

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed October 06, 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 include a declaration from the inventor, Abe Watamura, stating that he is sixty-five (65) years of age or more.

Accordingly, the petition is GRANTED.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

Inquiries regarding this decision should be directed to Jose G. Dees at (571) 272-1569.

Jose G. Dees, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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DORSEY & WHITNEY LLP
INTELLECTUAL PROPERTY DEPARTMENT
Columbia Center
701 Fifth Avenue, Suite 6100
SEATTLE, WA 98104-7043

Mail Date: 04/21/2010

Applicant	: Hiroshi Takatori	: DECISION ON REQUEST FOR
Patent Number	: 7570685	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/959,622	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/05/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1270** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

LEO H MCCORMICK
2112 MISHAWAKA AVE
P O BOX 4721
SOUTH BEND, IN 46634

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FEB 11 2005

OFFICE OF PETITIONS

In re Application of	:	
Juan Simon Bacardit	:	DECISION DISMISSING
Application No. 10/959,649	:	PETITION
Filed: October 6, 2004	:	
Attorney Docket No. 803-02-0243	:	

This is a decision on the paper styled "Missing Parts" filed December 27, 2004, which is properly treated as a petition under 1.53(e)(2). Petitioner requests that the above-identified application be accorded a filing date of October 6, 2004, with Figure 2 (and 3) considered part of the original application disclosure.

Application papers in the above-identified application were deposited on October 6, 2004. However, on November 18, 2004, the Office mailed a NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION, notifying applicant that the application papers had been accorded a filing date; however, Figure 2 described in the specification appeared to have been omitted from the application. (It is noted that the Notice should have stated that Figures 2 and 3 described in the specification appeared to have been omitted from the application, as only Figure 1 was recognized as being among the papers received on filing).

Petitioner timely responded with the instant petition (and fee of $130 with authorization to charge a Deposit Account for any deficiency). Applicant contends that the Drawing Sheet that included Figures 2 and 3 was present when filed. In support thereof, petitioner included a copy of their return receipt postcard. Petitioner also supplied a copy of the drawing sheet that includes figures 2 and 3, but labeled Replacement Sheet.

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. A review of the postcard receipt confirms that: 1) it was date stamped as received in the USPTO on October 6, 2004, and shows assignment of application No. 10/959649 to the papers submitted therewith 2) it specifically identifies the items being filed, including "No. of Pages: ... Drawings 2 ," and 3) it lacks any annotation of nonreceipt of any item denoted on the postcard. Thus, petitioner has shown that the items denoted, including 2 sheets of drawings, were filed on October 6, 2004.

However, petitioner acknowledges that the drawing sheet presented on petition is not a true copy of the sheet referenced on the postcard. On petition, a true copy of the sheet alleged to have been misplaced by the Office should be provided.

Accordingly, the petition is **DISMISSED** without prejudice to reconsideration upon the submission of a true copy of the sheet of drawing referenced on the postcard and alleged to have been omitted by the Office.

Petitioner is given **ONE (1) MONTH** from the mail date of this decision to respond. This period is not extendable. See § 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:
(703) 872-9306
ATTN: Office of Petitions

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

LEO H MCCORMICK
2112 MISHAWAKA AVE
P O BOX 4721
SOUTH BEND, IN 46634

COPY MAILED

MAR 1 5 2005

OFFICE OF PETITIONS

In re Application of	:	
Juan Simon Bacardit	:	DECISION GRANTING
Application No. 10/959,649	:	PETITION
Filed: October 6, 2004	:	
Attorney Docket No. 803-02-0243	:	

This is a decision on the "Petition (1.53(e)(2)" filed March 7, 2005. Petitioner renews their request that the above-identified application be accorded a filing date of October 6, 2004, with Figure 2 (and 3) considered part of the original application disclosure.

The petition is **GRANTED**.

On initial petition filed December 27, 2004, petitioner submitted prima facie evidence in the form of a postcard receipt that figures 2 & 3 were among the papers filed on October 6, 2004. However, the petition did not include a true copy of the drawing sheet as originally filed. Thus, the petition was dismissed without prejudice to reconsideration upon the submission of a true copy of the sheet of drawing referenced on the postcard and alleged to have been omitted by the Office.

On instant renewed petition, petitioner provided a true copy of the drawing sheet containing figures 2 and 3.

Given the basis for granting the petition, the petition fee is subject to refund. The fee, though authorized, was not charged to petitioner's Deposit Account in association with the petition filed December 27, 2004. The $400 fee charged on renewed petition has been refunded to Deposit No. 02-3222, as authorized.

The Office of Initial Patent Examination (OIPE) has been advised of this decision. The application has, thereby, been forwarded to OIPE for:

- further processing with a filing date of October 6, 2004, using the application papers received in the Office on that date, including one sheet of drawings (containing Figure 1) and the one (1) sheet of drawings resubmitted on renewed petition filed March 7, 2005;
- indication in Office records that two (2) sheets of drawings (containing figures 1, 2 and 3) were present on filing; and
- processing of the replacement drawing sheet filed December 27, 2004.

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

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SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

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NOV 17 2008

OFFICE OF PETITIONS

In re Application of :
Igal Ladabaum, et al. :
Application No. 10/959,665 : DECISION GRANTING PETITIONS
Filed: October 4, 2004 : UNDER 37 CFR 1.137(b) AND
Attorney Docket No. 2005P15389US : 37 CFR 1.313(c)(2)

This is a decision on the petitions, filed November 12, 2008, under 37 CFR 1.137(b), to revive the above-identified unintentionally abandoned application and on the petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue.

The petitions are **GRANTED**.

As to the petition under 37 CFR 1.137(b):

This application became abandoned for failure to timely pay the issue and publication fees on or before October 1, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed July 1, 2008.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has submitted (1) payment of the $1510 issue fee and the $300 publication fee, (2) the petition fee of $300, and (3) an adequate statement of unintentional delay. 37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition. Accordingly, the reply to the Notice of Allowance is accepted as having been unintentionally delayed.

As to the petition under 37 CFR 1.313(c)(2):

Petitioner requests withdrawal of this application from issue for consideration of a submission under 37 CFR 1.114.

The petition satisfies the requirements of 37 CFR 1.313(c)(2). Accordingly, this application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (RCE).

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

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

This matter is being referred to Technology Center AU 3768 for processing the RCE and for consideration of the Information Disclosure Statement submitted on November 12, 2008.

/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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JONES DAY
555 SOUTH FLOWER STREET
FIFTIETH FLOOR
LOS ANGELES, CA 90071

COPY MAILED

SEP 0 6 2005

OFFICE OF PETITIONS

In re Application of	:	
Frank S. Yuan	:	
Application No. 10/959,671	:	ON PETITION
Filed: October 4, 2004	:	
Attorney Docket No. 667534-100005	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 27, 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 23, 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 24, 2005.

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

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

OIPE
DEC 27 2005
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEST AVAILABLE COPY

In re application of: Jones et al. §

Serial Number: 10/959,690 § Group Art Unit: 1731

Filed: October 6, 2004 §

For: METHOD FOR THE PRODUCTION OF AMBER GLASS WITH REDUCED SULFUR CONTAINING EMISSIONS § Examiner: Sean E. Vincent

CERTIFICATE OF MAILING

I hereby certify that the original paper identified herein are being deposited with United States Postal Service as first class mail, postage prepaid, to Mail Stop: Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450

on: December 20, 2005

Jackie Olshack

Jackie Olshack

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

PETITION TO MAKE SPECIAL UNDER 37 CFR §1.102

Dear Sir:

This petition, pursuant to 37 CFR §1.102, seeks to advance the order of examination of the above-referenced Application ("Application").

PETITION GRANTED

William Krynski
Special Program Examiner
Technology Center 1700

JAN 18 2006

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
10/959,696	10/06/2004	3634	790	BSI-017C1	24	20	3

CONFIRMATION NO. 3637

021323
TESTA, HURWITZ & THIBEAULT, LLP
HIGH STREET TOWER
125 HIGH STREET
BOSTON, MA 02110

CORRECTED FILING RECEIPT

OC000000015071058

Date Mailed: 01/31/2005

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 J. Marshik, Canton, SD;

Assignment For Published Patent Application

Amesbury Group, Inc., Amesbury, MA

Power of Attorney:

Steven Frank–33497
Christopher Stamos–35370
Robert Tosti–35393
Douglas Kline–35574
Thomas Turano–35722
John Cotter–38116
John Forcier–42545
Brian Gaff–44691
Elias Behrakis–47416

Domestic Priority data as claimed by applicant

This application is a CON of 10/041,784 10/19/2001 PAT 6,817,142 which claims benefit of 60/241,990 10/20/2000

Foreign Applications

If Required, Foreign Filing License Granted: 01/07/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/959,696

Projected Publication Date: 05/12/2005

Non-Publication Request: No

Early Publication Request: No

Title

Methods and apparatus for a single lever tilt lock latch window

Preliminary Class

049

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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HEWLETT PACKARD COMPANY
PO BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINSTRATION
FORT COLLINS, CO 80527-2400

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FEB 19 2008

OFFICE OF PETITIONS

In re Application of	:	
David E. LOWELL, et al	:	
Application No. 10/959,714	:	DECISION ON PETITION
Filed: October 6, 2004	:	
Attorney Docket No. 200402826-1	:	

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**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, April 2, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 3, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

It is not apparent whether the 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. However, in accordance with 37 CFR 1.34, the signature of Mr. Lavorgna appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If, Mr. Lavorgna 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. Never the less, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1050 extension of time fee submitted with the petition on November 13, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account

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

This application is being referred to Technology Center AU 2188 for appropriate action by the Examiner in the normal course of business on the reply received November 13, 2007.

April M. Wise
Petitions Examiner
Office of Petitions

cc: GREGORY LAVORGNA
DRINKER, BIDDLE & REATH, LLP
ONE LOGAN SQUARE
18TH AND CHERRY STS
PHILADELPHIA, PA 19103

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Pennington, Moore, Wilkinson,
Bell & Dunbar, P.A.
Post Office Box 10095
Tallahassee FL 32302-2095

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OFFICE OF PETITIONS

In re Application of :
Lori LOMBARDO :
Application No. 10/959,720 : ON PETITION
Filed: October 6, 2004 :
Attorney Docket No. 19657-16395 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 20, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply to the non-final Office action mailed November 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 above-identified application became abandoned on February 4, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a response to a non-final Office action; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of November 3, 2006 is accepted as having been unintentionally delayed.

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

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

The application file is being referred to Technology Center AU 2612 for appropriate action on the concurrently filed amendment.

David Bucci
Petitions Examiner
Office of Petitions

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STEPHEN B. DAVIS
BRISTOL-MYERS SQUIBB COMPANY
PATENT DEPARTMENT
P O BOX 4000
PRINCETON, NJ 08543-4000

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AUG 17 2005

OFFICE OF PETITIONS

In re Application of :
Jennifer X. Qiao, et al. :
Application No. 10/959,724 :
Filed: October 6, 2004 :
Attorney Docket No. PH7506 NP :

DECISION GRANTING PETITION

This is a decision on the petition, filed January 31, 2005, requesting that the above-identified application be accorded a filing date of October 6, 2004, instead of the presently accorded date of October 7, 2004.

Petitioners request the earlier filing date on the basis that the application was purportedly deposited in Express Mail service with the U. S. Postal Service (USPS), on October 6, 2004. In support, petitioners provided, inter alia, a copy of the Express Mail label, receipt No. EL 983150186 US. Petitioner explains that while the label includes an incorrectly hand written date of 10/7/04, it also includes a date stamped by the USPS of 10/06/2004. The same Express Mail receipt number appears on the original transmittal letter found in the file.

Since the "stamped date" on the copy of the Express Mail mailing label is not clear, a search of the USPS Track & Confirm records was requested. The restoration record confirms that the package bearing Express Mail label No. EL 983150186 US was accepted by the USPS on October 6, 2004 at 3:39pm. (copy attached)

In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the U.S. Postal Service on October 6, 2004.

The petition is GRANTED.

The application is being referred to Initial Patent Examination Division for correction of the filing date to **October 6, 2004**, and issuance of a Corrected Official Filing Receipt.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to OIPE processing should be directed to their hotline at (703) 308-1202.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: USPS Track & Confirm Record

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JOSEPH S. HEINO, ESQ.
DAVIS & KUELTHAU, S.C.
111 E. KILBOURN
SUITE 1400
MILWAUKEE, WI 53202-6613

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APR 10 2007

OFFICE OF PETITIONS

In re Application of :
Gregory D. Geise :
Application No. 10/959,728 : ON PETITION
Filed: October 6, 2004 :
Attorney Docket No. 13002.20424 :

This is a decision on the petition, filed November 28, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The above-identified application became abandoned for failure to respond in a timely manner to the Notice of Allowability mailed June 29, 2006. A Notice of Abandonment was mailed on November 2, 2006. In response, on November 28, 2006, the present petition was filed.

The petition is found to comply with the requirements of 37 CFR 1.137(b).

The application is being referred to the Office of Publications to oversee the review of the drawing filed November 28, 2006.

Telephone inquires related to this decision may be directed to the undersigned at (571) 272-3204. Status inquires related to processing at Publishing Division should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03/20/09

TO SPE OF : ART UNIT 2857 (2800)

SUBJECT : ~~Request~~ for Certificate of Correction for Appl. No.: 10/959,733 Patent No.: 7,451,064

Attn: Felix Suarez

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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

Thank You For Your Assistance

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

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

Comments: _____

-- Changes in column 14, lines 66-67, in Claim 4 are approved. Changes in claims 6, 14, 15, 23, 26, 27, and 33 are approved.

-- Changes in column 15, line 2, in Claim 4 are denied because this changes the scope of the claim. Mistake is not of a clerical or typographical nature, nor of minor character. See MPEP 1481.

_____ /Eliseo Ramos-Feliciano/
Supervisory Patent Examiner

Art Unit 2857

SPE Art Unit

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TOLER SCHAFFER, LLP
5000 PLAZA ON THE LAKES
SUITE 265
AUSTIN, TX 78746

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OCT 24 2006

OFFICE OF PETITIONS

In re Application of :
CHIN, et al. :
Application No. 10/959,749 : DECISION ON PETITION
Filed: October 06, 2004 : TO WITHDRAW
Attorney Docket No. 1495-0001-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 May 19, 2006.

The request is **NOT APPROVED**.

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

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

All attorneys from TOLER SCHAFFER, LLP remain of record in this application and are still responsible for this application until a proper request to withdraw has been accepted or a revocation has been filed by applicant. See 37 CFR 1.36.

"All future communications from the Office will be directed to the below listed address from the change of address filed June 13, 2006, until otherwise notified by the applicant."

A Review of the file discloses that a final Office action was mailed on September 05, 2006, which set forth a three month shortened statutory period for reply. Extensions of time under 37 CFR 1.136(a) are available. To date, there is no indication that a reply to the Office action of September 05, 2006 has been received.

Telephone inquiries concerning this decision should be directed to Patricia Volpe at 571-272-6825.

David Bucci
Petitions Examiner
Office of Petitions

cc: LARSON NEWMAN ABEL POLANSKY & WHITE, LLP
5914 WEST COURTYARD DRIVE
SUITE 200
AUSTIN TX 78730

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JONATHAN P. OSHA
OSHA & MAY LLP
SUITE 2800
1221 MCKINNEY ST.
HOUSTON, TX 77010

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OFFICE OF PETITIONS

In re Application of
Hideo Morimoto
Application No. 10/959,756
Filed: October 6, 2004
Attorney Docket No. 07700/033002

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 13, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 24, 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 3729 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
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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P.O. Box 1450
Alexandria, VA 22313-1450
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JONATHAN P. OSHA
OSHA & MAY, LLP
1221 MCKINNEY STREET, SUITE 2800
HOUSTON, TX 77010

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JAN 23 2008

OFFICE OF PETITIONS

In re Application of :
MORIMOTO, Hideo :
Application No. 10/959,756 : DECISION DISMISSING PETITION
Filed: October 6, 2004 : UNDER 37 CFR 1.313(a)
Attorney Docket No. **07700/033002** :

This is a decision on the petition under 37 CFR 1.313(a), filed January 18, 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 November 21, 2007, with the issue fee being due on or before February 21, 2008. It is noted that the issue fee has not been paid in response to the notice mailed November 21, 2007.

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.

Inquiries concerning this decision may be directed to Monica A. Graves at (571) 272-7253.

The matter is being referred to Technology Center AU 3729 for appropriate processing of the RCE filed January 18, 2008, and for consideration of the concurrently filed information disclosure statement.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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DARRY PATTINSON, SENIOR IP PARALEGAL
CYTYC SURGICAL PRODUCTS
250 CAMPUS DRIVE
MARLBOROUGH, MA 01752

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SEP 16 2009

OFFICE OF PETITIONS

In re Application of
Csaba Truckai, et al.
Application No. 10/959,771
Filed: October 6, 2004
Attorney Docket No. ENVS-230

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed July 13, 2009.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before July 1, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed April 1, 2009, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on July 2, 2009. On July 13, 2009 the present petition was filed. A Notice of Abandonment was subsequently mailed on July 16, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $1,510 issue fee and $300 publication fee; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

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

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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Ladas & Parry LLP
26 West 61st Street
New York NY 10023

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SEP 26 2007

OFFICE OF PETITIONS

In re Patent No. 7,143,271 :
Issue Date: November 28, 2006 :
Application No. 10/959,778 : ON PETITION
Filed: October 6, 2004 :
Attorney Docket No. U 015399-2 :

This is a decision on the petition filed March 19, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6/21/08 Paper No.: _____

TO SPE OF : ART UNIT 2838 Nguyen Matthew

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/959,779 Patent No.: 7212414

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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

Thank You For Your Assistance

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

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

Comments: _____

Aullah 9/17/'08
AKM ULLAH
SUPERVISORY PATENT EXAMINER

_____ 2838
SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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ARNOLD & PORTER LLP
555 TWELFTH STREET, N.W.
ATTN: IP DOCKETING
WASHINGTON, DC 20004

Mail Date: 04/20/2010

Applicant	: Stefan A. Bledig	: DECISION ON REQUEST FOR
Patent Number	: 7635764	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/959,789	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/07/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **676** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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CHARLES E. BAXLEY, ESQUIRE
90 JOHN STREET
SUITE 309
NEW YORK NY 10038

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OFFICE OF PETITIONS

In re Application of :
Victor Nelson :
Application No. 10/959,797 : ON PETITION
Filed: October 6, 2004 :
Attorney Docket No. 14379 B :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 23, 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 June 4, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). A one month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is October 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 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 the undersigned at (571) 272-1642.

This application is being referred to Technology Center AU 2832 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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LAW OFFICES OF JOHN P. MCGONAGLE
800 HINGHAM STREET - 2N
ROCKLAND MA 02370

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JUL 27 2007

OFFICE OF PETITIONS

In re Application of
GUARAGNA, Lou
Application No. 10/959,816
Filed: October 7, 2004
Attorney Docket No. **7518**

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 6, 2007, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely submit corrected formal drawing on or before November 9, 2006, as required by the Notice of Allowability, mailed August 9, 2006 . Accordingly, the date of abandonment of this application is November 10, 2006 .

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of corrected formal drawings; (2) the petition fee of $750; and (3) a proper statement of unintentional delay.

The drawing have been approved by the USPTO draftsperson.

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

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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JUL 20 2007

OFFICE OF PETITIONS

J. DAVID NELSON
NELSON, SNUFFER, DAHLE & POULSEN, P.C.
19885 SOUTH STATE STREET
SANDY, UT 840702

In re Application of :
Kevin F. Fitzgerald :
Application No. 10/959,831 : ON PETITION
Filed: October 5, 2004 :
Attorney Docket No. None :

This is a decision in response to the petition, filed February 14, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed April 3, 2006. A Notice of Abandonment was mailed on October 31, 2006. In response, on February 14, 2007, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 3643 for consideration of the amendment filed February 14, 2007.

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

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: J. DAVID NELSON
NELSON, SNUFFER, DAHLE & POULSEN, P.C.
10885 SOUTH STATE STREET
SANDY, UT 84070

UNITED STATES PATENT AND TRADEMARK OFFICE

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EVEREST INTELLECTUAL PROPERTY LAW GROUP
P.O. BOX 708
NORTHBROOK, IL 60065

COPY MAILED

SEP 18 2007

OFFICE OF PETITIONS

In re Application of :
SHAW, Sandy C. :
Application No. 10/959,844 : DECISION ON PETITION
Filed: October 6, 2004 : TO WITHDRAW
Attorney Docket No. **FGM010 (112092)** : 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 8, 2007.

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

A review of the file record indicates that the power of attorney to **EVEREST INTELLECTUAL PROPERTY LAW GROUP** has been revoked by the assignee of the patent application on April 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 the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **PROCOPIO CORY HARGREAVES & SAVITCH LLP**
530 B STREET, SUITE 2100
SAN DIEGO, CA 92101

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MAR 28 2008

OFFICE OF PETITIONS

PROCOPIO, CORY,
HARGREAVES & SAVITCH LLP
530 B STREET
SUITE 2100
SAN DIEGO CA 92101

In re Application of :
Shaw :
Application No.: 10/959,844 :
Filing Date: 6 October, 2004 :
Attorney Docket No. FGM010 (112092)

DECISION

This is a decision on the petition filed on 25 October, 2007, under 37 C.F.R. §1.137(a) to revive the application as having been abandoned due to unavoidable delay.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.

The petition as considered under 37 C.F.R. §1.137(a) is **GRANTED**.

BACKGROUND

The record reflects that:

- on 12 April, 2007, Petitioner filed a Revocation/Power of Attorney with a certificate under 37 C.F.R. §3.73(b);
- Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 16 July, 2007, with reply due under a non-extendable deadline on or before 16 October, 2007;
- On 29 August, 2007, Petitioner requested that Office records be updated to reflect the proper mailing address pursuant to the Revocation/Power of Attorney with a certificate under 37 C.F.R. §3.73(b) filed on on 12 April, 2007;

- the application went abandoned by operation of law after midnight 16 October, 2007;
- it does not appear that the Office mailed a Notice of Abandonment before the instant petition was filed;
- on 25 October, 2007, Petitioner filed the instant petition under 37 C.F.R. §1.137(a) averring unavoidable delay because the Notice of Allowance/Allowability and Fees Due was mailed to the address of former Counsel

(Notably, it does not appear that Petitioner requested withdrawal of abandonment/re-mailing of the Office action and restart the period of reply pursuant to 37 C.F.R. §1.181.)

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner immediate and on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[3]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[4]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding

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

4 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[5]

Delays in responding properly raise the question whether delays are unavoidable.[6] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[7]

And the Petitioner must be diligent in attending to the matter.[8] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[9]))

As to the Allegations of Unavoidable Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(a) are the petition and fee, a showing of unavoidable delay, a proper reply, and–where appropriate–a terminal disclaimer and fee.

It appears that Petitioner has satisfied the regulatory requirements.

CONCLUSION

The petition under 37 C.F.R. §1.137(a) is **granted**.

The instant application is released to Publications Branch to be processed into a patent in due course.

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

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

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

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

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

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by Publications Branch in response to this decision—and it is noted that all inquiries with regard to any failure of that change in status should be directed to Publications Branch where that change of status must be effected.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[9]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

---

[9] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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LOUIS J. WILLE
BRISTOL-MYERS SQUIBB COMPANY
PATENT DEPARTMENT
P.O. BOX 4000
PRINCETON, NJ 08543-4000

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AUG 22 2008

In re Application of :
Annapurna Pendri et al :
Application No. 10/959,866 : ON PETITION
Filed: October 6, 2004 :
Attorney Docket No. LA0123 NP

This is a decision on the petition, filed August 20, 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 August 5, 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 1626 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 : March 25, 2009

TO SPE OF : ART UNIT 3747
SUBJECT : Request for Certificate of Correction for Appl. No.: 10/959883 / 7210446
Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Magdalene Talley
Certificates of Correction Branch
703-308-9390 ext. 120

Thank You For Your Assistance

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

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

Comments: _____

STEPHEN K. CRONIN
SUPERVISORY PATENT EXAMINER

SPE 3747 Art Unit

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CASIMIR JONES, S.C.
2275 DEMING WAY, SUITE 310
MIDDLETON WI 53562

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JAN 28 2010

OFFICE OF PETITIONS

In re Patent No. 7,419,963	:	
Application No. 10/959,885	:	
Filed: October 6, 2004	:	ON PETITION
Issued: September 2, 2008	:	
Attorney Docket No. UM-09613	:	

This is a decision on the petition filed May 19, 2009 and supplemented July 6, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to add the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

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

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FAEGRE & BENSON LLP
PATENT DOCKETING - INTELLECTUAL PROPERTY
2200 WELLS FARGO CENTER
90 SOUTH SEVENTH STREET
MINNEAPOLIS, MN 55402-3901

Mail Date: 04/20/2010

Applicant	: Robert G. Walsh	: DECISION ON REQUEST FOR
Patent Number	: 7618364	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/959,888	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/05/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1349** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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THOMAS J. GERMINARIO, ESQ.
154 ROUTE 206
CHESTER NJ 07930

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AUG 26 2008

OFFICE OF PETITIONS

In re Application of :
Vincent L. Verdimo :
Application No. 10/959895 : ON PETITION
Filing Date: 10/06/2004 :
Title of Invention: HAND WASH :
MONITORING SYSTEM AND METHOD :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 23, 2008, to revive the above-identified application. The delay in treating this petition is regretted.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 15, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is February 16, 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 (and the submission required by 37 CFR 1.114; (2) the petition fee; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2612 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

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Lucash, Gesmer & Updegrove, LLP
40 Broad Street
Suite 300
Boston, MA 02109

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AUG 18 2006

OFFICE OF PETITIONS

In re Application of :
Ralph Gifford et al. :

Application No. 10/959,896 : DECISION ON PETITION
Filed: October 6, 2004 : TO WITHDRAW
Attorney Docket No. ENV-101-US : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 30, 2006.

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

A review of the file record indicates that the power of attorney to David Jacobs and attorneys and/or agents associated with Customer Number 24390 have been revoked by the assignee of the patent application on April 18, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

David Bucci
Petitions Examiner
Office of Petitions

cc: Ralph Gifford
Enventive Engineering, Inc.
661 George Hill Road
P.O. Box 209
South Lancaster, MA 01581

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HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

Mail Date: 04/21/2010

Applicant	: Ralph Gifford	: DECISION ON REQUEST FOR
Patent Number	: 7623139	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/959,896	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/06/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **699** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Barbara E. Johnson
700 Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219-1818

Mail Date: 04/21/2010

Applicant	: Paul de Kleijn	: DECISION ON REQUEST FOR
Patent Number	: 7572840	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/959,922	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/05/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **13** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Paper No.

COATS & BENNETT, PLLC
1400 Crescent Green, Suite 300
Cary NC 27518

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JUN 23 2010

OFFICE OF PETITIONS

In re Application of :
Cairns et al. :
Application No. 10/959,923 : ON APPLICATION FOR
Filed: October 6, 2004 : PATENT TERM ADJUSTMENT
Atty Docket No. 4015-5444/P19005-US1 :
Title: APPARATUS, METHODS AND COMPUTER PROGRAM PRODUCTS FOR DELAY SELECTION IN A SPREAD-SPECTRUM RECEIVER :

This is in response to the "Application for Patent Term Adjustment," filed February 3, 2010. Applicant submits that the correct patent term adjustment to be indicated on the patent is one thousand, six hundred and sixty-six (1666) days, not seven hundred and fourteen (714) 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 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). 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). No additional fees are required.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months

---

[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.

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.

Anthony Knight
Director
Office of Petitions

Pet. Dec.

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FEB 9 2005

In re Application of	:	
FEDOR.	:	
Serial Number: 10/959,926	:	PETITION UNDER
Filed: October 5, 2004	:	M.P.E.P.708.02 III
For: PLUG AND PENCIL FOR ENGINE	:	AND IV

This is in response to the petition filed October 5, 2004, requesting that the above-identified application be granted Special Status under Sections 708.02 III and IV of the MPEP and 37 CFR 1.102(c) (**no fee required**).

The request for Special Status considered under Sections 708.02 III and IV has not been granted because no evidence has been submitted to show applicant's state of health or age. The referenced Sections of the MPEP require such evidence.

Accordingly the petition is **DENIED.**

Richard Crispino, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

Mr. Walter J. Tencza, Jr.
Suite 3
10 Station Place
Metuchen, NJ 08840

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JUN 2 2005

WALTER J. TENCZA JR.
10 Station Place Suite 3
Metuchen, NJ 08840

In re application of
Michael E. Fedor
Application No. 10/959,926
Filed: October 05, 2004
For: PLUG AND PENCIL FOR ENGINE

: **DECISION ON PETITION**
: **TO MAKE SPECIAL**
: **(APPLICANT'S AGE)**

This is a decision on the petition submitted on December 18, 2003 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 and Section III: Applicant's Health.

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. Fedor indicating that he is at least 65 years of age.

For an application to be accorded special status under Section III: Applicant's Health, evidence showing that the state of health of the applicant is such that he might not be available to assist in the prosecution of the application if it were to run its normal course must be provided in the form of a doctor's certificate or other medical certificate. No such evidence was included, however, the point is moot, since applicant's statement of age is sufficient.

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/js 5/18/05

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PFIZER INC.
PATENT DEPARTMENT, MS8260-1611
EASTERN POINT ROAD
GROTON CT 06340

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OCT 12 2006

OFFICE OF PETITIONS

In re Application of	:	
Brown et al.	:	
Application No. 10/959,934	:	ON PETITION
Filed: October 5, 2004	:	
Attorney Docket No. PC25248B	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 20, 2006, to revive the above-identified application.

The petition is **GRANTED.**

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

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

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

Liana Chase Walsh
Petitions Examiner
Office of Petitions

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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

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DEC 05 2007

OFFICE OF PETITIONS

In re Application of Ericson et al. :
Application No. 10/960,008 : Decision on Petition
Filing Date: October 8, 2004 :
Attorney Docket No. 3782-0187PUS2 :

This is a decision on the petition under 37 CFR 1.181, filed August 3, 2007, to withdraw the holding of abandonment.

The petition is **granted.**

Facts:

The application was filed on October 8, 2004.

The papers filed October 8, 2004, included a copy of the foreign Swedish application along with a full and complete copy of an English translation of the Swedish application.

Due to clerical error, the Office miscoded the English translation filed October 8, 2004, when entering papers into the Electronic File Wrapper.

The Office mailed a Notice to File Missing Parts on January 4, 2005. The Notice set a period for reply of two (2) months from the mail date of the Notice. The Notice incorrectly stated an English translation of the application had not been filed and required the submission of an English translation.

A reply was filed March 4, 2005.

Unfortunately, the March 4, 2005 specification was unacceptable because large portions of the specification were illegible. The Office notes portions of the October 8, 2004 copy of the English translation were also illegible.

The Office mailed a Notice of Incomplete Reply on March 17, 2005. The Notice informed petitioner of the need to file a new, legible copy of the specification. The Notice did not set a new time period for reply.

A reply to the March 17, 2005 Notice was not matched with the file.

A Notice of Abandonment was mailed June 25, 2007.

Petitioner contends a new, proper specification was timely filed in response to the March 17, 2005 Notice. In support of the petition, petitioner has submitted a date-stamped postcard receipt indicating the Office received a response to the Notice of Incomplete Application on April 21, 2005.

Discussion:

The original papers filed April 21, 2005, were not matched with the file and cannot be located. However, M.P.E.P. 503 states, "[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 the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that a reply was timely filed in the Patent and Trademark Office on April 21, 2005, but not matched with the application file.

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

Normally, the Office would charge a two-month extension of time to petitioner's deposit account in order to make the papers filed April 21, 2005 timely. However, a review of the file indicates the Notice of Missing Parts mailed January 4, 2005, was mailed in error. Specifically, the Notice failed to recognize a translation had already been filed with the original application papers. Therefore, in view of all the facts, the Office will not charge petitioner's deposit account for a two-month extension of time.

The Office of Patent Application Processing will be informed of the instant decision and will process the application papers in order to prepare the application for examination in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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1660 LINCOLN STREET
SUITE 3050
DENVER, CO 80264-3103

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APR 13 2006

OFFICE OF PETITIONS

In re Application of :
Guy C. Thrap :
Application No. 10/960,034 : DECISION ON PETITION
Filed: January 5, 2006 : TO WITHDRAW
Attorney Docket No. M132 : FROM RECORD
:

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

The request is **APPROVED**.

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

The request was signed by Gregory Koemer on behalf of all attorneys of record. Applicant is reminded that there is no attorney of record at this time.

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

The Revocation of Power of Attorney and Correspondence Addresses received on January 6, 2006; January 25, 2006 and February 1, 2006 are not accepted. A proper Statement Under 37 CFR 3.73(b) giving the reel and frame must be provided.

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

Denise Pothier
Petitions Examiner
Office of Petitions

cc: Maxwell Technoiogies, Inc.
Patent Department
9244 Bulboa Avenue
San Diego, CA 92123

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30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

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OFFICE OF PETITIONS

In re Patent No. 7,209,682 :
Issue Date: April 24, 2007 :
Application No. 10/960,054 : NOTICE
Filed: October 8, 2004 :
Attorney Docket No. 00684.108824

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

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OFFICE OF PETITIONS

In re Patent No. 7,001,201 :
Issue Date: February 21, 2006 :
Application No. 10/960,071 : NOTICE UNDER 37 CFR. 1.28(c)
Filed: October 08, 2004 :
Attorney Docket No. IAM04181 :

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

Inquiries related to this communication should be directed to the Michelle R. Eason at (571) 272-4231.

Thurman Page
Petitions Examiner
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/960,096	10/08/2004	Hiroaki Fuse	SON-3103	5791

23353 7590 08/10/2009

RADER FISHMAN & GRAUER PLLC
LION BUILDING
1233 20TH STREET N.W., SUITE 501
WASHINGTON, DC 20036

EXAMINER	
LO, KENNETH M	

ART UNIT	PAPER NUMBER
2189	

MAIL DATE	DELIVERY MODE
08/10/2009	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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AUG 10 2009

TECHNOLOGY CENTER 2100

In re Application of:
HIROAKI FUSE et al.
Serial No.: 10/960,096
Filed: October 08, 2004
Docket: SON-3103
Title: **DATA MANAGEMENT APPARATUS AND METHOD, NON-VOLATILE MEMORY, STORAGE DEVICE HAVING THE NON-VOLATILE MEMORY AND DATA PROCESSING SYSTEM**

DECISION ON PETITION TO WITHDRAW THE FINALITY OF AN OFFICE ACTION

This paper provides the decision on the petition filed May 08, 2009, under 37 C.F.R. § 1.181 and M.P.E.P. § 706.07 to withdraw the finality of the Office action, mailed April 03, 2009.

The Petition is **GRANTED.**

Applicable Prosecution History

January 26, 2007	FAOM mailed. The action included a rejection under 35 USC 102(b) as being anticipated by Sassa (US patent 6,098,077).
April 17, 2007	Response and Amendment filed.
June 19, 2007	Final Rejection mailed. Maintained the rejection under 35 USC 102(b) over Sassa (US patent 6,098,077).
September 19, 2007	After Final Response and Amendment filed.
October 3, 2007	Advisory action mailed, refusing entry of the Amendment filed on September 19, 2007.

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October 17, 2007	RCE filed, causing the entry of the Amendment filed on September 19, 2007. By this amendment, claims 2, 9, and 24 were cancelled. Claims 1, 8, 15, 19, 23, and 27 were amended. Applicants pointed to sections of the specification for support of the amended claims.
December 28, 2007	Non-Final Office Action Mailed. The action consisted rejection of all pending claims under 35 USC 112 First paragraph for failing to comply with the written description requirement. There were no rejections made over prior art in this office action.
April 25, 2008	Applicant response included a showing of support for the amended claim limitations in response to the written description rejection applied by examiner. Additionally, Applicants amended the claims 1, 8, 15, 19, and 23.
August 18, 2008	Final Rejection mailed. In the Final rejection, examiner dropped the rejection under 35 USC 112 First Paragraph, the only rejection that was provided in the last office action mailed on December 28, 2007. Additionally, examiner rejected all pending claims under 35 USC 103(a) as being unpatentable over Sassa (US patent 6,098,077).
November 18, 2008	After Final response, filed without amendment, argued the merits of the rejection over Sassa.
December 03, 2008	Advisory Action mailed.
December 16, 2008	Pre-Appeal Brief Request for Review filed.
February 04, 2009	Notice of Panel Decision to **Reopen Prosecution** from Pre-Appeal Brief Review.
April 03, 2009	Final Office Action mailed. Examiner rejected all pending claims under 35 USC 103(a) as being unpatentable over Sassa (US patent 6,098,077), in view of Kanota et al. (US patent 5,384,666).

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May 08, 2009 Instant Petition under 37 C.F.R. § 1.181 requesting withdrawal of the Final Office Action filed.

June 03, 2009 After Final response filed.

RELIEF REQUESTED

The instant petition filed under 37 CFR 1.181 requests the withdrawal of the finality of the office action mailed on April 03, 2009.

Petitioner is seeking review of the *prematureness* of the final rejection within the Final Office Action, respectfully requesting reconsideration of the finality of the Office Action for the reasons set forth below. See M.P.E.P. §706.07(c).

Petitioner argues all of the grounds of rejection in the Final Office Action dated April 3, 2009 are new grounds of rejection. Additionally, all of these new grounds of rejection have been imposed following Panel repudiation of the previous grounds of rejection, not an amendment or submission of an information disclosure statement.

RULES AND PROCEDURE

37 CFR § 1.181 Petition to the Director.

(a) Petition may be taken to the Director:
(1) From any action or requirement of any examiner in the ex parte prosecution of an application, or in ex parte or inter partes prosecution of a reexamination proceeding which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court;

.....

(b) Any such petition must contain a statement of the facts involved and the point or points to be reviewed and the action requested. Briefs or memoranda, if any, in support thereof should accompany or be embodied in the petition; and where facts are to be proven, the proof in the form of affidavits or declarations (and exhibits, if any) must accompany the petition.

(c) When a petition is taken from an action or requirement of an examiner in the ex parte prosecution of an application, or in the ex parte or inter partes prosecution of a reexamination proceeding, it may be required that there have been a proper request for reconsideration (§ 1.111) and a repeated action by the examiner. The examiner may be directed by the Director to furnish a written statement, within a specified time, setting forth the reasons for his or her decision upon the matters averred in the petition, supplying a copy to the petitioner.

.....

(f) The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under

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this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

706.07 [R-3] Final Rejection

...

Before final rejection is in order a clear issue should be developed between the examiner and applicant. To bring the prosecution to as speedy conclusion as possible and at the same time to deal justly by both the applicant and the public, the invention as disclosed and **claimed should be thoroughly searched in the first action and the references fully applied; and in reply to this action the applicant should amend with a view to avoiding all the grounds of rejection and objection.**

The examiner should never lose sight of the fact that in every case the applicant is entitled to a full and fair hearing, and that a clear issue between applicant and examiner should be developed, if possible, before appeal. However, it is to the interest of the applicants as a class as well as to that of the public that prosecution of an application be confined to as few actions as is consistent with a thorough consideration of its merits.

706.07(a) [R-6] Final Rejection, When Proper on Second Action

...

Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims, nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

2163 [R-5] Guidelines for the Examination of Patent Applications Under the 35 U.S.C. 112, para. 1, "Written Description" Requirement

.....

These Guidelines are intended to form part of the normal examination process. Thus, **where Office personnel establish a prima facie case of lack of written description for a claim, a thorough review of the prior art and examination on the merits for compliance with the other statutory requirements, including those of 35 U.S.C. 101, 102, 103, and 112, is to be conducted prior to completing an Office action which includes a rejection for lack of written description.**

.....

III. COMPLETE PATENTABILITY DETER-MINATION UNDER ALL STATUTORY REQUIREMENTS AND CLEARLY COMMUNICATE FINDINGS, CONCLUSIONS, AND THEIR BASES

The above only describes how to determine whether the written description requirement of 35 U.S.C. 112, para. 1, is satisfied. **Regardless of the outcome of that determination, Office personnel must complete the patentability determination under all the relevant statutory provisions of title 35 of the U.S. Code. Once Office**

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personnel have concluded analysis of the claimed invention under all the statutory provisions, including 35 U.S.C. 101, 112, 102, and 103; they should review all the proposed rejections and their bases to confirm their correctness. Only then should any rejection be imposed in an Office action. The Office action should clearly communicate the findings, conclusions, and reasons which support them. When possible, the Office action should offer helpful suggestions on how to overcome rejections.

REQUIREMENTS

A petition under 3 7 CFR § 1.181 must include: (1) a statement of facts involved and (2) the point or points to be reviewed and the action requested. Note, the mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. In addition § 1.181 (f) sets forth: any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely. Further, when a petition is taken from an action or requirement of an examiner in the ex parte prosecution of an application, ...it may be required that there have been a proper request for reconsideration (37 CFR § 1.111) and a repeated action by the Examiner.

The petition filed on May 08, 2009 includes elements (1) and (2) above, as well as a request for reconsideration.

DECISION

Petitioner contends that the new grounds of rejection of claims under 35 USC 103(a) over Sassa (US patent 6,098,077), in view of Kanota et al. (US patent 5,384,666) were not necessitated by amendments made by applicants.

A review of the file record indicates that claim 1 was amended as follows with the RCE filed on October 17, 2007. Amended claim 1 is reproduced here with the amendments highlighted:

> *1. (Currently Amended) A data management apparatus for supervising a non-volatile memory having a plurality of blocks erasable in a lump, each of said blocks being formed by a plurality of pages, each of said pages including a redundant area, said apparatus comprising:*
> *management means for storing distributed management information, as the management information for the respective blocks, in said redundant area of each page, and for storing aggregate management information in said non-volatile memory, in association with said distributed management information, said aggregate management information supervising data stored in said non-volatile memory in a lump, said management means verifying, at the time of booting, whether said aggregate management information is ~~effective~~ valid*

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> *based on a block flag of a block having a file of said aggregate management information stored therein, said block flag being set depending, upon whether said aggregate management information has been updated to match all modification of the data contents of said non-volatile memory, said management means supervising said data based on said aggregate management information when said aggregate management information is ~~effective~~ valid, said management means supervising said data based and on said distributed management information when said aggregate management information is not ~~effective~~ valid; and*
> ~~*wherein raid distributed management information includes logical address information of said blocks, and discrimination values for resolving conflicts associated with said logical address information*~~ *error correction means arranged to carry out an error correction on said data using error correction code stored within said pages when said management means determines, at the time of booting, said aggregate management information to be not valid, simultaneously with said management means constructing said aggregate management information from said distributed management information, and to not carry out said error correction when said management means determines, at the time of booting, said aggregate management information to be valid.*

In response to the RCE, a non-final action, rejecting all pending claims under 35 USC §112 ¶ 1, was mailed on December 28, 2007. The claims were not subject to any other rejection in this non-final action. MPEP 2163 clearly states that an analysis of the claimed invention under all the statutory provisions, including 35 U.S.C. 101, 112, 102, and 103 must be performed. There is no indication in this office action if the claims were analyzed under 35 U.S.C. 102, and 103.

In response to the above non-final action, Applicants filed a response and amendment on April 25, 2008. Applicants amended the claims in response to the 35 USC §112 ¶ 1 rejection to "remove any ambiguities". The amended portion of claim 1 is reproduced below:

> *error correction means arranged to carry out an error detection and correction on said distributed management information ~~data~~ using error correction code stored within said pages when said management means determines, at the time of booting, said aggregate management information to be not valid, simultaneously with said management means constructing said aggregate management information from said distributed management information, and to not carry out said error detection and correction when said management means determines, at the time of booting, said aggregate management information to be valid.*

In response to this amendment a final rejection was mailed on August 18, 2008, under 35 USC 103(a) over Sassa (US patent 6,098,077), the same reference that was used in prior two office actions.

Since the claims were not rejected over art in the previous non-final action, and no indication was given in that office action as to why the claims could not have been considered under the

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other statutes, the finality of this office action would be considered premature per MPEP 2163 above.

However, a decision on a pre-appeal request by applicant resulted in re-opening prosecution of this application.

In the action that followed the pre-appeal decision, examiner rejected all pending claims under 35 USC 103(a) as being unpatentable over Sassa (US patent 6,098,077), in view of Kanota et al. (US patent 5,384,666) (new grounds of rejection), and made the action final. However, it appears that the Kanota reference was included in the rejection to address the "error correction means" introduced into the claims with the filing of the RCE on October 17, 2007. Hence, it is concluded that the new grounds of rejection in the office action mailed on April 3, 2009, were not necessitated by the amendments filed on April 25, 2008 in response to the Non-Final action mailed on December 28, 2007. Thus, it is improper under current office practice to make the office action mailed on April 3, 2009, final as provided under MPEP 706.07(a).

For the above stated reasons, the petition is **GRANTED.**

The finality of Office action mailed on April 3, 2009 is hereby withdrawn and the office action is changed to non-final Office action. The time period for response to Non-Final office action continues to run from the mailing of the Office action, April 3, 2009.

Nestor Ramirez, Director
Technology Center 2100
Computer Architecture, Software, and Information Security

NRR:mp

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PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE, WA 98111-1247

Mail Date: 04/20/2010

Applicant	: Wen-Yuan Peng	: DECISION ON REQUEST FOR
Patent Number	: 7626736	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/960,100	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1393** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

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AUG 0 8 2007

OFFICE OF PETITIONS

In re Application of :
Miyabe et al. :
Application No. 10/960121 : NOTICE
Filed: 10/08/2004 :
Attorney Docket No. 00684.108880 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed on 15 May, 2007.

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

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

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

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

D Wood

Douglas I. Wood
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.
10/960,135	10/06/2004	Robert P. Morris	I282/US	5642

49278 7590 02/03/2010
SCENERA RESEARCH, LLC
111 Corning Road
Suite 220
Cary, NC 27518

EXAMINER	
NGUYEN, THANH T	

ART UNIT	PAPER NUMBER
2444	

MAIL DATE	DELIVERY MODE
02/03/2010	PAPER

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

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

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FEB 02 2010

DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

Kevin L. Wingate
SCENERA RESEARCH, LLC
111 CORNING RD.
SUITE 220
CARY NC 27518

In re Application of: MORRIS, Robert P.
Application No. **10/960,135**
Filed: October 06, 2004
Docket No. I282/US
Title of Invention: SYSTEM AND METHOD FOR UTILIZING CONTACT INFORMATION, PRESENCE INFORMATION AND DEVICE ACTIVITY

DECISION ON PETITION UNDER 37 C.F.R. § 1.103(a)

This is a decision on the petition filed on January 13, 2010 under 37 CFR § 1.103(a) requesting suspension of action by the Office for a period of six (6) months for good and sufficient cause. The request is accompanied by fee set forth in §1.17(g).

The petition is **GRANTED**.

Pursuant to applicant's request filed on January 13, 2010, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of six (6) months. The suspension of action in the case applied to an impending Office action by the examiner in view of Applicant's response 11/06/09 to non-final office action mailed 08/07/09. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or further suspension. See MPEP § 709.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. See 37 CFR § 1.704(c)(1).

Any inquiry regarding this decision should be directed the undersigned whose telephone number is (571) 272-3902. If attempts to reach the undersigned by telephone are unsuccessful, alternatively, Kim Huynh, Quality Assurance Specialist, can be reached at (571) 272-4147.

/Beatriz Prieto/

Beatriz Prieto, Quality Assurance Specialist
Technology Center 2400
Network, Multiplexing, Cable and Security

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LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1122B
4417 LANCASTER PIKE
WILMINGTON DE 19805

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SEP 04 2008

In re Application of	:	
Vogel et al.	:	
Application No. 10/960,136	:	DECISION GRANTING PETITION
Filed: October 7, 2004	:	UNDER 37 CFR 1.78(a)(3) AND
Attorney Docket No. AD7045USNA	:	UNDER 37 CFR 1.78(a)(6)

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed August 19, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED**.

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

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant application was filed on October 7, 2004 and was pending at the time of filing of the instant petition. A reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). *See* 35 U.S.C. § 120 and § 119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) for acceptance of an

unintentionally delayed claim for priority under 35 U.S.C. § 120 and § 119(e), the petition to accept an unintentionally delayed claim of benefit to the prior-filed applications is granted.

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center Art Unit 1794 for appropriate action on the amendment submitted August 19, 2008, including consideration by the examiner of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) for the benefit of the prior-filed nonprovisional application, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional application. This matter is also being referred to the TC for appropriate action on the Petition for Suspension of Action under 37 CFR 1.103(a) filed concurrently.

Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/960,136	10/07/2004	1794	920	AD7045USNA	16	1

CONFIRMATION NO. 5643

CORRECTED FILING RECEIPT

23906
E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1122B
4417 LANCASTER PIKE
WILMINGTON, DE 19805

Date Mailed: 09/03/2008

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

Applicant(s)

Randall Allen Vogel, Wilmington, DE;
John W. Paul, Beaumont, TX;
Karlheinz Hausmann, Auvernier, SWITZERLAND;

Power of Attorney: The patent practitioners associated with Customer Number 23906

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/509,178 10/07/2003
and is a CIP of 09/833,452 04/12/2001
which claims benefit of 60/197,275 04/14/2000

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 10/960,136**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Thermoformable multi-layer sheet

Preliminary Class

428

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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MORRISS O'BRYANT COMPAGNI, P.C.
734 EAST 200 SOUTH
SALT LAKE CITY UT 84102

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APR 17 2007

OFFICE OF PETITIONS

In re Application of	:	
Mark A.Olson	:	
Application No. 10/960,141	:	DECISION GRANTING PETITION
Filed: October 7, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 2991.MOLS.PT	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 18, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue fee and publication; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance of July 25, 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

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

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OFFICE OF PETITIONS

In re Application of :
Basil Naji, et al. :
Application No. 10/960,150 :
Filed: October 6, 2004 :
Attorney Docket No. BALDS2.033C1 :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed August 15, 2006

The request is **NOT APPROVED**.

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

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: GARDERE WYNNE SEWELL LLP
SUITE 3000, THANKSGIVING TOWER
1601 ELM STREET
DALLAS, TX 75201

PTO/SB/83 (01-06)
Approved for use through 12/31/2008. OMB 0651-0035
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	10/960,150
Filing Date	10/06/2004
First Named Inventor	Basil Naji
Art Unit	1755
Examiner Name	Paul D. Marcantoni
Attorney Docket Number	BALDS2.033C1

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

Approved 2-28-07
Jacqueline M. Stone, Director
Technology Center 1700

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

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

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

The reasons for this request are: Pursuant to 37 CFR 10.40(b)(4)

CORRESPONDENCE ADDRESS

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

[x] The address associated with Customer Number: 60148

OR

[ ] Firm or Individual Name					
Address					
City		State		Zip	
Country					
Telephone			Email		
Signature					
Name	Linda H. Liu / Knobbe Martens Olson & Bear, LLP		Registration No.	51,240	
Date	November 21, 2006		Telephone No.	951/781-9231	

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

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

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

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120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

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OFFICE OF PETITIONS

In re Patent No. 7,546,708	:	DECISION
Moshe Konstantin	:	DISMISSING REQUEST FOR
Issue Date: June 16, 2009	:	RECONSIDERATION OF PATENT
Application No. 10/960,156	:	TERM ADJUSTMENT
Filed: October 7, 2004	:	UNDER 37 CFR 1.705
Attorney Docket No.	:	
5527/83037	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)," filed on August 10, 2009. Patentee requests that the Patent Term Adjustment for the above-identified patent be increased by 617 days from 472 days to 1089 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 472 days.

BACKGROUND

On June 16, 2009, the above-identified application matured into U.S. Patent No. 7,546,708, with a revised Patent Term Adjustment of 472 days. On August 10, 2009, the subject request for reconsideration was filed.

The Office determined that the 618 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b) overlaps with the 652 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1) accorded prior to the issuance of the patent. As such, no additional days of patent term adjustment were

entered at issuance under the three-year pendency provision. Given the applicant delay of 180, the patent issued with a revised patent term adjustment of 472 (652 - 180) days.

On August 10, 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 1089 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 maintains that the total non-overlapping PTO delay under §154(b)(1)(A) & (B) is 1269 (652 + 617) days as these periods do not occur on the same day. Further, given the applicant delay of 180 days, patentee asserts entitlement to 1089 (1269 - 180) days of patent term adjustment.

OPINION

Preliminarily, it is noted that the period under §154(b)(1)(B) and 37 CFR 1.702(b) is the period from the day after the date three years after the application was filed, October 7, 2007, until the date the application issued as a patent, June 16, 2009, or 618 days, rather than 617 days as calculated by patentees. Patentee's argument is being articulated accordingly.

Nevertheless, 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) 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).

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 (or, in an international application, the date that the national stage commenced under 35 U.S.C. 371(b) or (f), 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, October 7, 2004, and ending on the date the application issued as a patent, June 16, 2009 (not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)).

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), 652 days of patent term adjustment were accorded during the pendency of the application for Office delay prior to issuance of the patent. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 618 days of patent term adjustment accrued for Office issuance of the patent more than 3 years after the filing date of the application.

The 618 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 652 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 652 days and the 618 days is neither permitted nor warranted. Considering the applicant delay of 180 days, the correct patent term adjustment is 472 days.

CONCLUSION

In view thereof, no change will be made in the revised determination of patent term adjustment at the time 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.

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Douglas I. Wood, at (571) 272-3231.

Christina Tartera Donnell for

Anthony Knight
Supervisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WILMER CUTLER PICKERING
HALE AND DORR LLP
60 STATE STREET
BOSTON, MA 02109

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MAY 25 2006

OFFICE OF PETITIONS

In re Application of :
Chris P. Grudzien :
Application No. 10/960,158 : ON PETITION
Filed: October 7, 2004 :
Attorney Docket No. 105690-161(MKS-129)

This is a decision on the petition filed, May 23, 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 April 13, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2812 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

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HICKMAN PALERMO TRUONG & BECKER
LLP/APPLE INC.
2055 GATEWAY PLACE
SUITE 550
SAN JOSE CA 95110-1083

MAILED

JUN 0 3 2009

OFFICE OF PETITIONS

In re Application of :
Randy Ubillos et al :
Application No. 10/960,163 : DECISION ON PETITION
Filed: October 6, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. P3412US1 :

This is a decision on the petition, filed January 23, 2009, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on October 4, 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 September 10, 2009 accompanies this decision on petition.

Applicant is encouraged to note form PTO/SB/64a for future reference regarding matters under 37 CFR 1.137(f).

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

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

Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/960,163	10/06/2004	Randy Ubillos	P3412US1

CONFIRMATION NO. 5360

46258
HICKMAN PALERMO TRUONG & BECKER LLP/Apple Inc.
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110-1083

NONPUBLICATION RESCISSION LETTER

Date Mailed: 06/03/2009

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

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 09/10/2009.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

/kocreasy/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/960,201	10/06/2004	Marc T. Rothney	RCC0007/US

CONFIRMATION NO.
5394

ROCHE COLORADO CORP
JULIE L. BERNARD
2075 N. 55TH STREET
BOULDER CO 80301

Date Mailed: April 22, 2005

Decision Dismissing Petition under 37 CFR 1.138(c)

The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(c), for express abandonment to avoid publication of the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☑ The petition under 37 CFR 1.138(c) was not filed in sufficient time to permit the appropriate officials to recognize the abandonment and remove the application from the publication process.

2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).

3. ☐ The Application was published in compliance with 35 U.S.C. 122(b), and it is available on the USPTO web site at http://www.uspto.gov/patft/index.html.

The application **has/will be published** as scheduled.

Telephone inquiries should be directed Office of Patent Publication, Pre-Grant Publication Division, 703-605-4283.

Barbara J. Debnam
Office of Patent Publication
Pre-Grant Publication Division

Rev. 10/01

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FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

Mail Date: 04/21/2010

Applicant	: Richard C. Olson	: DECISION ON REQUEST FOR
Patent Number	: 7658745	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/960,204	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/07/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1209** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Curt Harrington
Suite 250
6300 State University Drive
Long Beach, CA 90815

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OCT 2 4 2007

OFFICE OF PETITIONS

In re Application of :
Yoshimi Arai :
Application No. 10/960,233 : DECISION ON PETITION
Filed: October 6, 2004 : TO WITHDRAW
Attorney Docket No. KIYO-46(KUP-D04-76) : 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 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 request cannot be approved because there remain less than 30 (thirty days) between the date of this decision and the maximum extendable time period for filing a response to the Office action mailed on May 11, 2007.

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

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Yoshimi Arai**
Medicaraise Corp
1-13-10, Shimanouchi
Chuo-ku, Osakashi
Osaka 542-0082
Japan

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 :
TSENGAS. :
Serial Number: 10/960,252 : PETITION UNDER
Filed: October 7, 2004 : M.P.E.P.708.02 IV
For: RAWHIDE BISCUIT AND METHOD FOR :
MAKING THE SAME

This is in response to the petition filed December 2, 2004, requesting that the above-identified application be granted Special Status under Sections 708.02 IV of the MPEP and 37 CFR 1.102(c) (**no fee required**).

The request for Special Status considered under Section 708.02 IV has been granted because the criteria under 37 CFR 1.102(c) have been met.

Accordingly the petition is **GRANTED.**

Richard Crispino, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

Law Offices of John D. Gugliotta, PE, Esq.
202 Delaware Building
137 South Main Street
Akron, OH 44308

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
10/960,304	10/06/2004	2176	878	74451P104C	2	16	4

CONFIRMATION NO. 6395

CORRECTED FILING RECEIPT

OC000000015744516

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

Date Mailed: 04/14/2005

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)

Marko Balabanovic, London, UNITED KINGDOM;
Dar-Shyang Lee, Union City, CA;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of 09/585,713 05/31/2000

Foreign Applications

If Required, Foreign Filing License Granted: 11/16/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/960,304

Projected Publication Date: 07/21/2005

Non-Publication Request: No

Early Publication Request: No

BEST AVAILABLE COPY

Title

Method and an apparatus for visual summarization of documents

Preliminary Class

715

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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Eugene Lieberstein, Esq.
Anderson Kill & Olick, P.C.
1251 Avenue of the Americas
New York NY 10020

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MAR 1 4 2007

OFFICE OF PETITIONS

In re Application of
Giese
Application No. 10/960,305
Filed: 10-07-2004
Attorney Docket No. MM4523CIP

DECISION GRANTING PETITION

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

This application became abandoned for failure to pay the issue and publication fees as required by the Notice of Allowance and Fee(s) Due mailed on April 4, 2006, which set a three (3) month statutory period for reply. Accordingly, the application became abandoned on July 5, 2006. A Notice of Abandonment was mailed on August 22, 2006.

Petitioner has met the requirements under 37 CFR 1.137(b). Accordingly, the petition is **GRANTED**

This matter is being referred to the Office of Patent Publication for processing into a patent.

Telephone inquiries concerning the issuance of the application into a patent should be directed to the Office of Patent Publication, Customer Service at (571) 272-4200. Telephone inquiries specifically concerning this decision should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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NOV 29 2007

OFFICE OF PETITIONS

LOUIS PAUL HERZBERG
3 CLOVERDALE LANE
MONSEY NY 10952

In re Application of :
Taira, et al. :
Application No. 10/960,318 : ON PETITION
Filed: October 7, 2004 :
Attorney Docket No. JP920030207US1

This is a decision on the petition to revive an unintentionally abandoned application under 37 CFR 1.137(b), filed March 14, 2007.

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

The above-identified application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed September 25, 2006. This notice set a statutory period for reply of three (3) months. No issue fee having been received, the application became abandoned on December 26, 2006. The Office mailed a Notice of Abandonment on January 23, 2007.

With the instant petition, applicants paid the petition fee, made a statement of unintentional delay, and submitted the required reply in the form of the issue fee.

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

The matter is being forwarded to the Office of Patent Publication for processing into a patent.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Nabil Chbouki
4500 S. Four Mile Run Drive, #611
Arlington VA 22204

In re Application of :
Chbouki and Benkerroum :
Application No. 10/960,333 :
Filed: October 7, 2004 :
For: SENSITIVE AND SELF-CALIBRATING MULTI-TEST SYSTEM THE DETECTION AND IDENTIFICATION OF ENTEROHEMORRHAGIC ESCHERICHIA COLI (EHEC) :

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DEC 10 2004

OFFICE OF PETITIONS

A petition under 37 CFR 1.47(a) was received in the United States Patent and Trademark Office (Office) on October 7, 2004.

On October 7, 2004, petitioner filed the present petition, a declaration of facts of joint inventor Chbouki, an ADS and an accompanying declaration signed by Chbouki on behalf of the nonsigning inventor. However, petitioner failed to pay the requisite petition fee of $200.00.

The rules and statutory provisions governing the operations of the Office require payment of a fee upon filing a petition under 37 CFR 1.47(a). In this instance, the fee required is $200.00. The petition in the above-identified application was not accompanied by payment of the required fee. **Therefore, no consideration on the merits can be given to the present petition until a renewed petition under 37 CFR 1.47(a) and the required fee is received by the Office within TWO MONTHS of the date of this decision. This period may be extended under 37 CFR 1.136(a).**

Accordingly, the petition is **dismissed.**

Petitioner is reminded that 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. Petitioner is permitted to supplemented to the renewed petition if petitioner believes that any of the above requirements have not been met.

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

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

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

By hand: U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop Petition
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

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

Christina Tartera Donnell

Christina Tartera Donnell
Petitions Attorney
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UNITED STATES PATENT AND TRADEMARK OFFICE

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Nabil Chbouki
4500 S. Four Mile Run Drive, #611
Arlington VA 22204

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FEB 23 2005

OFFICE OF PETITIONS

In re Application of :
Chbouki and Benkerroum :
Application No. 10/960,333 : DECISION REFUSING STATUS
Filed: October 7, 2004 : UNDER 37 CFR 1.47(a)
For: Sensitive and Self-Calibrating :
Multi-test System the Detection and :
Identification of Enterohemorrhagic :
Escherichia Coli (EHEC) :

This is in response to the renewed petition under 37 CFR 1.47(a), filed February 9, 2005.

The petition is **dismissed**.

Applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

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

In the present petition, applicant states that he undertook all reasonable efforts to contact the nonsigning inventor; however, he could not be reached to sign the declaration and join the application.

The Office notes that applicant has failed to submit sufficient evidence to prove that diligent efforts have been made to locate the non-signing inventor. See MPEP 403.03(d). Applicant must set forth what steps were taken to contact the nonsigning inventor. If attempts to obtain a forwarding address and to locate the nonsigning inventor by other means such as through E-mail, telephone, or the Internet fail, then applicant will have provided the necessary proof required under 37 CFR 1.47 that the inventor cannot be reached. Details of the efforts to locate the nonsigning inventor should be set forth in an affidavit or declaration of facts by a person with firsthand knowledge of the details. Applicant should submit documentary evidence such as a copy of an envelope returned as undeliverable or the results of an E-mail or Internet search.

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: Commissioner for Patents
Mail Stop Petitions
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 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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Nabil Chbouki
4500 S. Four Mile Run Drive, #611
Arlington VA 22204

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JAN 27 2006

OFFICE OF PETITIONS

In re Application of
Chbouki and Benkerroum
Application No. 10/960,333
Filed: October 7, 2004
For: Sensitive and Self-Calibrating Multi-Test System for the Detection and Identification of Enterohemorrhagic Escherichia Coli (EHEC)

DECISION ON PETITIONS
UNDER 37 CFR 1.47(a) AND
37 CFR 1.137(a)

This is a decision on the renewed petition under 37 CFR 1.47(a), filed January 19, 2006. This is also a decision on the petition under 37 CFR 1.137(a), filed January 19, 2006, to revive the above-identified application.

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

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

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of the Petition under 37 CFR 1.47(a) and Renewed Petition under 37 CFR 1.137."

On February 9, 2005, petitioner, inventor Nabil Chbouki, filed a petition under 37 CFR 1.47(a), requesting to make the above-identified application on behalf of himself and joint inventor, Noreddine Benkerroum. In the original petition, petitioner stated that he undertook all reasonable efforts to contact the non-signing inventor; however, he could not be reached to sign the declaration and join the application.

On February 23, 2005, the Office dismissed the petition because petitioner did not submit sufficient evidence to show that the joint inventor could not be found or reached after diligent efforts. See 35 U.S.C. 116 and MPEP 403.03(d). The decision stated that petitioner failed to set forth the steps he took to contact the non-signing inventor. The decision suggested that petitioner should try to locate the non-signing inventor by means such as E-mail, the telephone directory or the Internet. The decision indicated that if these attempts failed, then the required showing that the inventor could not be reached

or located after diligent efforts would have been met. Additionally, the Office requested that petitioner submit documentary evidence such as a copy of an envelope returned as undeliverable or the results of an E-mail or Internet search with any renewed petition. Lastly, the decision specifically stated that petitioner had a two-month extendable period from the mail date of the decision (i.e., February 23, 2005) to file a "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and submit either a reply that corrected the noted deficiencies, or an oath or declaration executed by the non-signing inventor. The Office notified petitioner that failure to respond with in the specified period would result in abandonment of the application.

Petitioner did not obtain any extensions of time to file a "Request for Reconsideration of Petition Under 37 CFR 1.47(a)." Accordingly, the application became abandoned on April 24, 2005. On January 19, 2006, petitioner submitted the present renewed petition under 37 CFR 1.47(a) and a petition under 37 CFR 1.137(a).

Consideration under 37 CFR 1.47(a):

In the present petition, petitioner explained that he took two field trips to Morocco and was unable to contact Benkerroum until December of 2005. Petitioner stated that Benkerroum could not be reached for over a year because he had changed labs in Morocco and left for Europe thereafter. Additionally, petitioner submitted a letter from Benkerroum, dated January 10, 2006, in which Benkerroum recognized his status as a joint inventor in this application for Sensitive and Self-Calibrating Multi-Test System for the Detection and Identification of Enterohemorrhagic Escherichia Coli (EHEC). Furthermore, Benkerroum acknowledged the petition under 37 CFR 1.47(a), filed on February 7, 2005. Benkerroum asserted that due to his extensive international travels and sudden change of laboratory, Chbouki was unable to obtain his signature in time for the filing. Additionally, Benkerroum stated: "I hereby petition for full consideration of the above-mentioned 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. Petitioner lacks item (1) as set forth above.

It is unclear from the petition and the letter from Benkerroum, if Benkerroum desires to join the application or if his letter constitutes an acknowledgement of the filing of the application but a refusal to execute the declaration. If Benkerroum wishes to join the application, he must execute the declaration. However, petitioner did not submit a declaration, executed by both petitioner and Benkerroum as joint inventors, with the present petition. On the other hand, if Benkerroum's letter constitutes an express refusal to join the application, petitioner must submit an affidavit from Benkerroum or a person with firsthand knowledge of the events, setting forth the details surrounding Benkerroum's refusal.

Accordingly, the renewed petition under 37 CFR 1.47(a) is **dismissed**.

Petition under 37 CFR 1.137(a)

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

(1) The reply required to the outstanding Office communication, which in this instance is the filing of a grantable request for reconsideration under 37 CFR 1.47(a).

(2) The petition fee as set forth in 37 CFR 1.17(l); and

(3) A showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unavoidable.

This petition lacks items (1) and (3) above.

As to item (1), petitioner did not submit a proper reply in the form of a grantable renewed petition under 37 CFR 1.47(a), as stated above in great detail. Before this application can be revived, petitioner must submit a timely and grantable renewed petition under 37 CFR 1.47(a), as well as a petition to revive, within two months of the mail date of this decision. The Office reminds petitioner that he may extend this period up to an additional five months, for a total of seven months from the mail date.

As to item (3), 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". 35 U.S.C. § 133. Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present. In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also
>
> Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned 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. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

In the present petition, petitioner stated: "I first received the [decision of February 23, 2005] more then 3 months after it was mailed and quite too late to provide a response." *Petition dated January 19, 2005.* Petitioner explained that approximately two weeks after filing the petition under 37 CFR 1.47(a) on February 9, 2005, he took many trips, which caused him to be physically absent from mid February of 2005 to the end of May of 2005. Furthermore, petitioner asserted that he did not have a fixed address to forward his mail and did not expect to be away for that long of a period. Petitioner indicated that upon his return in May of 2005, he became aware of the Office communication. Petitioner stated that undertook two field trips to Morocco and was able to reach Benkerroum in December of 2005.

Initially, the Office notes that it was not "too late to provide a response" upon petitioner's return at the end of May of 2005. The decision set a two-month period plus extensions of time to file a renewed petition under 37 CFR 1.47(a). Therefore, pursuant to 37 CFR 1.136(a), and as specifically stated in the decision of February 23, 2005, petitioner could have requested an extension of time for up to five months (with a fee) to file the renewed petition under 37 CFR 1.47. In other words, petitioner could have extended the period to file a renewed petition until September 23, 2005, approximately four months after his return. More importantly, the requirement for petitioner to file a renewed petition and provide a showing of diligent effort to locate the non-signing inventor is not so burdensome as to take petitioner several months to do such. A search of the Internet and the telephone directory in an attempt to locate an inventor should not take more than a few hours.

It is incumbent upon an applicant to take steps to ensure against abandonment of an application. A delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP does not constitute an "unavoidable" delay. See Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (N.D. Ind. 1987), Vincent v. Mossinghoff, 230 USPQ 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

Furthermore, the fact that petitioner began his travels two weeks after the mail date of the decision of February 23, 2005, until the end of May of 2005, as well as the fact he did not have a fixed address to forward his mail, do not support a showing of unavoidable delay.

A "reasonable and prudent person," who was expecting a communication from the USPTO would have made arrangements to have someone check his mail and contact him by email or telephone to inform of the receipt of a communication from the USPTO so that petitioner could act accordingly. Instead, it appears that the delay in taking action in this application was the result of petitioner's preoccupation with other matters. Petitioner's preoccupation, which took precedence over the above-noted application, does not constitute unavoidable delay. See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982).

Accordingly, the record reveals that petitioner did not take appropriate and diligent actions to ensure that a grantable renewed petition under 37 CFR 1.47(a) was filed timely in the USPTO so as to prevent the application from becoming abandoned. Petitioner has not provided a sufficient 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. Therefore, the petition under 37 CFR 1.137(a) is **dismissed**.

Alternative Venue

Petitioner is strongly encouraged to file a petition under 37 CFR 1.137(b) to revive the application on the basis of unintentional delay instead of submitting a renewed petition under 37 CFR 1.137(a).

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

(1) The reply required to the outstanding Office communication, which in this instance is a grantable and timely filed request for reconsideration under 37 CFR 1.47(a).

(2) The petition fee as set forth in 37 CFR 1.17(m) **(an additional $750.00 for a small entity)**; and

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

A copy of the appropriate form accompanies this decision for petitioner's convenience.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosures: Petition for Revival Under 37 CFR 1.137(b) and Privacy Act Statement

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAR 2 1 2007

OFFICE OF PETITIONS

In re Application of :
Chbouki and Benkerroum :
Application No. 10/960,333 : ON PETITIONS
Filed: October 7, 2004 :
For: Sensitive and Self-Calibrating Multi-Test :
System for the Detection and Identification of :
Enterohemorrhagic Escherichia Coli (EHEC) :

This is in response to the renewed petition under 37 CFR 1.47(a) and the petition under 37 CFR 1.137(b), filed November 2, 2006.

Petitioner submitted a petition to revive under 37 CFR 1.137(b) signed only by inventor Chbouki, a declaration executed by both inventors Chbouki and Benkerroum, a request to change the correspondence address signed only by inventor Chbouki, and the required fees.

Initially, the Office acknowledges the joinder of inventor Benkerroum to the filing of this application. Accordingly, no consideration under 37 CFR 1.47(a) is necessary. The petition is dismissed as involving a moot issue. This application does not have any Rule 1.47(a) status and no such status should appear in the file. The $200.00 petition fee is unnecessary and will be refunded to petitioner.

Nevertheless, the Office will not consider the petition under 37 CFR 1.137(b) on the merits at this time. Pursuant to 37 CFR 1.33(b),

> Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application **must be signed by**:
>
> (1) A registered attorney or agent of record appointed in compliance with § 1.34(b);
>
> (2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a);
>
> (3) **An assignee** as provided for under § 3.71(b) of this chapter; or

(4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

The Office records do not indicate that inventors Chbouki and Benkerroum filed a power of attorney in the present application. Applicants must sign a petition in a joint application where the applicants have not given power of attorney to a registered attorney or agent. Chbouki signed the present petition and the change of correspondence address. The Office notes that on the change of correspondence address, Chbouki identified himself as both an inventor and the assignee; however, Chbouki did not provide the Office with a completed Statement Under 37 CFR 3.73(b).[1] Furthermore, there is no indication that Benkerroum gave power of attorney to Chbouki or that Benkerroum assigned his patent rights to Chbouki. Accordingly, the petition is not properly signed by a person having authority to prosecute the application without the signature of the other applicant.

The petition under 37 CFR 1.137(b) is **DISMISSED** without prejudice for reconsideration upon the timely submission of a "renewed" petition under 37 CFR 1.137(b) signed by: (1) both Chbouki and Benkerroum;**OR** (2) Chbouki only, as the assignee of the entire interest, accompanied by a completed Statement Under 37 CFR 3.73(b); **OR** (3) Chbouki only, as a joint inventor, accompanied by a completed power of attorney from Benkerroum to Chbouki. The petition under 37 CFR 1.137(b) must be submitted within **TWO (2) MONTHS** from the mail date of this communication. Extensions of time under 37 CFR § 1.136(a) are permitted. No additional petition fee is required. The appropriate forms for filing a Petition for Revival Under 37 CFR 1.137(b) and a Statement Under 37 CFR 3.73(b) (if applicable) are enclosed for petitioner's convenience.

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[1] 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)...For patent matters only, the submission of the documentary evidence must be accompanied by 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).
>
> (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.

Additionally, the change of correspondence address will not be entered at this time. Pursuant to 37 CFR 1.33(a)(2), where an executed oath or declaration under 37 CFR 1.63 has been filed by any of the inventors, the correspondence address may be changed by (A) a registered attorney or agent of record, (B) an assignee as provided for under 37 CFR 3.73(b), or (C) all of the applicants (37 CFR 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with 37 CFR 3.71. MPEP 601.03.

As a one-time courtesy, the Office will mail this communication to the requested address. However, the change of correspondence address will not be entered in the record until the Office receives: (1) a completed Statement Under 37 CFR 3.73(b); **OR** (2) a completed power of attorney from Benkerroum to Chbouki; **OR** (3) a new request to change the correspondence address signed by both Benkerroum and Chbouki; whichever is appropriate.

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By fax:	(571) 273-8300 ATTN: Office of Petitions
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosures: Petition for Revival Under 37 CFR 1.137(b), Statement Under 37 CFR 3.73(b), and Privacy Act Statement

PTO/SB/96 (09-06)
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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: _____

Application No./Patent No.: _____ Filed/Issue Date: _____

Entitled:

_____, a _____
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:
1. ☐ the assignee of the entire right, title, and interest; or

2. ☐ an assignee of less than the entire right, title and interest
(The extent (by percentage) of its ownership interest is _____%)

in the patent application/patent identified above by virtue of either:

A. ☐ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

OR

B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

2. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

3. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

☐ As required by 37 CFR 3.73(b)(1)(i), the documentary evidence of the chain of title from the original owner to the assignee was, or concurrently is being, submitted for recordation pursuant to 37 CFR 3.11.

[NOTE: A separate copy (*i.e.*, a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

_____ _____
Signature Date

_____ _____
Printed or Typed Name Telephone Number

_____
Title

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

Privacy Act Statement

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

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

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

PTO/SB/64 (09-06)
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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1.Petition fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

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

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

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

_____ _____
Signature Date

_____ _____
Typed or printed name Registration Number, if applicable

_____ _____
Address Telephone Number

_____
Address

Enclosures: ☐ Fee Payment
☐ Reply
☐ Terminal Disclaimer Form
☐ Additional sheets containing statements establishing unintentional delay
☐ Other: _____

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

I hereby certify that this correspondence is being:

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

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

_____ _____
Date Signature

_____
Typed or printed name of person signing certificate

Privacy Act Statement

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

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

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

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

Nabil Chbouki
6301 Stevenson Avenue, #101
Alexandria, VA 22304

COPY MAILED

MAY 31 2007

OFFICE OF PETITIONS

In re Application of :
Chbouki and Benkerroum :
Application No. 10/960,333 : ON PETITIONS
Filed: October 7, 2004 :
For: Sensitive and Self-Calibrating Multi-Test :
System for the Detection and Identification of :
Enterohemorrhagic Escherichia Coli (EHEC) :

This is in response to the petition under 37 CFR 1.137(b), filed May 22, 2007, to revive the above-identified application.

The application became abandoned on April 24, 2005, for failure to timely respond to the decision of February 23, 2005. The decision set a two (2) month extendable period from the mail date of the decision (i.e., February 23, 2005) to file a "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and submit either a reply that corrected the noted deficiencies, or an oath or declaration executed by the non-signing inventor. The Office notified petitioner that failure to respond within the specified period would result in abandonment of the application.

Petitioners have met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Accordingly, the petition is **granted.**

This matter is being referred to Technology Center Art Unit 1645 for examination in due course.

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. Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HICKMAN PALERMO TRUONG & BECKER LLP/Apple Inc.
2055 GATEWAY PLACE
SUITE 550
SAN JOSE CA 95110-1083

COPY MAILED

DEC 22 2009

OFFICE OF PETITIONS

In re Application of :
Randy UBILLOS et al. :
Application No. 10/960,339 : DECISION ON PETITION
Filed: October 06, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. **P3410US1** :

This is a decision on the petition, filed January 23, 2009, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on October 06, 2004. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

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

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

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

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of April 01, 2010 accompanies this decision on petition.

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

This application is being forward to Technology Center Art Unit 2628 for further processing.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/960,339	10/06/2004	Randy Ubillos	P3410US1

CONFIRMATION NO. 5353

46258
HICKMAN PALERMO TRUONG & BECKER LLP/Apple Inc.
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110-1083

NONPUBLICATION RESCISSION LETTER

Date Mailed: 12/21/2009

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

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 04/01/2010.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

/tdjackson/

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

PTO/SB/36 (07-05)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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	10/960,339
Filing Date	October 6, 2004
First Named Inventor	Randy Ubillos et al
Title	Viewing Digital Images On A Display Using A Virtual Loupe
Atty Docket Number	60108-0012
Art Unit	2628
Examiner	Javid A. Amini

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.

*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).*

Howard Louie
Signature

1/22/09
Date

Howard H. Louie
Typed or printed name

60,820
Registration Number, if applicable

408-414-1080
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.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	:	
Randy Ubillos et al.	:	Confirmation Number:5353
Serial No.: 10/960,339	:	Group Art Unit: 2628
Filed: October 6, 2004	:	Examiner: Javid A. Amini
For: VIEWING DIGITAL IMAGES ON A DISPLAY USING A VIRTUAL LOUPE	:	

137(F)

PETITION FOR REVIVAL – UNINTENTIONAL ABANDONMENT OF APPLICATION (37 CFR 1.137(b))

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

Sir:

The above-identified application may have become abandoned, unintentionally, under 35 U.S.C. 122(b)(2)(B)(iii) for failure to timely file a Request to Rescind Previous Nonpublication Request under 35 U.S.C. 122(b)(2)(B)(ii) and failure to timely notify the Director of the filing of the foreign application under 35 U.S.C. 122(b)(2)(B)(iii).

Applicants respectfully petition for revival of the above-identified application. This petition is grantable for the following reasons.

1. **Summary of Procedural History.** This application was filed on October 6, 2004. A non-publication request under 35 U.S.C. 122(b)(2)(B)(i) was filed together with this application on October 6, 2004. On October 4, 2005, the applicants' assignee filed a PCT International Application corresponding to a related application. The specification of the related application discloses the invention claimed in this application. That PCT application subsequently entered the National Stage in one or more foreign countries. In the related case, the applicant or assignee did notify the Office or Director within 45 days of foreign filing. However, in the present case, no notice was given. The possible abandonment date of this application is on or around November 19, 2005 (i.e., the day after expiration of the statutory period set to file the notification of foreign filing).

2. **Petition Fee.** As required by 37 CFR 1.137(b)(2), the petition fee of $1620.00 as specified in 37 CFR 1.17(m) is submitted herewith.

3. **Required Reply.** As required by 37 CFR 1.137(b)(1), a Request to Rescind Previous Nonpublication Request and Notification of Foreign Filing accompanies this petition.

4. **Statement.** As required by 37 CFR 1.137(b)(3), applicant hereby states 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.

5. **Terminal Disclaimer.** This petition is submitted in an application filed after June 8, 1995. Accordingly, under 37 CFR 1.137(b)(4) and (d), no terminal disclaimer is required.

The Office is respectfully requested to contact the undersigned by telephone if it is believed that such contact would further the consideration of this petition.

Please charge any shortages or credit any overages in fees to our Deposit Account No. 50-1302.

Respectfully Submitted,

HICKMAN PALERMO TRUONG & BECKER LLP

Date: January 22, 2009

/HowardHLouie#60820/
Howard H. Louie
Reg. No. 60,820

(408) 414-1080
2055 Gateway Place, Suite 550
San Jose, CA 95110-1089
Fax No. (408) 414-1076

46258

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HICKMAN PALERMO TRUONG & BECKER LLP/Apple Inc.
2055 GATEWAY PLACE
SUITE 550
SAN JOSE CA 95110-1083

MAILED

JUL 20 2010

OFFICE OF PETITIONS

In re Application of :
Ubillos et al. :
Application No. 10/960,339 : ON APPLICATION FOR
Filed: October 6, 2004 : PATENT TERM ADJUSTMENT
Atty Docket No. : P3410US1 :
Title: VIEWING DIGITAL IMAGES :
ON A DISPLAY USING A VIRTUAL :
LOUPE :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT," filed June 3, 2010. Applicants request that the patent term adjustment be corrected from one hundred and fourteen (114) days to two hundred and eighty-five (285) days.

The request for reconsideration of the patent term adjustment under 37 C.F.R. § 1.705(b) is **DISMISSED**.

Applicants are given **TWO MONTHS** from the mail date of this decision to respond. No extension of time will be granted under 37 C.F.R. § 1.136.

On March 9, 2010, the Office mailed a "Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)," which indicated that the Patent Term Adjustment to date was 114 days. The present request for reconsideration filed June 3, 2010, was timely filed as it was submitted concurrently with the issue fee. See § 1.705(b). Applicants assert that the three reductions associated with the filing of Information Disclosure Statements have "no basis under MPEP § 1.703." This statement is being construed to refer to 37 C.F.R. § 1.704, since MPEP § 1.703 does not exist, and 37 C.F.R. § 1.703 pertains to adjustments due to examination delay, as opposed to reductions due to applicant delay.

Applicants' assertion is inaccurate.

Pursuant to 37 CFR § 1.704(c)(8), the submission of a supplemental reply after a reply has been filed is a failure to engage in reasonable efforts to conclude prosecution:

- a Request for Continued Examination (RCE) was filed on February 7, 2007, and an information disclosure statement (IDS) was filed on April 12, 2007. This constitutes a delay of 64 days.

- a response to an after-final action was filed on September 25, 2007, and an IDS was filed on December 6, 2007. This constitutes a delay of 72 days.

- a response to an non-final action was filed on March 10, 2008, and an IDS was filed on April 14, 2008. This constitutes a delay of 35 days.

Each of these three Information Disclosure Statements has been reviewed, and none contains the statement contained within 37 C.F.R. § 1.704(d).[1] As such, the submission of each IDS constitutes a failure to engage in reasonable efforts to conclude prosecution.

In view thereof, the patent term adjustment of 114 (297 minus 183) days indicated in the "Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)," is correct.

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

Any response to this decision should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[2] hand-delivery,[3] or facsimile.[4]

---

[1] "A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable."

2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

3 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.

4 (571) 273-8300 - please note this is a central facsimile number.

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 may directed to Senior Attorney Paul Shanoski at (571) 272-3225[5].

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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

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MAR 17 2008

SAWYER LAW GROUP LLP
P.O. BOX 51418
PALO ALTO, CA 94303

In re Application of :

MARKAS, Anastassios et al. :
Application No. 10/960,354 : DECISION ON PETITION
Filed: October 06, 2004 : TO WITHDRAW
Attorney Docket No. **3017P** : 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 02, 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 Joseph A. Sawyer, Jr. on behalf of all attorneys of record who are associated with customer No. 29141. 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 February 06, 2008 that requires a reply from the applicant.

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **ANASTASSIOS MARKAS**
112 OXPENS ROAD
CARY, NORTH CAROLINA 27513

cc: **SCHWEGMAN, LUNDBERG & WOESSNER / ATMEL**
P.O. BOX 2938
MINNEAPOLIS, MN 55402

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/960,365	10/06/2004	Robert P. Morris	I254/US	4451

49278 7590 06/01/2010

SCENERA RESEARCH, LLC
111 Corning Road
Suite 220
Cary, NC 27518

EXAMINER	
CHRISTENSEN, SCOTT B	
ART UNIT	PAPER NUMBER
2444	

MAIL DATE	DELIVERY MODE
06/01/2010	PAPER

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

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

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Kevin L. Wingate
SCENERA RESEARCH, LLC
111 Corning Road
Suite 220
Cary NC 27518

In re Application of: Robert P. MORRIS
Appl. No.: 10/960365
Filed: Oct 8, 2004
For: SYSTEM AND METHOD FOR UTILIZING CONTACT INFORMATION, PRESENCE INFORMATION AND DEVICE ACTIVITY

DECISION ON PETITION UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on Jan 13, 2010.

The petition is **GRANTED**.

The Non Final office action mailed 1/19/2010 is hereby **withdrawn**.

Pursuant to applicant's request filed on Jan 13, 2010, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of six (6) months. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).
Any inquiry concerning this decision should be directed to the undersigned at 571) 272-4147 or Beatriz Prieto whose telephone number is (571) 272-3902.

/Kim Huynh/

Kim Huynh
WQAS, Technology Center 2400
Network, Multiplexing, Cable and Security

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KLARQUIST SPARKMAN LLP
121 S.W. SALMON STREET
SUITE 1600
PORTLAND, OR 97204

Mail Date: 04/21/2010

Applicant	: Thomas W. Holcomb	: DECISION ON REQUEST FOR
Patent Number	: 7577200	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/960,373	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/06/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1292** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of :
Nesbitt W. Hagood et al. :
Application No. 10/960,385 : DECISION ON PETITION
Filed: January 6, 2006 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 268502-P01-009 :

This is a decision on the petition under 37 CFR 1.78(a)(3) filed July 27, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment. The petition is treated under 37 CFR 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §119(e).

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 amendment submitted concurrently with the instant petition as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i). In this regard, the amendment is physically part of the instant petition and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority), must commence on a separate

physical sheet. 37 CFR 1.4(c) states that each distinct subject must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

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

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

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

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

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.

Anthony Knight
Supervisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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INTERNATIONAL BUSINESS MACHINES CORPORATION
9000 SOUTH RITA ROAD
TUCSON, AZ 85744

Mail Date: 04/20/2010

Applicant	: Michael P. Vageline	: DECISION ON REQUEST FOR
Patent Number	: 7577804	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/960,393	: OF WYETH
Filed	: 10/06/2004	:
		:

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

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

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

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

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

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

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

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

or

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

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

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

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

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

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OFFICE OF PETITIONS

In re Patent No. 7,560,399 :
Rock et al. :
Issue Date: July 14, 2009 :
Application No. 10/960,402 : DECISION ON REQUEST FOR
Filed: October 7, 2004 : RECONSIDERATION OF
Attorney Dkt. No. 22436-082001 : PATENT TERM ADJUSTMENT
Title: Multi-Layer Composite :
Fabric Garment :

This is in response to the "Application For Patent Term Adjustment Under 37 C.F.R. §1.705(d)" filed September 14, 2009. Patentees request that the patent term be adjusted from 138 days to 224 days.

The request for reconsideration of the patent term adjustment indicated in the patent is **GRANTED-IN-PART** and **DISMISSED-IN-PART**.

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

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of sixty-five **(65)** days.

On July 14, 2009, the above-identified application matured into US Patent No. 7,560,399 with a patent term adjustment of 138 days. This request for reconsideration of patent term adjustment (including the required fee) was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

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

a patent term adjustment of 224 days (288 + 159 reduced by 223 (applicant delay)). Patentees also contend that a reduction of 73 days is required.

Consideration first turns to patentees' contentions that a period of reduction of 73-days for applicant delay is required. Pursuant to their duty of candor and good faith, patentees disclose that entry of 73-day reduction is required for the submission of a reply that contained an error or omission. A supplemental reply was submitted on January 4, 2007. Pursuant to 37 CFR § 1.704(c), circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

(7) Submission of a reply having an omission (§1.135(c)), in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed.

A review of the record shows that a 73-day reduction is warranted. A reply submitted on October 23, 2006 to the Restriction Requirement of September 21, 2006 was determined to have an omission via the Notice mailed on December 20, 2006. The reply, which corrected the omission, was submitted on January 4, 2007. As such a reduction of 73-days is required. The petition is **granted** to the extent that an additional 73-day reduction is required.

Thus, the total reduction for applicants delay is 223 days.

Consideration now turns to patentees' assertion that the Office's calculation of "B delay" for issuance beyond three years from filing is incorrect. Considering the overlap provision, the Office entered 0 days for this period. Patentees maintain that considering the overlap provision, 159 days should have been entered.

The Office finds that as of the day before the filing of the request for continued examination (RCE) on March 13, 2008, the application was pending three years and 158 days after its

filing date. An entry of a period of adjustment of 288 days was entered for Office delay. At issue is whether patentees should accrue 158 days of patent term adjustment for the Office taking in excess of three years to issue the patent as well as 288 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 158 days overlap. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

Likewise, 37 CFR 1.703(f) provides that:

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

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

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap

> with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

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

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the filing date October 7, 2004 until the day before the filing of the RCE on March 13, 2008. Prior to the filing of the RCE, 288 days of patent term adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application. (No periods of adjustment for Office delay accrued subsequent to the filing of the RCE).

The Office did not delay 288 days and then delay an additional 158 days. Accordingly, 288 days of patent term adjustment for Office delay (not 288 days and 158 days) was properly entered because the entire period of delay of 158 days attributable to the delay under 37 CFR 1.702(b) overlaps with the 288 days attributable to grounds specified in § 1.702(a)(1).

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment pursuant to 37 CFR 1.702(b).

Patentees' request for an additional 158 days of patent term adjustment is **DISMISSED**.

In view thereof, the patent term adjustment indicated on the patent should be sixty-five **(65)** days.

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

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by sixty-five **(65)** days.

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

/Kery A. Fries/

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

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,560,399 B2

DATED : July 14, 2009

INVENTOR(S) : Rock 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 (138) days

Delete the phrase "by 138 days" and insert – by 65 days--

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MINNEAPOLIS, MN 55440-1022

Mail Date: 04/20/2010

Applicant	: Moshe Rock	: DECISION ON REQUEST FOR
Patent Number	: 7560399	: RECALCULATION of PATENT
Issue Date	: 07/14/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/960,402	: OF WYETH
Filed	: 10/07/2004	:
		:

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

In re Application of:	:
Richard B. Williams	:
Serial No.: 10/960,453	: PETITION TO MAKE SPECIAL
Filed: October 7, 2004	:
Attorney Docket No.: PRONOV.1CP4C1	:

This is in response to applicant's petition filed October 7, 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.

Applicant has 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 not received by check as indicated by applicant. Thus, the $130.00 petition fee will be charged to applicant's Deposit Account 11-1410, as authorized. 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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BARLEY MILL PLAZA 25/1122B
4417 LANCASTER PIKE
WILMINGTON, DE 19805

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OFFICE OF PETITIONS

In re Application of :
Randall Allen Vogel :
Application No. 10/960,454 : DECISION DISMISSING PETITIONS
Filed: October 7, 2004 : UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. AD7047 US NA :

This is a decision on the petition filed November 23, 2007, which is being treated as a petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to a prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED.**

A petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) 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. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

This pending nonprovisional application was filed on October 7, 2004. Intermediate Application No. 09/833,452 filed April 12, 2001, was filed within twelve months of the filing date of the prior-filed provisional application, Application No. 60/197,275, which was filed on April 14, 2000, and for which priority is claimed. 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. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Accordingly, before the petition under 37 CFR 37 §§ 1.78(a)(3) and 1.78(a)(6), can be granted, a renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) and either an Application Data Sheet or an amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)) deleting the incorporation by reference statement, are required.

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

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Post Office Box 1450
Alexandria, VA 22313-1450

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

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

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

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of :
Randall Allen Vogel :
Application No. 10/960,454 : DECISION ON PETITIONS
Filed: October 7, 2004 : UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. AD7047 US NA :

This is a decision on the renewed petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed August 20, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED.**

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

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

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

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

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

Any questions concerning this matter may be directed to Irvin Dingle at (571) 272-3210. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1794 for consideration by the examiner of the claim under 35 U.S.C. § §120 and 119(e) of the prior-filed nonprovisional and provisional applications.

David Bucci
Petition Examiner
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/960,454	10/07/2004	1794	1150	AD7047 US NA	40	1

CONFIRMATION NO. 5155

CORRECTED FILING RECEIPT

23906
E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1122B
4417 LANCASTER PIKE
WILMINGTON, DE 19805

Date Mailed: 12/22/2008

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 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)

Randall Allen Vogel, Wilmington, DE;

Power of Attorney: The patent practitioners associated with Customer Number 23906

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/509,188 10/07/2003
and is a CIP of 09/833,452 04/12/2001
which claims benefit of 60/197,275 04/14/2000

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 **US 10/960,454**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Multi-layer Ionomer sheet having improved weathering

Preliminary Class

428

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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JUL 20 2009

OFFICE OF PETITIONS

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

In re Application of	:	
Anita Tabib	:	DECISION ON PETITION
Application No. 10/960,458	:	TO WITHDRAW
Filed: October 7, 2004	:	FROM RECORD
Attorney Docket No. TABIB.001A	:	

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 5, 2009.

The request is **APPROVED**.

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

The request was signed by Mark R. Benedict on behalf of all attorneys of record who are associated with Customer No. 20995.

All attorneys/agents associated with Customer Number 20995 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the assignee at the address indicated below.

Currently, this application became abandoned June 6, 2009 for failure to properly and timely reply to the Office action mailed December 5, 2008.

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

cc: Anita Tabib
P.O. Box 7763
Newport Beach CA 92658

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/960,475	10/06/2004	Daniel Spero	03155A/6686AUS	5266

20879 7590 06/21/2007

EMCH, SCHAFFER, SCHAUB & PORCELLO CO
P O BOX 916
ONE SEAGATE SUITE 1980
TOLEDO, OH 43697

EXAMINER	
CYGAN, MICHAEL T	
ART UNIT	PAPER NUMBER
2855	

MAIL DATE	DELIVERY MODE
06/21/2007	PAPER

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

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

UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
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Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10960475	10/6/04	SPERO ET AL.	03155A/6686AUS

EMCH, SCHAFFER, SCHAUB & PORCELLO CO
P O BOX 916
ONE SEAGATE SUITE 1980
TOLEDO, OH 43697

EXAMINER	
Michael Cygan	
ART UNIT	**PAPER**
2855	20070620

DATE MAILED:

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

Commissioner for Patents

UNITED STATES PATENT AND TRADEMARK OFFICE

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June 2007

EMCH, SCHAFFER, SCHAUB & PORCELLO CO
P O BOX 916
ONE SEAGATE SUITE 1980
TOLEDO, OH 43697

JUN 22 2007

In re Application of: DANIEL SPERO Serial No.: 10/960,475 Filed: 06 October 2004 Docket: 03155A/6686AUS	:	DECISION ON PETITION TO ACCEPT COLOR DRAWINGS UNDER 37 C.F.R. 1.84

This is a decision on the petition filed on 06 October 2004, to include color drawings pursuant to 37 C.F.R. 1.84.

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

In support of the petition, petition provides the requisite petition fee, a statement on the necessity of color drawings, three (3) sets of color drawings, and an amendment to the specification pertaining to the inclusion of color drawings. The statement for the necessity of color drawings being persuasive, the petition is granted.

Any inquiry regarding this decision should be directed to Edward Lefkowitz, Supervisory Patent Examiner, at 571-272-2180.

Edward Lefkowitz, Supervisory Program Examiner
Art Unit 2855
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

ENTER AMENDMENT
(#3 below)
MC 6/20/07

Practitioner's Docket No. 03155A/6686AUS **PATENT**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Daniel Spero et al.
Application No.: 0 / Group No.:
Filed: Examiner:
For: MEASURING PARTCIULATE IN LIQUID STORAGE TANKS

Assistant Commissioner for Patents
Washington, D.C. 20231

ATTENTION: Deputy Assistant Commissioner for Patents

PETITION TO ACCEPT COLOR DRAWINGS OR PHOTOGRAPHS (37 C.F.R. § 1.84(a)(2) and (b)(2))

1. This petition is for the acceptance of color:
   - ☐ drawings. (37 C.F.R. § 1.84(a)(2)
   - ☒ photographs. (37 C.F.R. § 1.84(b)(20)
2. Attached hereto are three (3) sets of color:
   - ☐ drawings.
   - ☒ photographs.
3. Please amend the specification, by inserting the following language as the first paragraph of the specification beginning a brief description of the drawing or photogragh (page ____ between line ____ and ____).

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

4. The reason(s) for the need for color drawings or photograghs in this application is/are as follows:

The photographs show the amount of particulate which does not clearly show in black and white.

10/13/2004 MBELETE1 00000006 10960475
03 FC:1460 130.00 OP

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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PAULY, DEVRIES SMITH & DEFFNER, L.L.C.
Plaza VII-Suite 3000
45 South Seventh Street
MINNEAPOLIS, MN 55402-1630

Mail Date: 04/21/2010

Applicant	: Christopher M. Johnson	: DECISION ON REQUEST FOR
Patent Number	: 7591868	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/960,482	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/07/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **707** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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
DIW 01-05

WILDMAN, HARROLD, ALLEN & DIXON LLP -
LEAR CORPORATION
225 WEST WACKER DRIVE
CHICAGO IL 60606

COPY MAILED

JAN 25 2005

OFFICE OF PETITIONS

In re Application of	:	
Schmidt, Uleski, and Barlow	:	
Application No. 10/960,483	:	DECISION ACCORDING STATUS
Filed: 7 October, 2004	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. LEAR-2/04919	:	

This is in response to the petition filed under 37 CFR 1.47(a) on 27 December, 2004 (postcard receipt date 7 October, 2004).

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor cannot be found. Specifically, petitioners have shown, via the statement of registered patent attorney Gregory M. Smith, that a letter sent to the address of the non-signing inventor, Mark Barlow, was returned as unclaimed. Additionally, despite diligent efforts to contact Barlow, the non-signing inventor could not be reached.

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 declaration. Notice of the filing of this application will also be published in the Official Gazette.

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

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW 01-05

Mark Barlow
28805 Woodland
Southfield MI 48037

COPY MAILED

JAN 25 2005

OFFICE OF PETITIONS

In re Application of
Schmidt et al.
Application No. 10/960,483
Filed: 7 October, 2004
For:GRAPHIC BACK-LIGHTING FOR PANEL WITH CONTACT-LESS SWITCH SENSORS

Dear Mr. Barlow:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at 571/272-3231. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

WILDMAN, HARROLD, ALLEN & DIXON LLP -
LEAR CORPORATION
225 WEST WACKER DRIVE
CHICAGO IL 60606

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080707

DATE : July 07, 2008

TO SPE OF : ART UNIT 2872

SUBJECT : Request for Certificate of Correction on Patent No.: 7,130,125

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:

Applicant is correct that the allowed claims do not correspond to the printed calims (claims 3-8 of Col. 14). However, the line numbers as entered by Applicant are incorrect.

/Stephone B. Allen/

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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YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 05/20/2010

Applicant	: Toshihiko Motomatsu	: DECISION ON REQUEST FOR
Patent Number	: 7623215	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/960,500	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **256** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

MAY 07 2007
PATENT & TRADEMARK OFFICE

COPY

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : None

APPLICATION NO.: 10,960,518 And 10,960,519

ISSUE DATE : Open

INVENTOR(S) : Vick Dream Bailey

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:

The inventors names that appear on the Published Application page patent number 2005-0272485 A1 (10,960,518) and 2005-0272477 A1 (10,960,519) are incorrect. The inventor **SAKATA ESTINA BOYKINS** is no longer listed as a possible inventor to the inventions. The first inventor is sole **VICK DREAM BAILEY** and no other. Please make necessary corrections as soon as possible so said former inventor is no longer affiliated with the invention and can not accept credit at this point or if the patent application is granted.

Please make corrections as soon as possible ASAP! Any further question contact Vick Dream Bailey at 919-345-6167 mailing address POB 52653 Durham , NC 27717

Thank you

MAILING ADDRESS OF SENDER (Please do not use customer number below): POB 52653
ATTN Vick Dream Bailey Durham NC 27717

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.**

RECEIVED
MAY 10 2007
Technology Center 2600

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

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : None

APPLICATION NO.: 10,960,518 And 10,960,519

ISSUE DATE : Open

INVENTOR(S) : Vick Dream Bailey

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:

The inventors names that appear on the Published Application page patent number 2005-0272485 A1 (10,960,518) and 2005-0272477 A1 (10,960,519) are incorrect. The inventor **SAKATA ESTINA BOYKINS** is no longer listed as a possible inventor to the inventions. The first inventor is sole **VICK DREAM BAILEY** and no other. Please make necessary corrections as soon as possible so said former inventor is no longer affiliated with the invention and can not accept credit at this point or if the patent application is granted.

Please make corrections as soon as possible ASAP! Any further question contact Vick Dream Bailey at 919-345-6167 mailing address POB 52653 Durham , NC 27717

Thank you

MAILING ADDRESS OF SENDER (Please do not use customer number below): POB 52653
ATTN Vick Dream Bailey Durham NC 27717

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

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

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

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JUN 23 2008

In re Application of :
Joel P. Lefebvre, et al. :
Application No. 10/960,530 : ON PETITION
Filed: October 7, 2004 :
Attorney Docket No. 200403392-1 :

This is a decision in response to the petition, filed February 28, 2008, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed June 22, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on September 23, 2007. A Notice of Abandonment was mailed on February 8, 2008. In response, on February 28, 2008, the present petition was filed.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Jonathan M. Harris appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

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

The application is being referred to Technology Center AU 2183 for appropriate action by the Examiner in the normal course of business on the reply received February 28, 2008.

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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6391 SPRINT PARKWAY
KSOPHT0101-Z2100
OVERLAND PARK, KS 66251-2100

Mail Date: 04/21/2010

Applicant	: Balagurunathan Balasubramanian	: DECISION ON REQUEST FOR
Patent Number	: 7636852	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/960,535	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/07/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1122** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 W. GLATZ
MYERS BIGEL SIBLEY & SAJOVEC PA
P O BOX 37428
RALEIGH, NC 27627

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APR 0 4 2006

OFFICE OF PETITIONS

In re Application of	:	
Wook-Hyun Kwon et al	:	
Application No. 10/960,542	:	DECISION GRANTING PETITION
Filed: October 7, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 5649-1385	:	

This is a decision on the petition, filed April 3, 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 13, 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 2827 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).*

17 FEB 2005

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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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GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK CA 94025

In re Application of	:	
RICHTER et al.	:	
Application No.: 10/960,549	:	DECISION
Attorney Docket No.: SCHO0187	:	
For: PERISTALTIC MICROPUMP	:	

This decision is in response to applicants' "PETITION TO CONVERT" filed on 28 October 2004 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 22 August 2003, applicants filed international application PCT/EP03/09352 which designated the US and claimed a priority date of 22 August 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 04 March 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 22 February 2005.

On 06 October 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/EP03/09352, filed August 22, 2003".

On 28 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 06 October 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 **06 October 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

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GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON VA 20191

In re Application of: Kashitani et al.
Application No. 10/960,577
Filed: October 8, 2004
For: MAIL EXCHANGE BETWEEN USERS OF NETWORK GAMEDECISION ON

REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PILOT PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed August 8, 2008, to make the above-identified application special.

The petition is **DENIED**.

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

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;

(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;

(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);

(4) Examination of the U.S. application has not begun;

(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;

(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and

(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition failed item (4) above, since a first action on the merits was mailed to applicants on September 17, 2008.

Therefore, the Petition is **DENIED**.

Telephone inquiries concerning this decision should be directed to Mano Padmanabhan at 571-272-4210.

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

/Mano Padmanabhan/

_____

Mano Padmanabhan
Quality Assurance Specialist, Technology Center 2100, Workgroup 2180
571-272-4210

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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MAURICE M. KLEE
1951 BURR STREET
FAIRFIELD, CT 06430

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OFFICE OF PETITIONS

In re Application of :
Lisa C. Chacon et al :
Application No. 10/960,594 : DECISION GRANTING PETITION
Filed: October 7, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. ADP-132.3US :

This is a decision on the petition, filed April 18, 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 13, 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

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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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OCT 16 2007

OFFICE OF PETITIONS

THOMAS R. BEALL
CORNING INCORPORATED
SP-TI-03-1
CORNING, NY 14831

In re Application of :
CHACON, et al. :
Application No. 10/960,594 : DECISION GRANTING PETITION
Filed: October 7, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **ADP-131.3US** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 12, 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 21, 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]

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the office will mail all future correspondence solely to the address of record.

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

This application 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 concurrently filed information disclosure statement.

Frances Hicks
Petitions Office
Office of Petitions

cc: MAURICE M. KLEE
1951 BURR STREET
FAIRFEILD, CT 06430

[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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P.O. Box 1450
Alexandria, VA 22313-1450
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Date : October 16, 2007

Patent No. :7,253,013
Inventor(s) :Shel et al.
Issued :August 7, 2007
Title :METHOD FOR MANUFACTURING LIGHT-EMITTING DIODE
Docket No. :TSAI0021

Re: Request for Certificate of Correction

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

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

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

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;

B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and

C. include the processing fee set forth in 37 CFR 1.17(i).

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

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

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

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

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

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

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

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.

Any inquiry concerning this communication should be directed to Ms. A. Green at (703) 308-9380 ext. 123.

For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 or (703) 308- 9380 ext. 123

Glenn Patent Group
3475 Edison Way, Suite L
Menlo Park, Ca 942025

CBN/arg

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

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APR 17 2006

OFFICE OF PETITIONS

In re Application of :
Andrzej Niv, et al :
Application No. 10/960,620 : DECISION ON PETITION
Filed: October 8, 2004 : TO WITHDRAW
Attorney Docket No. MARC0010U-US : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 21, 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 Richard A. Neifeld, Ph.D. on behalf of all attorneys of record who are associated with Customer No. 31518.

All attorneys/agents associated with the Customer Number 31518 have been withdrawn.

The correspondence address of record has been changed and the new correspondence address is the address indicated below. All future correspondence will be directed to the first named inventor Andrzej Niv at the address indicated below.

There is an outstanding Office action mailed November 25, 2005 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (571)272-3213.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: Andrzej Niv
UI. Gen Maczka 4 m 34
Zabki 05-091 Poland

cc: Katarzyna Juchniewicz
Wies Komratowo 1
Gasawa 88-410 Poland

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OFFICE OF PETITIONS

LEE & MORSE, P.C.
3141 FAIRVIEW PARK DRIVE
SUITE 500
FALLS CHURCH, VA 22042

In re Application of
Lee, Kyung-Hee et al.
Application No. 10/960,630
Filed: October 08, 2004
Attorney Docket No. **12000.SMG.0545**

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 13, 2009.

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

A review of the file record indicates that the power of attorney to LEE & MORSE, P.C. has been revoked by the assignee of the patent application on March 18, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **MCNEELY BODENDORF LLP**
P.O. BOX 34175
WASHINGTON DC 20043

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OFFICE OF PETITIONS

FISH & RICHARDSON P.C.
P.O. Box 1022
MINNEAPOLIS MN 55440-1022

In re Patent No. 7,391,423 :
Issued: June 24, 2008 : DECISION ON APPLICATION
Application No. 10/960,636 : FOR PATENT TERM ADJUSTMENT
Filed: October 6, 2004 :
Attorney Docket No.: 07844-0668001 / :
P622 :

This is a decision on the petition "under 37 C.F.R. § 1.183 for a suspension of 37 C.F.R. § 1.705(d) and (e) and for acceptance of the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)", requesting that the Office suspend the rules and consider on the merits a request for reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d) filed more than two months from the date the above-referenced patent issued; and on the request for reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d), all of which were filed on December 2, 2008.

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

The request for reconsideration of patent term adjustment under 37 CFR 1.705(d) is **dismissed as untimely filed**.

Any request for reconsideration, whether directed to the decision on petition under 37 CFR 1.183 or to the decision on application for patent term adjustment under 37 CFR 1.705(d), must be filed within two months of the mailing date of this decision. Extensions of time under 37 CFR 1.136 are not permitted. See § 1.181(f).

BACKGROUND

On June 24, 2008, the above-identified application matured into U.S. Patent No. 7,391,423, with a revised patent term adjustment of 554 days. No request for reconsideration of the patent term adjustment indicated in the patent was filed within two months of the date the patent issued. Patentee now petitions under 37 C.F.R. § 1.183 to (i) suspend or waive the requirement of 37 C.F.R. § 1.705(d) that a Request for Reconsideration of Patent Term Adjustment be filed within two months of the date the patent issued; and (ii) consider the enclosed Request for Reconsideration of Patent Term Adjustment. Patentee references the recent decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. Sept. 30, 2008) as the basis for the petition.

ON PETITION UNDER 37 CFR 1.183
TO WAIVE THE TWO-MONTH REQUIREMENT OF 37 CFR 1.705(d)

The above-referenced patent issued on June 24, 2008. A request for reconsideration of the patent term adjustment indicated in the patent was not filed until December 2, 2008. Petitioner requests that the Office suspend the rules and consider on the merits the Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d) even though it was untimely filed more than two months from the date the patent issued.

The relevant regulation, 37 CFR 1.705(d), provides that:

> If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates or should have indicated a revised patent term adjustment, *any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued* and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section. Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues. (*emphasis* added).

By the express provisions of 37 CFR 1.705(d), a request for reconsideration of patent term adjustment must be filed within two months of the date the patent issued. It is undisputed that no such request for reconsideration was filed by August 24, 2008, the date two months from the date this patent issued, June 24, 2008. Rather, on December 2, 2008, more than two months after the issuance of a decision in Wyeth v. Dudas on September 30, 2008, petitioner filed the instant request for waiver of the two-month requirement.

37 CFR 1.183 provides that:

> In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, sua sponte, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(f).

35 U.S.C. 154, requires the Office to provide the applicant one opportunity to request reconsideration of any patent term adjustment determination made by the Director, authorizes the Director to establish the procedures for requesting such reconsideration.

Those procedures[1] include pursuant to 37 CFR 1.705(d) setting a two-month period for filing a request for reconsideration of the revised patent term adjustment indicated in the patent.

Having considered petitioner's arguments, it is concluded that waiver of the two-month requirement is not warranted. The primary basis for requesting waiver set forth by petitioner is the recent decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. Sept. 30, 2008)." Specifically, petitioner states that the basis for this petition is due to a change in the law, which occurred more than three months after the above entitled patent issued and therefore, petitioner could not reasonably have timely presented a request for reconsideration of the patent term adjustment.

Petitioner has not explained why it could not have filed a Request for Reconsideration of Patent Term Adjustment within two months of the date the above-referenced patent issued. Apparently, petitioner's argument is that the basis for the Request for Reconsideration of Patent Term Adjustment is the Wyeth decision, which was entered more than two months after the issuance of their patent.

The fact that any relief ultimately granted in Wyeth would benefit patentee had they timely filed a request for reconsideration does not make the situation extraordinary. Wyeth followed the procedure set forth in 37 CFR 1.705 for requesting reconsideration of the patent term adjustment determination. Then, pursuant to 35 U.S.C. 154(b)(4)(A), Wyeth timely filed a complaint in District Court seeking judicial review of the Office's decision. A Memorandum Opinion and Order, the Wyeth decision of September 30, 2008, directed to the parties involved was issued.

Petitioner chose not to challenge their revised patent term adjustment within the two-month period. Petitioner's argument that they could not have filed a Request for Reconsideration of Patent Term Adjustment within two months of the date the above-referenced patent issued because the basis for the Request for Reconsideration of

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[1] 35 U.S.C. § 154(b)(3) provides that the USPTO shall: (1) prescribe regulations establishing procedures for the application for and determination of patent term adjustments under 35 U.S.C. § 154(b); (2) make a determination of any patent term adjustment under 35 U.S.C. § 154(b) and transmit a notice of that determination with the notice of allowance under 35 U.S.C. § 151; and (3) provide the applicant one opportunity to request reconsideration of any patent term adjustment determination. Pursuant to the mandate and authority in 35 U.S.C. § 154(b)(3), the USPTO promulgated 37 C.F.R. § 1.705, which provides that: (1) the notice of allowance will include notification of any patent term adjustment under 35 U.S.C. § 154(b)(37 C.F.R. § 1.705(a)); (2) any request for reconsideration of the patent term adjustment indicated in the notice of allowance (except as provided in 37 C.F.R. § 1.705(d)) must be by way of an application for patent term adjustment filed no later than the payment of the issue fee and accompanied by (inter alia) the fee set forth in 37 C.F.R. § 1.18(e)(37 C.F.R. § 1.705(b)); and (3) if the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued.

Patent Term Adjustment is the Wyeth decision, which was entered more than two months after the issuance of their patent, is not persuasive.

Petitioner could have filed a Request for Reconsideration of Patent Term Adjustment as Wyeth did. It is acknowledged that petitioner may have chosen not to file a request for reconsideration based on a conclusion that the Office's interpretation of 35 U.S.C. § 154(b)(2)(A) was correct. Nonetheless, the fact that the District Court has now issued an Opinion contrary to the Office's interpretation does not make the situation extraordinary. This is not unlike any other situation where a patentee (or applicant) challenges a final agency decision and the decision upon judicial review could have had applicability to another patentee (or applicant) had they taken such action. In fact, many patentees may be in the same situation as petitioner with respect to the Wyeth decision. In addition, given that the law only allows 180 days for both the filing of a petition and for the Office's consideration of that petition, petitioner's unexplained nearly four-month delay in filing the petition weighs against them.

Petitioner simply fails to articulate how their failure to file a request for reconsideration of patent term adjustment within two months of the issue date of the patent was due to an extraordinary situation. Petitioner cannot rely on Wyeth's actions or the Wyeth decision to establish that their situation was extraordinary.

The contention that a decision is in error is a basis for a timely request for review of the decision but does not justify a delay in seeking review of such decision.

The Office provided notice that petitions under 37 CFR 1.182 and 1.183 or requests for certificate of corrections under 35 USC 354 and §1.323 or 35 U.S.C. 255 and §1.324 are not substitute *fora* to obtain to obtain reconsideration of a patent term adjustment determination indicated in a notice of allowance if applicant fails to submit a request for reconsideration within the time period specified in §1.705(b) or to obtain reconsideration of a patent term adjustment determination indicated in a patent if a patentee fails to submit a request for reconsideration within the time period specified in §1.705(d). See 69 Fed. Reg. 21704, 21707 (April, 22, 2004).

In view thereof, the petition under 37 CFR 1.183 for waiver of the two-month requirement of 37 CFR 1.705(d) is **dismissed**.

Accordingly, consideration now turns to the Request for Reconsideration of Patent Term Adjustment under 37 CFR 1.705(d).

ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)" filed December 2, 2008. Therein, patentee requests correction of the patent term adjustment (PTA) indicated in the patent to eight hundred seven (807) days.

On June 24, 2008, the above-identified application matured into U.S. Patent No. 7,391,423 with a revised patent term adjustment of 554 days. The instant request for reconsideration was filed more than two months after the issuance of the patent, on December 2, 2008.

No error in the printing of the patent has been shown. The patent term adjustment indicated on the patent reflects the Office's determination of patent term adjustment shown in the PAIR system for this application. 37 CFR 1.705(d) provides the sole avenue before the Office for requesting reconsideration of the Office's determination of patent term adjustment indicated in the patent. Moreover, § 1.705(d) states that "any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section." Since the request was not filed within two months of the issue date of the patent, the request is properly **dismissed as untimely filed**.

CONCLUSION

It is determined that waiver of the requirement pursuant to 37 CFR 1.183 is not warranted. Accordingly, the request for reconsideration of the patent term adjustment under 37 CFR 1.705(d) filed more than two months after the issue date of the patent is dismissed as untimely filed.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) and the fee for the petition under 37 CFR 1.183 in the amount of $400.00.

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

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

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CHIEF PATENT COUNSEL
SMITH & NEPHEW, INC.
1450 BROOKS ROAD
MEMPHIS, TN 38116

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JUN 0 5 2007

OFFICE OF PETITIONS

In re Application of :
Roger J. Talish et al :
Application No. 10/960,667 : DECISION GRANTING PETITION
Filed: October 7, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 41482/306540 :

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 2, 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 3632 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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JUL 28 2005

In re Application of	:	
Nobuhiro Takano et al.	:	
Serial No. 10/960,719	:	DECISION ON PETITION
Filed: October 8, 2004	:	TO MAKE SPECIAL
For: MITTER SAW FOR DISPLAYING ANGLE OF CUTTER BLADE CUTTING WORKPIECE	:	

Applicant's petition, filed July 8, 2005, 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.

Frederick R. Schmidt, Director
Technology Center 3700

Melvin Kraus
Antonelli, Terry, Stout & Kraus, LLP
1300 North Seventeenth St., Suite 1800
Arlington, VA 22209

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DENNEMEYER & COMPANY LTD.
REGENT HOUSE
HEATON LANE
STOCKPORT, CHESHIRE
ENGLAND SK4 1BB,
UNITED KINGDOM

Mail Date: 04/21/2010

Applicant	: Hartmut Rehwinkel	: DECISION ON REQUEST FOR
Patent Number	: 7659297	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/960,754	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1048** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Posz Law Group, PLC
12040 South Lakes Drive
Suite 101
Reston, VA 20191

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OFFICE OF PETITIONS

In re Application of	:	
Roderick Harold Durham	:	
Application No. 10/960,755	:	DECISION ON PETITION
Filed: October 8, 2004	:	TO WITHDRAW
Attorney Docket No. 2831.026US1	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 10, 2008.

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

A review of the file record indicates that the power of attorney to Posz Law Group, PLC has been revoked by the assignee of the patent application on November 4, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Schwegman, Lundberg & Woessner, P.A.**
P.O. Box 2938
Minneapolis, MN 55402

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CHARLES E. BAXLEY, Esquire
Suite 309
90 John Street
New York NY 10038

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SEP 25 2006
OFFICE OF PETITIONS

In re Application of :
Lin :
Application No. 10/960,777 : ON PETITION
Filed: October 7, 2004 :
Attorney Docket No. 16434 B :
For: MULTI-FUNCTION WRENCH

This is a decision on the petition, filed May 30, 2006 (certificate of mailing date May 25, 2006), under 37 CFR 1.137(b) to revive the above-identified application.

The above-identified application became abandoned for failure to timely submit a reply within three (3) months of the mailing of the September 8, 2005 non-final Office action. No response being received and no extensions of time being obtained, this application became abandoned on December 9, 2005. The filing of the present petition precedes the mailing of A Notice of Abandonment.

Applicant has submitted an amendment in reply to the September 8, 2005 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the September 8, 2005 non-final Office action, and the petition fee.

The statement of unintentional delay was not signed by a person who would have been in a position of knowing that the delay in filing a timely response was unintentional. In the event that petitioner has no knowledge that the delay was in fact unintentional, petitioner should make a reasonable inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

The petition is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center AU 3723 for consideration of the amendment filed on May 30, 2006 (certificate of mailing date May 25, 2006).

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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JAN 07 2008

OFFICE OF PETITIONS

TORYS LLP
79 WELLINGTON ST. WEST
SUITE 3000
TORONTO, CANADA M5K 1-N2

In re Application of :
FIELDS, John R. :
Application No. 10/960,779 : DECISION ON PETITION
Filed: October 07, 2004 : TO WITHDRAW
Attorney Docket No. **EPPL130516** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 14, 2007.

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

A review of the file record indicates that the power of attorney to TORYS LLP has been revoked by the assignee of the patent application on December 06, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC**
1420 FIFTH AVENUE
SUITE 2800
SEATTLE WA 98101-2347

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CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE WA 98101-2347

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OFFICE OF PETITIONS

In re Application of :
John R. Fields :
Application No. 10/960,779 : DECISION ON PETITION
Filed: 10/07/2004 :
Attorney Docket No. FPPL130516 :

This is a decision on the petition under 37 CFR 1.137(f), filed December 18, 2007, which is being treated as a petition under 37 CFR 1.137(b) to revive the present 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 present nonprovisional application is the subject of an application filed in an eighteen-month publication country on October 6, 2005. However, the USPTO was unintentionally not notified of this filing within forty-five days subsequent to the filing of the subject application in an eighteen-month publication country. Accordingly, 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 eighteen 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 present 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 forty-five 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 Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing, which sets forth the projected publication date of June 19, 2008, accompanies this decision on petition.

This matter is being referred to Technology Center Art Unit 1793.

Any inquiries concerning 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: Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/960,779	10/07/2004	John R. Fields	FPPL130516

CONFIRMATION NO. 3928

26389
CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE, WA 98101-2347

NONPUBLICATION RESCISSION LETTER

Date Mailed: 03/17/2008

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

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 06/19/2008.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/960,819	10/07/2004	John T. Lindsay	SPF-100-B	5451

35684 7590 11/28/2008

BUTZEL LONG
IP DOCKETING DEPT
350 SOUTH MAIN STREET
SUITE 300
ANN ARBOR, MI 48104

EXAMINER	
LEFF, STEVEN N	

ART UNIT	PAPER NUMBER
1794	

NOTIFICATION DATE	DELIVERY MODE
11/28/2008	ELECTRONIC

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

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

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATENT@BUTZEL.COM
BOUDRIE@BUTZEL.COM

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CST

11-28-08

In re application of
John T. Lindsay et al
Serial No. 10/960,819
Filed: October 7, 2004
For: METHOD AND APPARATUS FOR IRRADIATING FOODSTUFFS USING LOW ENERGY X-RAYS

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed on July 9, 2008 to make the above-identified application special based on materially contributing to countering terrorism.

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

REGULATION AND PRACTICE

Pursuant to the "Changes to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), all petitions to make special, except those based on applicant's health or age or the PPH pilot, filed on or after August 25, 2006 are required to comply with the requirements of petitions to make special under the accelerated examination program. Note that any petition to make special under MPEP § 708.02, based solely on subsection IX (countering terrorism) was required to be filed prior to August 25, 2006.

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

1. The application must be a non-reissue utility or design application filed under 37 CFR 1.111(a) **on or after August 25, 2006**;
2. The application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours;

3. The application, at the time of filing, must be complete under 37 CFR 1.51 and in condition for examination;
4. The application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

The application as filed is not eligible for accelerated examination under 37 C.F.R. § 1.102(d) because the application was not filed on or after August 25, 2006; the application, the petition and the required fees were not filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; and the application contained more than twenty claims.

Additionally, the petition to make special was not filed concurrently with the application as required by MPEP § 708.02(a).

Further, note the following passage taken from MPEP 708.02:

> Applications filed prior to August 25, 2006 are not eligible for the revised accelerated examination program set forth in MPEP § 708.02(a). Until August 25, 2006, applicant may file a petition to make special in an application filed prior to August 25, 2006 by complying with the guidelines and requirements set forth in subsections I-II, and V-XII below.

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

Any inquiry regarding this decision should be directed to Christine Tierney, Quality Assurance Specialist, at (571) 272-1055.

/Christine Tierney/

Christine Tierney
Quality Assurance Specialist
Technology Center 1700

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KEITH R. DERRINGTON
BRACEWELL & GIULIANI LLP
P.O. BOX 61389
HOUSTON TX 77208

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OFFICE OF PETITIONS

In re Application of
Robert K. Hunt
Application No. 10/960,845
Filed: October 7, 2004
Attorney Docket No. 303.01

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) filed April 16, 2007, requesting revival of 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 (and fee) 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 application became abandoned for failure to reply to the Notice To File Missing Parts Of Nonprovisional Application of November 18, 2004, which set a TWO MONTH period for reply. As no extensions of time were obtained under the provisions of 37 CFR 1.136(a), and no reply was filed, this application became abandoned January 19, 2005.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (**1**) the required reply (unless previously filed), which may met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (**2**) the petition fee required by 37 CFR 1.17(m); (**3**) an adequate 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**) in some instances, a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). This petition lacks item (3) above.

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 there is a question whether the 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). Here in view of the inordinate delay in the attempt to 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 language of both 35 USC 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), and clearly stated clear that any protracted delay 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 detailed explanation that will excuse the delay as opposed to a general allegation. 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.

Any renewed petition may be addressed as follows:

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

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

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

Inquiries related to this decision may be made to the undersigned at (571) 272-3217.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KEITH R. DERRINGTON
BRACEWELL & GIULIANI LLP
P.O. BOX 61389
HOUSTON TX 77208

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OCT 29 2007

OFFICE OF PETITIONS

In re Application of :
Robert K. Hunt :
Application No.10/960,845 : DECISION ON PETITION
Filed:October 7, 2004 :
Attorney Docket No.303.01 :

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

The petition is **DISMISSED**.

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

This application became abandoned for failure to timely reply to the Notice To File Missing Parts Of Nonprovisional Application of November 18, 2004, which set a TWO MONTH period for reply. As no extensions of time were obtained under the provisions of 37 CFR 1.136(a), and no reply was filed, this application became abandoned January 19, 2005.

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

37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. *See* MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (3).

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

> (1) the delay in reply that originally resulted in the abandonment;
>
> (2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and
>
> (3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

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

As to Period (1):

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

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the

initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (almost 2 1/2 years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on January 19, 2005. That party, in turn must explain what effort(s) was made to further reply to the Notice To File Missing Parts Of Nonprovisional Application (Notice) and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as Keith R. Derrington, P.C., was counsel of record at the time of abandonment, Keith R. Derrington, P.C., should explain why this application became abandoned while it was under their control and what efforts were made to further reply of itself and with whom this matter was discussed outside of Keith R. Derrington, P.C.. Copies of any correspondence relating to the filing, or to not filing a further reply to the Notice are required from responsible person(s), Keith R.Derrington, P.C., and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons then at Keith R. Derrington, P.C., and the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the Notice. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

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

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

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

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

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

Any renewed petition may be addressed as follows:

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

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

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

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

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

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KEITH R. DERRINGTON
BRACEWELL & GIULIANI LLP
P.O. BOX 61389
HOUSTON TX 77208

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NOV 13 2007

OFFICE OF PETITIONS

In re Application of	:	
Robert K. Hunt	:	
Application No. 10/960,845	:	DECISION GRANTING PETITION
Filed: October 7, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 303.01	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed November 7, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the required fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice To File Missing Parts of Nonprovisional Application of November 18, 2004, is accepted as having been unintentionally delayed.

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

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CARY W. BROOKS
General Motors Corporation
Legal Staff, Mail code 482-C23-B21
P.O. Box 300
Detroit, MI 48265-3000

Mail Date: 04/30/2010

Applicant	: Seth Valentine	: DECISION ON REQUEST FOR
Patent Number	: 7569082	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/960,880	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/07/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **896** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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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	: Michael Rodin	: DECISION ON REQUEST FOR
Patent Number	: 7647246	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/960,894	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/06/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **875** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

VARIAN SEMICONDUCTOR EQUIPMENT ASSC., INC.
35 DORY RD.
GLOUCESTER MA 01930-2297

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SEP 23 2008

In re Application of
Chang, et al.
Application No. 10/960,904
Filed: October 7, 2004
Attorney Docket No. 2001-023

ON PETITION

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

This application became abandoned for failure to timely pay the issue fee and publication fee within three (3) months of the mailing of the Notice of Allowance and Fee(s) Due, mailed July 12, 2007. Accordingly, this application became abandoned on October 13, 2007. A Notice of Abandonment was mailed on March 26, 2008.

Applicants have submitted a proper reply in the form of the issue fee, the publication fee and a completed PTOL-85b, an acceptable statement of the unintentional nature of the delay in responding to the July 12, 2007 Notice of Allowance and Fee(s) Due, and the petition fee.

The petition is **granted**.

This application is being forwarded to Publishing Division for processing into a patent.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Chien Ti Enterprise Co., Ltd.
P.O. Box No. 6-57
Junghe, Taipei 235 TW TAIWAN

In re Application of :
Ferretti Chang :
Application No. 10/960,914 : ON PETITION
Filed: October 12, 2004 :
Title: Structural Assembly for Electric Scooter :

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed July 28, 2006.

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

Any request for reconsideration should be filed within **TWO MONTHS** of the mailing date of this decision in order to be considered timely. 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136.

This application became abandoned for failure to timely submit the issue and publication fees, as required by the Notice of Allowance and Fee (s) Due which was mailed March 22, 2006. The Notice of Allowance and Fee (s) Due set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on June 22, 2006. A Notice of Abandonment was mailed on July 27, 2006.

Petitioner contends the Notice of Allowance and Notice of Allowability were never received.

Petitioner's argument has been considered but it is not convincing to establish the holding of abandonment should be withdrawn. The showing required to establish the failure to receive 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.[1] The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Notice of Allowance may have been lost after receipt rather than a conclusion that the Notice of Allowance was lost in the mail.

The Delgar showing, described 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).

A review of Office records shows that a number of Office communications were mailed to petitioner's correspondence address, but purportedly not received. Accordingly, there appears to be a history of this correspondence address not receiving Office communications. The establishment of the failure to receive the Office communication is insufficient to justify the holding of abandonment.

The Office requests further clarification of the firm's practice for docketing communications from the USPTO. Unfortunately, the firm's docketing system is not apparent from the docket record submitted with this petition.

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street

[1] M.P.E.P. § 711.03(c); See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

Alexandria, VA 22314

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Chien Ti Enterprise Co., Ltd.
P.O. Box No. 6-57
Junghe, Taipei 235 TW TAIWAN

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MAY 11 2007

OFFICE OF PETITIONS

In re Application of :
Ferretti Chang :
Application No. 10/960,914 : ON PETITION
Filed: October 12, 2004 :
Title: Structural Assembly for Electric Scooter :

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed April 9, 2007.

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

This application became abandoned for failure to timely submit the issue and publication fees, as required by the Notice of Allowance and Fee (s) Due which was mailed March 22, 2006. The Notice of Allowance and Fee (s) Due set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on June 22, 2006. A Notice of Abandonment was mailed on July 27, 2006. A petition under 37 CFR 1.181 was dismissed on March 2, 2007.

Petitioner contends the Notice of Allowance and Fee (s) Due mailed on September 6, 2006 was not received. Petitioner states a search of the file jacket and docket records confirms the Notice of Allowance was not received. In support of petitioner's contention, a copy of the docket records has been provided conclusion that the Notice of Allowance was lost in the mail.

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

This application is being forwarded to Art Unit 3618 for re-mailing of the Notice of Allowance and the Notice of Allowability to the correspondence address of record. The three month non-extendable time period for reply will be set to run from the mailing date of the new Notice of Allowance.

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

Charlema R. Grant

Charlema R. Grant

Petitions Attorney

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

REED SMITH LLP
Suite 1400
3110 Fairview Park Drive
Falls Church, VA 22042

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OFFICE OF PETITIONS

In re Application of :
Hosoya, et al. :
Filed: October 12, 2004 : ON PETITION
Application No. 10/960,922 :
Dkt. No.: HITA.0620 :

This above-referenced application has been forwarded to the Office of Petitions in response to the "RESPONSE TO NOTICE OF OMITTED ITEMS" filed December 13, 2004. This response is being treated as a petition to accord the instant application a filing date of October 12, 2004 and entry of Figure 10.

The application was filed October 12, 2004. On November 22, 2004, the Initial Patent Examination Division mailed a Notice to File Omitted Items in a Nonprovisional Application ("Notice") stating that the application had been accorded a filing date of October 12, 2004, but that Figure 10 described in the specification appeared to have been omitted.

The Notice permits applicant to either: (1) promptly establish prior receipt in the PTO 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 missing drawings were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted drawings in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted drawing(s) with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such drawing(s) and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the Notice (37 CFR 1.181(f)).

The instant petition and a copy of the missing figure were filed in response to the Notice.

The USPTO file is the official record of the papers originally filed in this application. An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence.

A review of the official application file reveals that the Office received nine sheets of drawings on October 12, 2004. Figure 10, however, does not appear on any of the nine drawing sheets received.

Petitioners have not submitted any evidence that would rebut the presumption that Figure 10 was not among the drawing sheets submitted on October 12. 2004.

Petitioners instead have argued that Figure 10 is "a variation of the invention as shown in Figure 3, but with fewer components, Figure 10 has already been disclosed and is fully supported in the specification." Petitioners further argue that "submission of Figure 10 does not constitute the introduction of new matter" and that Figure 10 was also submitted with the original filing of the application on July 31, 2002 in the Japanese priority document and was filed in the parent application serial No. 10/207,970" for which the instant application is a continuation.

Petitioners' argument may perhaps have merit if, for example, the instant application incorporated by reference non-essential material of the prior filed Japanese application or incorporated by reference the parent application (10/207,970). See, MPEP 608.01(p) and 201.06(c).

Petitioner's attention is further directed to MPEP 608.01(p) wherein it is set forth that as a safeguard against the omission of a portion of a prior application for which priority is claimed under 35 U.S.C. 119(a)-(d) or (f), or for which benefit is claimed under 35 U.S.C. 119(e) or 120, applicant may include a statement at the time of filing of the later application incorporating by reference the prior application. *See*, MPEP § 201.13 where foreign priority is claimed. Further, nonessential subject matter may be incorporated by reference to patents or applications published by foreign countries.

Petitioners' attention is further directed first to MPEP 201.06(c) wherein it is set forth that an applicant may incorporate by reference a prior filed application by including, in the application-as-filed, a statement that such application(s) is incorporated by reference. The inclusion of

this incorporation by reference of the prior application(s) will permit an applicant to amend the application to include any subject matter in such prior application(s), without the need for a petition.

The petition is accordingly DISMISSED.

To avoid further delay in the examination of the application, petitioners should consider filing a preliminary amendment amending the application to include the missing figure prior to the issuance of the first office action on the merits. Thus, if there is a valid incorporation by reference to the prior filed application(s) in accordance with the provisions set forth at 608.01(p) and/or 201.06(c), Figure 10 would not be new matter if said figure were part of the disclosure of prior filed application(s) to which the instant application is a continuation thereof or which a proper priority claim has been made. However, the figure submitted with the instant petition has not been entered into the record.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of October 12, 2004 without entry of Figure 10 into the record.

Thereafter, the application will be forwarded to the appropriate group art unit for consideration by the examiner of any subsequent preliminary amendment filed requesting the entry of a drawing sheet.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Dimock Stratton LLP/Research In Motion Limited
20 Queen Street West, 32nd Floor, Box 102
Toronto, ON M5H 3R3
CANADA

Mail Date: 04/20/2010

Applicant	: Richard C. Madter	: DECISION ON REQUEST FOR
Patent Number	: 7634688	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/960,950	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1120** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/960,968	10/12/2004	Seung Ho Kwon	0465-1683PUS1	8355

2292 7590 01/22/2008
BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

EXAMINER	
LIANG, LEONARD S	
ART UNIT	**PAPER NUMBER**
2853	

NOTIFICATION DATE	DELIVERY MODE
01/22/2008	ELECTRONIC

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

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

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

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1/20/2008

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

In re Application of: KWON et al.
Serial No.: 10/960,968
Filed: October 12, 2004
Docket: **0465-1683PUS1**

DECISION ON PETITION UNDER *37 CFR 1.48* **on Correction of Inventorship**

This is a decision on the "Petition under 37 CFR 1.48 filed August 20th, 2007 to add (correct the spelling) of the following inventors: Byung Soo KIM and Jin Ho SUNWOO

The petition is GRANTED. It is noted that we already had the correct spelling of Jin Ho SUNWOO. The inventive entity is therefore: Seung Ho KWON, Byung Soo KIM, Jin Ho SUNWOO and Yoon Heung TAK.

The application is being forwarded to the publications for further action.

Stephen D. Meier
Supervisory Patent Examiner,
Art Unit 2853

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DLA Piper US LLP
Attn: Patent Group
1200 Nineteenth Street, NW
Washington, DC 20036

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NOV 0 1 2006

OFFICE OF PETITIONS

In re Application of :

Leon Leykin et al. :
Application No. 10/960,978 : DECISION ON PETITION
Filed: October 12, 2004 : TO WITHDRAW
Attorney Docket No. 5382-007-27 CONT : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 17, 2006.

The request is **APPROVED**.

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

The request was signed by James M. Heintz on behalf of all attorneys of record.

All attorneys/agents have been withdrawn.

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

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

There is an outstanding Office action mailed July 19, 2006 that requires a reply from the applicant.

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

Terri S. Williams for
Amelia Au
Petitions Examiner
Office of Petitions

cc: **Leon Leykin**
38 Austringer Court
Baltimore, MD 21208

cc: **Mr. Leonid Leykin**
LHD Vending, Inc.
10310 S. Dolfield Road
Owings Mills, MD 21117

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OBLON, SPIVAK, McCLELLAND,
MAIER & NUESTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Application of :
Iida et al. :
Application No. 10/960,987 :
Filed: October 12, 2004 :
Attorney Docket Number: :
259790US2TTCRDDIV : ON PETITION

This is a decision on the Petition to Withdraw Holding of Abandonment Under 37 CFR 1.181(a) Based on Failure to Receive Notice of Allowance/Allowability, filed December 28, 2005.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due (Notice), mailed May 25, 2005. The Notice set a non-extendable three (3) month period for reply. No response having been received, the application became abandoned on August 26, 2005. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

Applicant's Assertion

Applicant files the instant petition and asserts that the Notice was received on November 23, 2005, past the due date for the reply to the Notice. Applicant files a statement that the Notice was not received by the Applicant between the period of May 26, 2005 and June 26, 2005, and attesting to the fact that a search of the file jacket and docket records indicate that the Notice was not received during this period. Applicant also provides copies of his docket record where the non-received Notice would have been entered had it been received and docketed.

A review of Office records reveal that the Notice was returned by the United States Post Office (USPS) to this Office on June 13, 2005 as undeliverable.

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

No fee has been charged and none is due.

Applicant has filed the issue fee with the instant petition.

The application will be referred to Publishing Division for processing into a patent.

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

Derek L. Woods
Attorney
Office of Petitions

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FORD GLOBAL TECHNOLOGIES
SUITE 600 - PARKLANE TOWERS EAST
ONE PARKLANE BLVD.,
DEARBORN MI 48126

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FEB 17 2006

OFFICE OF PETITIONS

In re Application of :
Kurtz et al :
Application No. 10/961,005 : ON PETITION
Filed: October 7, 2004 :
Attorney Docket No. 81109551 :

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 8, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

The instant petition under 37 CFR 1.313(c)(2), the RCE and the IDS, filed on February 13, 2006, are not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of John D. Russell appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he act. However, if Mr. Russell desires to receive correspondence regarding this file, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being mailed to Mr. Russell, the petitioner herein.

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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).

Until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

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

This matter is being referred to Technology Center AU 3747 to consider the request for continued examination under 37 CFR 1.114 filed February 13, 2006.

Karen Creasy

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

cc:
ALLEMAN HALL MCCOY RUSSELL & TUTTLE
806 SW BROADWAY, SUITE 600
PORTLAND, OREGON 97205

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. _____

Date : February 17, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Eric Matthew Kurtz et al
Application No. :10/961,005
Filed :October 7, 2004

The above-identified application has been assigned Patent No. 7,007,681 and an issue date of March 7, 2006.

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

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of March 7, 2006:

"All reference to Patent No. 7,007,681 to Eric Matthew Kurt et al of Michigan for SYSTEM AND METHOD FOR REDUCING NOX EMISSIONS DURING TRANSIENT CONDITIONS IN A DIESEL FUELED VEHICLE WITH EGR appearing in the Official Gazette of March 7, 2006 should be deleted since no patent was granted."

Karen Creasy

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

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

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330 TOWN CENTER DRIVE
DEARBORN MI 48126

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OFFICE OF PETITIONS

In re Application of :
Eric Matthew Kurtz et al. :
Application No. 10/961,005 : ON PETITION
Filed: October 7, 2004 :
Attorney Docket No. 81109551 :

This is a decision on the petition filed November 15, 2006, under 37 CFR 1.181(b), to withdraw the holding of abandonment, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

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 1.181," or, as explained in more detail below, "...under 37 CFR 1.137(a)" or (b). This is not a final agency decision.

This application became abandoned for failure to pay the issue fee on or before June 16, 2006 as was required by the Notice of Allowance mailed March 16, 2006. This application therefore became abandoned on June 19, 2006. Accordingly, a Notice of Abandonment was mailed August 7, 2006.

The file record discloses that the Notice of Allowance was mailed to the address of record. However, petitioner contends that it was not received. In support, petitioner indicates that a search of the file jacket and the docket revealed that the Notice was not received. Petitioner however submits copies of pages from the docketing system of Alleman Hall McCoy Russell & Tuttle, LLP, wherein receipt of the Notice of Allowance would have been entered, had it been received to substantiate the claim. As the Notice of Allowance was mailed to Ford Global Technologies and as Alleman Hall is not the address of record, it would stand to reason that the Notice wouldn't have been received by Alleman Hall and thus the docket for Alleman Hall shouldn't have reflected receipt of an item not mailed to them. The statement and attachments do not corroborate non-receipt of the Notice of Allowance.

ALTERNATIVE VENUE

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(b),[1] which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).

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

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

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

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

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

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

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

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The 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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OFFICE OF PETITIONS

In re Application of :
Eric Matthew Kurtz et al. :
Application No. 10/961,005 : ON PETITION
Filed: October 7, 2004 :
Attorney Docket No. 81109551 :

This is a decision on the request for reconsideration filed January 31, 2007, to withdraw the holding of abandonment under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition under 37 CFR 1.181(b) is **GRANTED**.

This application became abandoned for failure to pay the issue fee on or before June 16, 2006 as was required by the Notice of Allowance mailed March 16, 2006. This application therefore became abandoned on June 19, 2006. Accordingly, a Notice of Abandonment was mailed August 7, 2006.

In a petition filed November 15, 2006 where petitioner argued non-receipt of the Notice of Allowance, the statement and attachments did not corroborate non-receipt of the Notice of Allowance and thus, the petition was dismissed in a decision mailed November 29, 2006.

Comes now petitioner with copies of the docket report for Ford Global Technologies, wherein receipt of the Notice of Allowance mailed March 16, 2006 would have been filed, had it been received. To show that the Notice mailed March 16, 2006 was not received, petitioner also explains that after searching the docket and file wrapper 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 Notice of Allowance mailed March 16, 2006, it is apparent that it was not received. The evidence submitted corroborates non-receipt of the Notice of Allowance.

In view of the facts set forth in the petition, it is concluded that the Notice of Allowance was never received at the address of record. Accordingly, the holding of abandonment is withdrawn and no petition fee is due.

This application is being forwarded to the Technology Center 3747 for a re-mailing of the Notice of Allowance and Notice of Allowability.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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JUL 11 2008

BRACHER RAWLINS LLP
Fox Court
14 Gray's Inn Road
London WC1X 8HN

Enclosure: February 13, 2008 letter, requesting registration of a "Freezing Injunction"

For: U.S. Patent Nos. 6,818,033; 6,849,094; 6,936,095; 7,207,197 and 7,300,482; and U.S. Patent Application Publication Nos. 2003/0159412; 2004/0103785; 2004/0083773; 2004/0244438; 2005/0092032; 2005/0194295 and 2006/0162299	**DECISION DISMISSING REQUEST**

This is a decision on the letter, dated February 13, 2008, requesting registration of a "Freezing Injunction," issued In The High Court of Justice, Chancery Division, against (a) U.S. Patent Nos. 6,818,033, 6,849,094, 6,936,095, 7,207,197, 7,300,482, any other U.S. patents for which John Herbert North is the applicant, and (b) U.S. Patent Application Publication Nos. 2003/0159412, 2004/0103785, 2004/0083773, 2004/0244438, 2005/0092032, 2005/0194295 and 2006/0162299. The letter is taken as written requests for both (a) a citation of information under 35 U.S.C. § 301 in multiple patents, and (b) a citation of information under 35 U.S.C. § 122(b) in multiple published patent applications.

This request is before the Office of Patent Legal Administration for decision.

The present request for citation of the Freezing Injunction in the above-captioned U.S. patents and patent application publications has been fully considered. The request is **dismissed**, for the reasons set forth below.

RELEVANT STATUTES, REGULATIONS, AND EXAMINING PROCEDURE

37 CFR 1.4(c) provides:

> "Since different matters may be considered by different branches or sections of the United States Patent and Trademark Office, each distinct subject, inquiry or order must

be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subjects."

35 U.S.C. § 122(b) provides:

> (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.

The Manual of Patent Examining Procedure (MPEP) § 1134 provides (in part):

> Any submission filed by a third party (e.g., a protest) in an application published under 35 U.S.C. 122(b) (without the express written consent of the applicant) that does not comply with the requirements of 37 CFR 1.99 will be disregarded and not entered into the application file.

35 U.S.C. § 301 provides:

> Any person at any time may cite to the Office in writing prior art consisting of patents or printed publications which that person believes to have a bearing on the patentability of any claim of a particular patent. If the person explains in writing the pertinency and manner of applying such prior art to at least one claim of the patent, the citation of such prior art and the explanation thereof will become a part of the official file of the patent. At the written request of the person citing the prior art, his or her identity will be excluded from the patent file and kept confidential.

The Manual of Patent Examining Procedure (MPEP) § 2205 provides (in part):

> The prior art which may be submitted under 35 U.S.C. 301 is limited to "written prior art consisting of patents or printed publications."
>
> If the prior art citation contains any issue not directed to patents and printed publications, it should not be entered into the patent file, despite the fact that it may otherwise contain a complete submission of patents and printed publications with an explanation of the pertinency and applicability. Rather, the prior art citation should be returned to the sender as described in MPEP § 2206.

DISCUSSION

The instant written request for citation of the Freezing Injunction is improper, because 37 CFR 1.4(c) provides that "each distinct subject, inquiry or order must be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subjects." In

this instance, a third party has provided written requests for both (a) a citation of information under 35 U.S.C. § 301 in a patent, and (b) a citation of information under 35 U.S.C. § 122(b) in a published patent application. Accordingly, the request is improper, and is dismissed.

It is additionally noted as follows:

1. The request for "any other U.S. patents for which John Herbert North is the applicant" is indefinite and does not identify a specific patent to which the request may be applied. Further, 37 CFR 1.4(b) requires that "a separate copy of every paper to be filed in a patent, patent file, or other proceeding must be furnished for each file to which the paper pertains, even though the contents of the papers filed in two or more files may be identical," and requestor clearly has not provided copies for all the above-captioned patents, published patent applications, and any other patents for which John Herbert North is the applicant.

2. The prior art which may be submitted under 35 U.S.C. § 301 is limited to patents or printed publications. The present information citation (submission) contains an issue not directed to patents and printed publications, as well as comments on the information submitted. Requester has not shown the present information submission to be compliant with 35 U.S.C. § 301 and MPEP 2205.

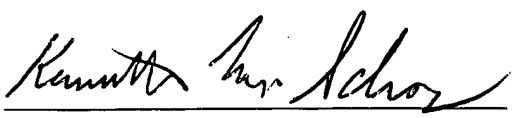
3. Any submission filed by a third party (e.g., a protest) in an application published under 35 U.S.C. 122(b) (without the express written consent of the applicant) must comply with the requirements of 37 CFR 1.99. Requester has not shown the present information submission to be compliant with 35 U.S.C. § 122(b) and MPEP 1134.

CONCLUSION

Accordingly, the written request under 35 U.S.C. § 301 and 35 U.S.C. § 122(b) for citation of prior art is **dismissed**

The citation (submission) of information will not be entered into any file, and it is returned herewith to the sender.

Any questions concerning this communication should be directed to Nicole D. Dretar, Legal Advisor, at 571-272-7717.



Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration

June 24, 2008

Pet. Dec.

Docket No. 260298US0

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF: :

David Alan HAMLIN : GROUP: 1732

SERIAL NUMBER: 10/961,023 : EXAMINER: COLAIANNI

FILED: October 12, 2004 :

FOR: METHOD FOR MAKING DENTAL PROSTHESIS OR DENTAL PROSTHESIS BASE MATERIAL

Approved
JMStone
Jacqueline M. Stone, Director
Technology Center 1700
6/16/05

PETITION FOR ATTORNEY WITHDRAWAL UNDER 37 CFR 1.36

Commissioner of Patents
PO Box 1450
Alexandria, Virginia 22313-1450

Sir:

The Attorneys of Record in the present Application hereby respectfully petition to withdraw from any further representation of the Applicant of the subject application under the provisions of, and in compliance with the criteria set forth, in 37 CFR 10.40(c)(6). The applicant is being advised of this action concurrently herewith and provided with a copy of the petition.

It is requested that all further communications be forwarded to the Applicant at the following address:

Mr. David Alan Hamlin
15 Parkside Drive
Langhorne, PA 19047

As the principal attorney for the above-identified application I, Norman F. Oblon, have the authority to execute and have executed this petition on behalf of all of the attorneys of record, namely, all the attorneys/agents associated with the following customer number:

Customer Number
22850

Granting of this petition is respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

Norman F. Oblon
Attorney of Record
Registration No. 24,618

1940 Duke Street
Alexandria, VA 22314
(703) 413-3000
Fax: (703) 413-2220

OBLON
SPIVAK
McCLELLAND
MAIER
&
NEUSTADT
P.C.

ATTORNEYS AT LAW

RECEIVED
CENTRAL FAX CENTER
MAR 11 2005

Docket No.: 260298US0

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

RE: Application Serial No.: 10/961,023
Applicants: David Alan HAMLIN
Filing Date: October 12, 2004
For: METHOD FOR MAKING DENTAL PROSTHESIS OR DENTAL PROSTHESIS BASE MATERIAL
Group Art Unit: 1732
Examiner: COLAIANNI

SIR:

Attached hereto for filing are the following papers:

PETITION FOR ATTORNEY WITHDRAWAL UNDER 37 CFR 1.36

Our check in the amount of $0.00 is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

Norman F. Oblon
Reg. No. 24,618

Customer Number
22850
(703) 413-3000 (phone)
(703) 413-2220 (fax)

PAGE 2/5 * RCVD AT 3/11/2005 10:39:51 AM [Eastern Standard Time] * SVR:USPTO-EFXRF-1/0 * DNIS:8729306 * CSID:7034132220 * DURATION (mm-ss):01-20

Pet. Dec.

Docket No. 260298US0

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MAR 11 2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF: :

David Alan HAMLIN : GROUP: 1732

SERIAL NUMBER: 10/961,023 : EXAMINER: COLAIANNI

FILED: October 12, 2004 :

FOR: METHOD FOR MAKING DENTAL PROSTHESIS OR DENTAL PROSTHESIS BASE MATERIAL

Approved
Jacqueline M. Stone, Director
Technology Center 1700
6/17/05

PETITION FOR ATTORNEY WITHDRAWAL UNDER 37 CFR 1.36

Commissioner of Patents
PO Box 1450
Alexandria, Virginia 22313-1450

Sir:

The Attorneys of Record in the present Application hereby respectfully petition to withdraw from any further representation of the Applicant of the subject application under the provisions of, and in compliance with the criteria set forth, in 37 CFR 10.40(c)(6). The applicant is being advised of this action concurrently herewith and provided with a copy of the petition.

It is requested that all further communications be forwarded to the Applicant at the following address:

Mr. David Alan Hamlin
15 Parkside Drive
Langhorne, PA 19047

PAGE 4/5 * RCVD AT 3/11/2005 10:39:51 AM [Eastern Standard Time] * SVR:USPTO-EFXRF-1/0 * DNIS:2738300 * CSID:7034132220 * DURATION (mm-ss):01-20

As the principal attorney for the above-identified application I, Norman F. Oblon, have the authority to execute and have executed this petition on behalf of all of the attorneys of record, namely, all the attorneys/agents associated with the following customer number:

Customer Number
22850

Granting of this petition is respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

Norman F. Oblon
Attorney of Record
Registration No. 24,618

1940 Duke Street
Alexandria, VA 22314
(703) 413-3000
Fax: (703) 413-2220

Pet. Dec.

OBLON
SPIVAK
McCLELLAND
MAIER
&
NEUSTADT
P.C.

ATTORNEYS AT LAW

RECEIVED
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MAR 11 2005

Docket No.: 260298US0

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

RE: Application Serial No.: 10/961,023
Applicants: David Alan HAMLIN
Filing Date: October 12, 2004
For: METHOD FOR MAKING DENTAL PROSTHESIS OR DENTAL PROSTHESIS BASE MATERIAL
Group Art Unit: 1732
Examiner: COLAIANNI

Approved
Jacqueline M. Stone, Director
Technology Center 1700
7/15/05

SIR:

Attached hereto for filing are the following papers:

PETITION FOR ATTORNEY WITHDRAWAL UNDER 37 CFR 1.36

Our check in the amount of $0.00 is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

Norman F. Oblon
Reg. No. 24,618

Customer Number
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(703) 413-3000 (phone)
(703) 413-2220 (fax)

PAGE 2/5 * RCVD AT 3/11/2005 10:39:51 AM [Eastern Standard Time] * SVR:USPTO-EFXRF-1/0 * DNIS:8729306 * CSID:7034132220 * DURATION (mm-ss):01-20

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20091112

DATE : November 12, 2009

TO SPE OF : ART UNIT 3748

SUBJECT : Request for Certificate of Correction on Patent No.: 7,326,035

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:

Applicant simply corrected the typographical errors, the scopes of the claims and the specification are not changed.

/Thomas E. Denion/
Supervisory Patent Examiner, Art Unit 3748

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	§	BEFORE THE EXAMINER:
Datta et al.	§	Not Yet Assigned
Serial No.: 10/961,068	§	Group Art Unit No.: Not Yet Assigned 1711
Filed: October 12, 2004	§	Attorney Docket No.: 1998B037A/5
For: Elastic Blends Comprising Crystalline Polymer and Crystallizable Polymers of Propylene	§	Confirmation No.: Not Yet Assigned
Customer No.: 23455	§	February 14, 2005

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FEB 14 2005

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

PETITION TO MAKE SPECIAL

Sir:

Pursuant to 37 CFR § 1.102(c) and MPEP § 708.02 IV. (APPLICANT'S AGE), Applicant, Charles Cozewith, hereby petitions the Commissioner, through his attorney, that this application be made special and that the prosecution thereof be expedited as much as possible. As a basis for granting the above petition, it is submitted that Applicant is 65 years of age or more. Attached herewith is a copy of Applicant's birth certificate.

Respectfully submitted,

February 14, 2005
Date

Leandro Arechederra III
Attorney for Applicants
Registration No. 52,457

ExxonMobil Chemical Co.
Law Technology
P.O. Box 2149
Baytown, Texas 77522-2149
Phone: 281-834-2173
Fax: 281-834-2495

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC 1700

MAR - 3 2005

PAGE 4/5 * RCVD AT 2/14/2005 4:55:46 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-1/5 * DNIS:8729306 * CSID:281 834 1231 * DURATION (mm-ss):01-58

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.
10/961,075	10/12/2004	Nir Zuk	0023-0210	8068

44987 7590 05/26/2009

HARRITY & HARRITY, LLP
11350 Random Hills Road
SUITE 600
FAIRFAX, VA 22030

EXAMINER	
HOSSAIN, TANIM M	

ART UNIT	PAPER NUMBER
2445	

MAIL DATE	DELIVERY MODE
05/26/2009	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Michael S Brooke
Harrity & Harrity, LLP
11350 Random Hills Road, Suite 600
Fairfax, Virginia 22030

MAILED

MAY 26 2009

TECHNOLOGY CENTER 2100

In re Application of: ZUK, Nir et al.
Application No. **10/961,075**
Attorney Docket No. 0023-0210
Filed: October 12, 2004
Title: INTELLIGENT INTEGRATED NETWORK SECURITY DEVICE FO RHIGH-AVAILABILITY APPLICATIONS

DECISION ON PETITION TO WITHDRAW RESTRICTION REQUIREMENT UNDER 37 CFR §1.144

This is a decision on the petition filed February 17, 2009 under 37 C.F.R. §1.144 and 37 C.F.R. §1.181 to withdraw an outstanding restriction requirement.

The petition is **GRANTED**.

RELEVANT PROSECUTION HISTORY

October 12, 2004	The application identified above was filed with claims 1-39.
May 6, 2008	A non-final Office action was mailed rejecting claims 1-39 under single reference 103(a).
August 6, 2008	An amendment was filed amending claims 1-5, 7, 10-12, 14, 16-38 and canceling claims 10 and 39. Claims 1-9, 11-38 remain pending.
September 8, 2008	A restriction requirement was made drawing the claims to three separate inventions. Group 1: claims 1-12 classified in 714/14. Group 2: claims 14-28 classified in 714/48 and Group 3: claims 29-38 classified in 709/242.
September 30, 2008	A reply was received traversing the restriction requirement with substance and electing group 1 with traverse.
December 17, 2008	A final office action was mailed rejecting elected with traverse claims 1-12. The final office action did not argue to support the restriction requirement or make the restriction final.

February 17, 2009 A formal Petition to withdraw the restriction requirement was filed in an after-final that also argued the prior art rejection.

REGULATIONS AND PRACTICE

37 C.F.R. § 1.144 states:

> After a final requirement for restriction, the applicant, in addition to making any reply due on the remainder of the action, may petition the Commissioner to review the requirement ... A petition will not be considered if reconsideration of the requirement was not requested (see § 1.181).

37 C.F.R. § 1.145 states:

> If, after an office action on an application, the applicant presents claims directed to an invention distinct from and independent of the invention previously claimed, the applicant will be required to restrict the claims to the invention previously claimed if the amendment is entered, subject to reconsideration and review as provided in § § 1.143 and 1.144.

37 C.F.R. § 1.181 states:

> (a) Petition may be taken to the Commissioner:
> (1) From any action or requirement of any examiner in the ex parte prosecution of an application, or in ex parte or inter partes prosecution of a reexamination proceeding which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court;
> (2) In cases in which a statute or the rules specify that the matter is to be determined directly by or reviewed by the Commissioner; and
> (3) To invoke the supervisory authority of the Commissioner in appropriate circumstances. For petitions in interferences, see § 1.644.
> (b) Any such petition must contain a statement of the facts involved and the point or points to be reviewed and the action requested. Briefs or memoranda, if any, in support thereof should accompany or be embodied in the petition; and where facts are to be proven, the proof in the form of affidavits or declarations (and exhibits, if any) must accompany the petition.
> (c) When a petition is taken from an action or requirement of an examiner in the ex parte prosecution of an application, or in the ex parte or inter partes prosecution of a reexamination proceeding, it may be required that there have been a proper request for

reconsideration (§ 1.111) and a repeated action by the examiner. The examiner may be directed by the Commissioner to furnish a written statement, within a specified time, setting forth the reasons for his or her decision upon the matters averred in the petition, supplying a copy to the petitioner.

MPEP § 803 states:

> Under the statute an application may properly be required to be restricted to one of two or more claimed inventions only if they are able to support separate patents and they are either independent (MPEP § 806.04 - § 806.04(i)) or distinct (MPEP § 806.05 - § 806.05(i)).
>
> If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.
>
> CRITERIA FOR RESTRICTION BETWEEN PATENTABLY DISTINCT INVENTIONS
>
> There are two criteria for a proper requirement for restriction between patentably distinct inventions:
>
> (A) The inventions must be independent (see MPEP § 802.01, § 806.04, § 808.01) or distinct as claimed (see MPEP § 806.05 - § 806.05(i)); and
>
> (B) There must be a serious burden on the examiner if restriction is required (see MPEP § 803.02, § 806.04(a) - § 806.04(i), § 808.01(a), and § 808.02).... For purposes of the initial requirement, a serious burden on the examiner may be *prima facie* shown if the examiner shows by appropriate explanation of separate classification, or separate status in the art, or a different field of search as defined in MPEP § 808.02....

MPEP § 821.01 states:

> Where the initial requirement is traversed, it should be reconsidered. If, upon reconsideration, the examiner is still of the opinion that restriction is proper, it should be repeated and made final in the next Office action. (See MPEP § 803.01.) In doing so, the examiner should reply to the reasons or arguments advanced by applicant in the traverse. Form paragraph 8.25 should be used to make a restriction requirement final.

DECISION

37 C.F.R. § 1.181(c) requires that an action by an examiner, to be properly petitionable, must be followed by a request for reconsideration, and a repeated action by the examiner.

37 C.F.R. § 1.144 states that the applicant may petition the Commissioner after a final requirement for the restriction has been made.

In the above-identified application, applicant filed two requests for reconsideration, one in the election with traverse and the second in the after final amendment with the petition, in accordance with 37 C.F.R. § 1.143. Although the restriction was never made final in accordance with MPEP § 821.01, the initial restriction requirement was maintained in the next office action which was made final. To expedite prosecution of this application, the Office action of December 17, 2008, which maintained the restriction requirement, is being treated as a Final restriction requirement.

The issue presented in the petition is whether the restriction based on original presentation under 37 C.F.R. § 1.145 is proper under the current regulations and practice.

MPEP § 803 sets forth two criteria for a proper restriction requirement between patentably distinct inventions: (A) the inventions must be independent or distinct as claimed and (B) there must be a serious burden on the examiner.

Independent claim 1, features a method in a computer network comprising: configuring a primary security system...; designating a secondary security system...; sharing flow records from the primary security system with the secondary security system; sharing flow records from secondary security system with the primary security system; using the primary security system to provide failover support for the secondary security system; and using the secondary security system to provide failover support for the primary security system.

Independent claim 14, features a system comprising: a first apparatus comprising: a first security device; a first module operable to maintain flow information associated with packets received from a computer network and to share device-specific flow information with the first security device; a communication interface operable to permit an exchange of flow records with a second apparatus; where the first apparatus to configured to determine whether a failover even with the second apparatus has occurred and the second apparatus is configured to determine whether a failover event with the first apparatus has occurred. Claim 15, dependent on 14, claims the features of the second apparatus.

Independent claim 29, features a system comprising: a primary security apparatus operable to receive and process packets, the primary security apparatus including means for maintaining flow information for a plurality of devices included in the primary security apparatus; a secondary apparatus operable to receive and process packets, the secondary security apparatus including means for sharing flow information among a plurality of devices; means for sharing flow records between the primary security apparatus and the secondary security apparatus; means for determining an occurrence of a

failover event associated with the primary security apparatus; means for determining an occurrence of a failover event associated with the secondary security apparatus.

To be proper, (A) claims 1-12 should be a distinct invention from originally filed claims 14-28 and 29-38 and (B) there must be a serious burden on the examiner to search and consider the different features beyond the search and consideration required for the original claims 1-39.

In the original restriction requirement, the examiner cites group 1 is drawn to designating a backup network system; group II is drawn to error detection and notification; and group III is drawn to maintaining flow information for multiple devices.

Regarding the distinct feature of "designating a backup network system" allegedly unique to claim 1 and group 1, it can be interpreted that the primary and secondary security systems are designated backups for each other. Similar limitations are found in independent claim 14 where a first apparatus and a second apparatus are designated for monitoring, sharing flow information and recovery for the other (claims 16 and 17, dependent on claim 14). Further claim 29 recites parallel limitations to claim 1 with a primary security apparatus and a secondary security apparatus. The designation of a backup network system persists between the claim groups and thus not subject to restriction.

Regarding the distinct feature of 'error detection and notification' allegedly unique to claim 14 and group 2, it can be interpreted that the first apparatus is configured to determine whether a failover even with the second apparatus has occurred and the second apparatus does the same with the first one. This feature is also not distinct and unique to group 2. Claim 1 recites a two system method that provides failover support for each other. While the step the determining is absent claim 1, it is explicit in claim 2 and reasonable construed into claim 1. Similarly stated, claim 29 resembled claim 1 in parallel limitation but teaches 'means for determining an occurrence of a failover event' which is the unique feature cited to group 2 and claim 14. Notification is an inherent function of the claims for the claims act to respond based on determination and occurrence of failover events. This is not a patentable distinct feature between the claims.

Lastly, the distinct feature of 'maintaining flow information for multiple devices' allegedly unique to claim 29 and group 3 is present in claim 1 as 'sharing flow records from the primary security system with the secondary security system' and vice-versa. Claim 14 teaches a 'communication interface operable to permit an exchange of flow records with a second apparatus' and flow information defined in claims 14 and 15. This is not a patentable distinct feature between the claims.

Regarding issue B), the examiner had already performed a search on the claims as originally filed. While amendments were made, the amended changes were persist with the claim language already searched in the original filing (see original claim 39) and dependent claims 2, 15-16, etc.

For the above reasons, the petition is **GRANTED**.

The restriction requirement is hereby **WITHDRAWN**.

The application will be forwarded to the examiner for consideration on the merits of claims 1-9, 11-38.

Any inquiry regarding this decision should be directed the undersigned whose telephone number is (571) 272-4147.

/brb/

Jack Harvey, Director
Technology Center 2400
Network, Multiplexing, Cable and Security

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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MAY 15 2007

OFFICE OF PETITIONS

Robert H. Epstein
Epstein & Gerken
1901 Research Boulevard, Suite 340
Rockville, MD 20850-3164

In re Application of:
Jeffrey H. Diamond
Application No.: 10/961,087
Filed: October 12, 2004
Atty's Docket No.: 0136.103.3DIV

DECISION ON PETITION UNDER
37 CFR 1.137(b)

This is a decision on the petition for revival of the above-entitled application under 37 CFR 1.137(b), filed September 21, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice Of Allowance mailed May 08, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned at midnight on August 08, 2006.

On September 21, 2006, applicant filed the petition for revival under 37 CFR 1.137(b) considered herein. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that it includes: (1) the petition fee; (2) the required statement of unintentional delay; and (3) the required reply in the form of payment of the issue and publication fees. Accordingly, the issue and publication fee payments are accepted as having been unintentionally delayed.

The application is being referred to the Office Of Publications.

Telephone inquiries concerning this decision should be directed to the undersigned.

Derek A. Putonen
Attorney Advisor
(571) 272-3294

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

Posz Law Group, PLC
12040 South Lakes Drive, Suite 101
Reston, VA 20191

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SEP 27 2007

OFFICE OF PETITIONS

In re Application of	:	
Hiroshi Okada et al.	:	
Application No. 10/961,098	:	ON PETITION
Filed: October 12, 2004	:	
Attorney Docket No. 12-053	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowability, mailed September 19, 2006, which set a period for reply of three (3) months. Accordingly, this application became abandoned on December 20, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of formal drawings; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

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

The application file is being referred to the Office of Publication for issuing into a patent.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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JOHNSON & JOHNSON
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NEW BRUNSWICK, NJ 08933

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OFFICE OF PETITIONS

In re Application of :
Robert Bergermeister et al. :
Application No. 10/961,127 :
Filed: October 8, 2005 :
Attorney Docket No. CRD-5155NP :

DECISION ON PETITION
37 CFR §1.8(b)

This is a decision on the petition under 37 CFR §1.137(b), filed September 28, 2005, to revive the above-identified application, which is being treated as a petition under 37 CFR §1.8 (b) (no fee) requesting withdrawal of the holding of abandonment of the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely reply to the Notice of Missing Parts (Notice) mailed January 6, 2005. The Notice set a two (2) month period for reply, and extensions of time were available under 37 CFR §1.136(a). A Notice of Abandonment was mailed on September 12, 2005.

Petitioner asserts that a timely reply to the Notice, in the form of an Oath/Declaration, fee and Submission of a Combined Declaration and Power of Attorney, was deposited on February 14, 2005. In support of this assertion, Petitioner provides a copy of a Return Receipt Postcard, and copy of the reply including a Transmittal Cover Sheet with a Certificate of Mailing indicating a February 14, 2005 date of deposit.

MPEP 503 states that the USPTO will stamp the receipt date on the postcard and place it in the outgoing mail, and that the postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO. However, the postcard receipt provided does not designate a USPTO stamped receipt date.

The file record does not include the originally submitted papers. Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), reproduced below:

In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Notice of January 6, 2005 is hereby withdrawn and the application is restored to pending status.

In view of the foregoing, the petition fee of $1500.00 has not been charged, as no fee is due.

Telephone inquiries concerning this decision should be directed to Angela Ortiz at (571) 272-6051, or in her absence, the undersigned at (571) 272-3217.

This matter is being referred to the Office of Initial Patent Examination for appropriate action on the concurrently filed reply.

Frances Hicks for

Brian Hearn
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

MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20004

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JUN 29 2007

OFFICE OF PETITIONS

In re Application of :
Hugh W. Richardson et al :
Application No. 10/961,155 : DECISION ON PETITION
Filed: October 12, 2004 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 60912-5007-US :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed May 16, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**.

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

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). 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 Irvin Dingle at (571) 272-3210. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 1755 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.

Frances Hicks
Petition Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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
10/961,155	10/12/2004	1755	1832	60912-5007-US	54	3

CONFIRMATION NO. 6412

CORRECTED FILING RECEIPT

OC000000024611148

9629
MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20004

Date Mailed: 06/29/2007

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Hugh W. Richardson, Sumter, SC;
Robert L. Hodge, Sumter, SC;

Power of Attorney: The patent practitioners associated with Customer Number **009629**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/616,646 10/08/2004

Foreign Applications

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 US10/961,155

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

MILLED SUBMICRON CHLOROTHALONIL WITH NARROW PARTICLE SIZE DISTRIBUTION, AND USES THEREOF

Preliminary Class

106

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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GreenBlum & Bernstein
1950 Roland Clarke Place
Reston, VA 20191

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SEP 0 5 2006

OFFICE OF PETITIONS

In re Application of :
Christian Hunt et al. :
Application No. 10/961,213 : DECISION ON PETITION
Filed: October 12, 2004 : TO WITHDRAW
Attorney Docket No. 07680011US : 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 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).

The request cannot be approved because there remain less than 30 (thirty days) between the date of this decision and the maximum extendable time period for filing a response to the Office action mailed on March 9, 2006 and the reasons set forth in the request, **Care Rehab & Orthopedic Products, Inc. has remitted payment,** do not meet any of the conditions set forth in 37 CFR 10.40 because Care Rehab & Orthopedic Products Inc. has not properly intervened in accordance with 37 CFR 3.73(b).

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: Christian Hunt
c/o Josh Witmer
Care Rehab & Orthopedic Products, Inc.
P.O. Box 580
McLean, VA 22101

UNITED STATES PATENT AND TRADEMARK OFFICE

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DITTHAVONG MORI & STEINER, P.C.
918 Prince St.
Alexandria VA 22314

MAILED

SEP 28 2009

OFFICE OF PETITIONS

In re Application of :
Vladimir Mijatovic :
Application No. 10/961,228 : ON PETITION
Filed: October 12, 2004 :
Attorney Docket No. **P1697US00** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 17, 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 November 6, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A three (3) month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is May 7, 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.

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

This application is being referred to Technology Center AU 2446 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
Petitions Examiner
Office of Petitions

SPE: C. Whitehead, Jr.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/26/07

TO SPE OF : ART UNIT 2813

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/961,236 Patent No.: 7105387

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: approved for changes that apply to the drawings only

Carl Whitehead 2813

SPE **Art Unit**

Cif C

OIPE IAP85
JAN 2 6 2007
PATENT & TRADEMARK OFFICE

Docket No.: 070456-0051

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	:	Customer Number: 20277
Tadaharu MINATO, et al.	:	Confirmation Number: 6716
Application No.: 10/961,236	:	Group Art Unit: 2813
Filed: October 12, 2004	:	Examiner: SCHILLINGER, Laura M.

For: SEMICONDUCTOR DEVICE AND METHOD FOR MANUFACTURING THE SAME

BEST AVAILABLE COPY

REQUEST FOR CERTIFICATE OF CORRECTION UNDER 37 CFR 1.322

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

Sir:

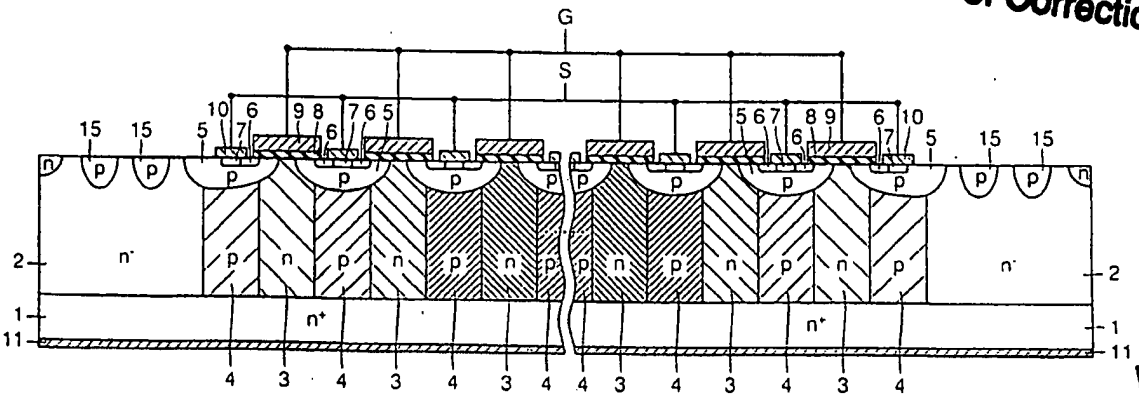
In reviewing the above-identified patent, a printing error was discovered therein requiring correction in order to conform the Official Record in the application.

The error noted is set forth on the two attached copies of form PTO-1050 Rev. 2-93 in the manner required by the Commissioner's Notice.

Specifically, On sheet 1 of 147, replace "Reference Figure 1" with

Certificate
JAN 3 0 2007
of Correction

FIG.1



JAN 3 1 2007

WDC

The replacement of original Fig. 1 with reference Figure 1, presented on May 21, 2006 in support of request for reconsideration was incorrect. A request to replace original Fig. 1 was never filed.

The change requested herein occurred as a result of printing the Letters Patent and the Certificate should be issued without expense under Rule 322 of the Rules of Practice. Accordingly, Applicants request issuance of the Certificate of Correction.

Please charge any shortage in fees due in connection with the filing of this paper to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP

Bernard P. Codd (Reg. No. 46,429) for

Stephen A. Becker
Registration No. 26,527

600 13th Street, N.W.
Washington, DC 20005-3096
Phone: 202.756.8000 SAB:JGH
Facsimile: 202.756.8087
Date: January 26, 2007

Please recognize our Customer No. 20277 as our correspondence address.

JAN 31 2007

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PRINTER'S TRIM LINE

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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7105387

DATED : September 12, 2006

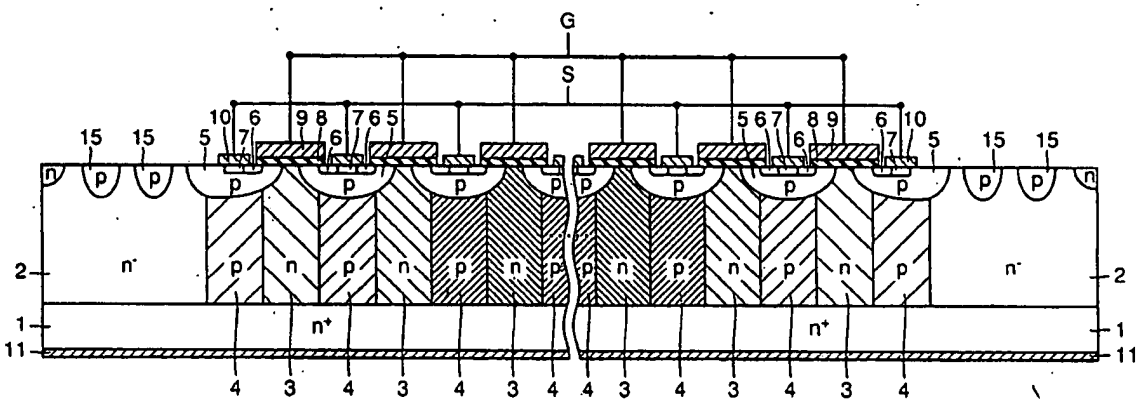
INVENTOR(S) : Tadaharu MINATO, et al.

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

On sheet 1 of 147, replace "Reference Figure 1" with

--

FIG. 1



--

MAILING ADDRESS OF SENDER:
McDermott Will & Emery LLP
600 13th Street, NW
Washington, DC 20005
USA

PATENT NO.
7,105,387

No. of add'l copies
@ 50¢ per page

FORM PTO 1050 (Rev. 2-93)

JAN 3 1 2007

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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7105387

DATED : September 12, 2006

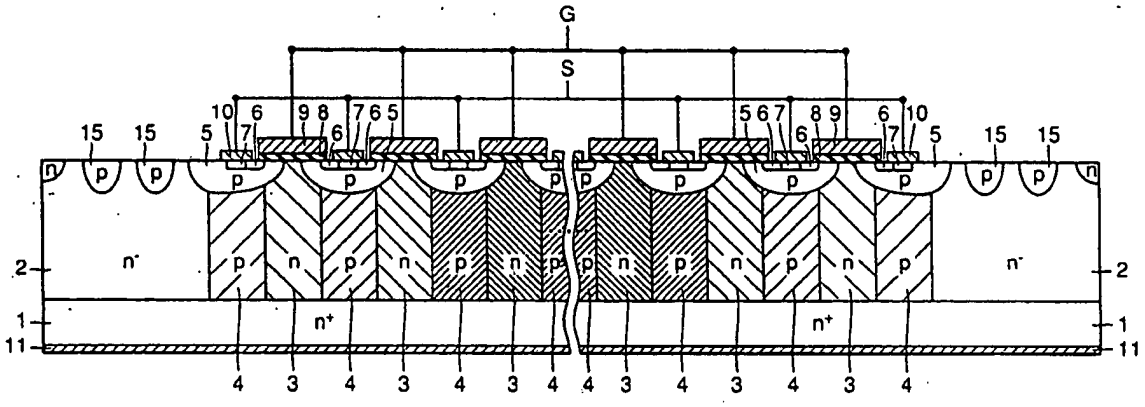
INVENTOR(S) : Tadaharu MINATO, et al.

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

On sheet 1 of 147, replace "Reference Figure 1" with

--

FIG.1



--

MAILING ADDRESS OF SENDER:
McDermott Will & Emery LLP
600 13th Street, NW
Washington, DC 20005
USA

PATENT NO.
7,105,387

No. of add'l copies
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FORM PTO 1050 (Rev. 2-93)

JUN 3 1 2007

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

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FEB 11 2009

OFFICE OF PETITIONS

In re Application of
Kazuya Kawasaki et al
Application No.10/961,242
Filed: October 7, 2004
Attorney Docket No. JG-KM-4982C-2/500562.2009

DECISION ON PETITION

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

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final rejection mailed June 11, 2008, is accepted as having been unintentionally delayed.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

This application is being referred to Technology Center AU 1641 for appropriate action by the Examiner in the normal course of business on the reply received December 30, 2008.

Karen Creasy
Petitions Examiner
Office of Petitions

cc:

DUANE MORRIS LLP
1540 BROADWAY
NEW YORK, NEW YORK 10036

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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www.uspto.gov

BAINWOOD HUANG & ASSOCIATES LLC
2 CONNECTOR ROAD
WESTBOROUGH, MA 01581

Mail Date: 05/20/2010

Applicant	: Daniel Biederman	: DECISION ON REQUEST FOR
Patent Number	: 7620846	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/961,243	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/07/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1393** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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AUG 23 2007

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

In re Application of :
Toshiki Fujiwara :
Serial No.: 10/961,267 : DECISION ON PETITION
Filed: October 12, 2004 :
Attorney Docket No.: 019519-441 :

This letter is in response to the Petition requesting restarting of a period for reply and a new Notice of Allowance and Issue Fee Due, filed July 5, 2007.

A review of the file history shows that the Office mailed a Notice of Allowance and Issue Fee Due and a Notice of Allowability to applicant on March 20, 2007. On March 21, 2007, the envelope was returned to the Office as defective.

The renewed petition is **GRANTED.** The original Notices mailed March 20, 2007, are withdrawn.

In view of the above, the Notices will be remailed and a new time period for payment of the Issue Fee will be set.

Should there be any questions regarding this decision, please contact Special Program Examiner William R. Dixon, Jr., by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-0519 or by Official Fax at 571-273-8300

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

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CANTOR COLBURN, LLP
20 Church Street
22nd Floor
Hartford CT 06103

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APR 2 4 2009

OFFICE OF PETITIONS

In re Application of :
Byung Soo Youn et al. :
Application No. 10/961,274 : DECISION ON PETITION
Filed: October 8, 2004 :
Attorney Docket No. SEM-0015 :

This is a decision on the request under 37 CFR 3.81(b)[1] to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) by way of a certificate of correction in the patent that has issued from the above-identified application.

The request is **GRANTED**.

Petitioner states that the correct assignee's name is AdipoGen, Inc., Republic of Korea 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 that has 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.

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

The petition was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that AdipoGen, Inc., Republic of Korea is the assignee of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed.

Inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction in accordance with this decision.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100226

DATE : February 26, 2010

TO SPE OF : ART UNIT 2164

SUBJECT : Request for Certificate of Correction on Patent No.: 7366720

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:

Amendment does not change the scope of the claims.

/CHARLES RONES/
Supervisory Patent Examiner.Art Unit 2164

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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BAKER & MCKENZIE LLP
Pennzoil Place, South Tower
711 Louisiana, Suite 3400
HOUSTON TX 77002-2716

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SEP 17 2007

OFFICE OF PETITIONS

In re Patent No. 7,101,926 :
Issue Date: September 5, 2006 :
Application No. 10/961,294 : ON PETITION
Filed: October 8, 2004 :
Attorney Docket No. 43225-44598AUSC :

This is a decision on the petition filed October 16, 2006 (certificate of mailing date October 11, 2006), which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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BAKER & HOSTETLER LLP
WASHINGTON SQUARE
1050 CONNECTICUT AVE. NW
SUITE 1100
WASHINGTON DC 20036-5304

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AUG 0 1 2007

OFFICE OF PETITIONS

In re Application of :
Yvan Lafontaine :
Application No. 10/961,297 : ON PETITION
Filed: October 12, 2004 :
Attorney Docket No. 77221.21741 :

This is a decision on the petition, filed April 9, 2007, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137 (f).

The petition is **DISMISSED**.

Petitioner states that the instant non-provisional application is the subject of an application filed in a foreign country and the U. S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country. A review of the file record shows that a Request to Rescind was filed on April 9, 2007. However, petitioner has not provided the exact filing date of the foreign application. Before a proper determination on the merits of the petition can be decided, petitioner must supply the filing date of the foreign application in a renewed petition under 37 CFR 1.137(b).

The previous Request and Certification under 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 November 8, 2007, has been mailed under separate cover.

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. No additional petition fee is required.

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
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

Correspondence regarding this decision may also me filed through the Electronic Filing System of the USPTO.

To expedite consideration, petitioner may wish to contact April Wise regarding the filing of the renewed petition under 37 CFR 137(b).

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

Frances M. Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, DC 20036-5304

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OFFICE OF PETITIONS

In re Application of
Yvan **LaFontaine**
Application No. 10/961,297
Filed: October 12, 2004
Attorney Docket No. 77221.21741

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed September 28, 2007, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on September 28, 2006. 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 8, 2007 previously mailed on August 1, 2007.

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

This decision ratifies the ensuing prosecution, the application is being referred to the Technology Center Art Unit 2838 for consideration of the amendment filed April 9, 2007.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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FROMMER LAWRENCE & HAUG LLP
745 FIFTH AVENUE
NEW YORK, NY 10151

Mail Date: 05/13/2010

Applicant	: Katsuya Nakashima	: DECISION ON REQUEST FOR
Patent Number	: 7640388	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/961,299	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **513** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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
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COATS & BENNETT, PLLC
1400 CRESCENT GREEN, SUITE 300
CARY NC 27518

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OFFICE OF PETITIONS

In re Application of :
Dana C. Dorroh et al :
Application No. 10/961,345 : ON PETITION
Filed: October 8, 2004 :
Attorney Docket No. 5293-001 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 20, 2006, to revive the above-identified application.

The petition is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "**Renewed Petition under 37 CFR 1.137(b)**." This is **not** 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, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) (1).

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed May 20, 2004, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). No amendment *prima facie* placing the application in condition for allowance or Notice of Appeal (and appeal fee) was timely filed.

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

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

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

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

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

Karen Creasy
Petitions Examiner
Office of Petitions

Attachment: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/961,345	Applicant(s) DORROH ET AL.	
	Examiner Charles A. Marmor, II	Art Unit 3735	

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

THE REPLY FILED 20 October 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 6 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): See Continuation Sheet.
6. ☒ Newly proposed or amended claim(s) *23-27,29-35,47,50,52 and 53* 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: *52-55*.
   Claim(s) objected to: *13,28 and 48*.
   Claim(s) rejected: *1-8,10,12,23-27,29-35,47,50 and 51*.
   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: _____.

Charles A. Marmor, II
SPE
Art Unit 3735

Continuation of 3. NOTE: The proposed amendment to claim 1 includes minor informalities that fail to put the claim in condition for allowance and thus require further consideration.

Continuation of 5. Applicant's reply would overcome the following objections/rejections: Had the proposed amendments of 20 October 2006 been entered, Applicant's reply would have overcome the new combinations of elements requiring further consideration defined in the Advisory Actions mailed 31 March 2006 and 01 February 2006.

Continuation of 11. does NOT place the application in condition for allowance because: The proposed amendment to Claim 1 does not put the claim in condition for allowance. Minor informalities still exist in the claim limitation added in the proposed amendment. Specifically, the limitation "processing and circuit" should read --processing circuit-- in the proposed amendment to claim 1.

Notice of Non-Compliant Amendment (37 CFR 1.121)	Application No. 10/961,345	Applicant(s) DORROH ET AL.	
	Examiner Charles A. Marmor, II	Art Unit 3735	

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

The amendment document filed on *20 October 2006* is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
  - ☐ A. Amended paragraph(s) do not include markings.
  - ☐ B. New paragraph(s) should not be underlined.
  - ☐ C. Other _____.
- ☐ 2. Abstract:
  - ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
  - ☐ B. Other _____.
- ☐ 3. Amendments to the drawings:
  - ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
  - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
  - ☐ C. Other _____.
- ☒ 4. Amendments to the claims:
  - ☒ A. A complete listing of all of the claims is not present.
  - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
  - ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
  - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
  - ☒ E. Other: *See Continuation Sheet*.
- ☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):

_____

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.

2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

   Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

   Failure to timely respond to this notice will result in:
   Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or
   Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment

~~Legal Instruments~~ Examiner (~~LIE~~), if applicable | Telephone No.

Continuation of 4(e) Other: Claims 54 and 55 continue to be omitted from the listing of claims. See the Notices of Non-Complaint Amendment mailed 31 March 2006 and 01 February 2006.

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CARY NC 27518

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OFFICE OF PETITIONS

In re Application of	:	
Dana C. Dorroh et al	:	
Application No. 10/961,345	:	DECISION GRANTING PETITION
Filed: October 8, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 5293-001	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed May 2, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Final Rejection mailed October 5, 2005, is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 3735 to consider the amendment submitted on May 2, 2007.

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Timothy M. Honeycutt Attorney at Law
P.O. Box 1577
Cypress, TX 77410

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JAN 29 2010

In re Application of :
Rama R. Goruganthu et al. :
Application No. 10/961,347 : DECISION ON PETITION
Filed: October 8, 2004 : TO WITHDRAW
Attorney Docket No. AMDI:136\HON : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 20, 2009.

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 Timothy M. Honeycutt and all attorneys/agents associated with customer number 23858 have been revoked by the assignee of the patent application on December 4, 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 until otherwise notified by applicant.

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

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Ditthavong Mori & Steiner, P.C.
918 Prince Street
Alexandria, VA 22314

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/961,347	10/08/2004	Rama R. Goruganthu	AMDI:136\HON

CONFIRMATION NO. 7809

23858
TIMOTHY M HONEYCUTT ATTORNEY AT LAW
P O BOX 1577
CYPRESS, TX 77410

POWER OF ATTORNEY NOTICE

OC000000039923640

Date Mailed: 01/29/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/04/2009.

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

/kainabinet/

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

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Patent Law Office of David G. Beck
P.O. Box 1146
Mill Valley, CA 94942

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AUG 2 0 2007

OFFICE OF PETITIONS

In re Application of :
Ross Alan Tessien :
Application No. 10/961,353 : DECISION ON PETITION
Filed: October 7, 2004 : TO WITHDRAW
Attorney Docket No. IMP005CP : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 20, 2007.

The request is **APPROVED**.

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

The request was signed by David G. Beck on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor David G. Beck at the address indicated below.

There is no outstanding Office action at this time.

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

J. Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **Ross Tessien c/o Impulse Devices, Inc.**
13366 Grass Valley Ave., Unit H
Grass Valley, CA 95945

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/961,353	10/07/2004	Ross Alan Tessien	IMP005CP

CONFIRMATION NO. 7815

45147
PATENT LAW OFFICE OF DAVID G. BECK
P. O. BOX 1146
MILL VALLEY, CA 94942

OC000000025178359

Date Mailed: 08/03/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/20/2007.

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

Yesi Williams

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

FORMER ATTORNEY/AGENT COPY

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Roger Fulghum
Baker Botts L.L.P.
One Shell Plaza
910 Louisiana Street
Houston, TX 77002-4995

Mail Date: 04/21/2010

Applicant	: William F. Sauber	: DECISION ON REQUEST FOR
Patent Number	: 7603571	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/961,360	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **416** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

AUG 21 2007

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

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

In re Application of	:
David Sykes et al	:
Serial No.: 10/961,368	: PETITION DECISION
Filed: October 18, 2004	:
Attorney Docket No.: 029300.55201	:

This is in response to the petition under 37 CFR 1.144, filed June 29, 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 October 18, 2004, and contained claims 1-11. In a first Office action, mailed November 7, 2006, the examiner required restriction between the inventions claimed, as follows:

> Group I – Claims 1-7 and 11, drawn to compounds;
> Group II – Claim 10, drawn to a process of making compounds;
> Group III – Claims 8-9, drawn to methods of pharmaceutical use of the compounds.
>
> An election of species was also required for whichever group was elected.

The examiner reasoned that the compounds of Groups I-III were drawn to patentably distinct compounds and processes of making and using them.

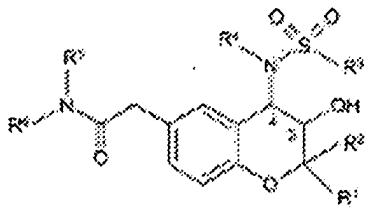
Applicants replied on March 7, 2007, adding claim 12, electing Group I and traversing the requirement on the basis that the requirement misinterprets applicant's claims to the processes and all claims are directed to the same compounds and should be rejoined.

The examiner mailed a new Office action to applicants on March 29, 2007, acknowledging the election of Group I and the species, and the traversal of the requirement. The examiner maintained the requirement based on essentially the same reasoning as in the previous Office action and made the requirement Final. The examiner rejected claims 1-4, 6 and 11 for obvious double patenting over SN 11/400,283. Claims 5, 7 and 12 were indicated as allowable

This petition was filed on June 29, 2007, traversing the restriction requirement as being in error. Applicants also filed a reply to the Office action concurrently which has not yet been considered by the examiner pending decision on this petition.

DISCUSSION

Applicants' petition is directed to the restriction between Groups I-III, directed to the compound claims of formula I as shown:



A review of the claims shows that claims 1-7 are directed to the above compounds and claim 8 is directed to a pharmaceutical composition containing the compound and a carrier. Claim 9 is directed to treating a disease with the compound (not the pharmaceutical composition). Claim 10 is directed to a process of preparing the compounds of claims 1-7 by a hydrogen of the $-NHR^4$ group with a sulfonyl group. Claim 11 is directed to the starting compound of the process of claim 10.

Applicants state that the restriction requirement is not in compliance with established case law and Office procedures. Applicants argue that claim 8 should be considered with claims 1-7 as it is directed to the same compounds with a pharmaceutical carrier added and thus depends on the compound for patentability. Applicants are correct in their argument.

Applicants also argue the restriction between the process of making the compounds in claim 10 and the compounds, per se. However, restriction between statutory classes of invention remains proper and the examiner has given a reasonable reason for insisting on restriction. However, the examiner has failed to advise applicants of the potential for rejoinder of the process of making with the compound claims, should the compound claims be found allowable.

In like manner, the examiner has properly restricted claim 9, directed to a process of using the compounds to treat various diseases. However, the examiner has again failed to advise applicants of potential for rejoinder should the compound claims be found allowable.

Claim 11 is directed to a starting material compound and the examiner has included it with the compound claims. Such inclusion will not be disturbed.

In summary, the restriction requirement is modified as follows:

Group I – claims 1-8, 11 and new claim 12, directed to compounds and their compositions;

Group II – claim 9, directed to methods of treatment using the compounds of claim 1;

Group III, claim 10, directed to a process of making the compounds of claim 1.

The examiner has required restriction between product and process claims. Where applicant elects claims directed to the product, and a product claim is subsequently found allowable, withdrawn process claims that depend from or otherwise include all the limitations of the allowable product claim will be rejoined in accordance with the provisions of MPEP § 821.04. **Process claims that depend from or otherwise include all the limitations of the patentable product** will be entered as a matter of right if the amendment is presented prior to final rejection or allowance, whichever is earlier. Amendments submitted after final rejection are governed by 37 CFR 1.116; amendments submitted after allowance are governed by 37 CFR 1.312.

In the event of rejoinder, the requirement for restriction between the product claims and the rejoined process claims will be withdrawn, and the rejoined process claims will be fully examined for patentability in accordance with 37 CFR 1.104. Thus, to be allowable, the rejoined claims must meet all criteria for patentability including the requirements of 35 U.S.C. 101, 102, 103, and 112. Until an elected product claim is found allowable, an otherwise proper restriction requirement between product claims and process claims may be maintained. Withdrawn process claims that are not commensurate in scope with an allowed product claim will not be rejoined. See "Guidance on Treatment of Product and Process Claims in light of *In re Ochiai, In re Brouwer* and 35 U.S.C. § 103(b)," 1184 O.G. 86 (March 26, 1996). Additionally, in order to retain the right to rejoinder in accordance with the above policy, Applicant is advised that the process claims should be amended during prosecution either to maintain dependency on the product claims or to otherwise include the limitations of the product claims. **Failure to do so may result in a loss of the right to rejoinder.**

Further, note that the prohibition against double patenting rejections of 35 U.S.C. 121 does not apply where the restriction requirement is withdrawn by the examiner before the patent issues. See MPEP § 804.01.

DECISION

The petition is **GRANTED-IN-PART.**

The application will be forwarded to the examiner for consideration of applicants' reply filed June 29, 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/14/09

TO SPE OF : ART UNIT 1625 Chandrakumar, Nizal

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/961368 Patent No.: 7368582

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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

Thank You For Your Assistance

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

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

Comments: _____

SPE

1625
Art Unit

IFW

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S):	DALTON, James T. et al.	**EXAMINER:**	Not yet known
SERIAL NO.:	10/961,380	**GROUP ART UNIT:**	Not yet known
FILED:	October 12, 2004	**ATTORNEY DOCKET No.:**	P-5853-US
FOR:	TREATING BONE-RELATED DISORDERS WITH SELECTIVE ANDROGEN RECEPTOR MODULATORS		

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

PETITION IN RESPONSE TO NOTICE OF INCOMPLETE REPLY

Sir:

The Notice of Incomplete Reply, a copy of which is attached hereto, dated June 27, 2005 issued by the United States Patent and Trademark Office in connection with the above-identified Application was sent in error and Applicants request that the United States Patent and Trademark Office withdraw the Notice.

On October 12, 2004, Applicants filed the subject Application and included an unexecuted Declaration/Power of Attorney and power of attorney form and a transmittal form. On November 19, 2004, the United States Patent and Trademark Office issued a Notice of Missing Parts for the subject application, and stated that the oath or declaration was unsigned. On March 1, 2005, Applicants filed a response to the Notice of Missing Parts and included a signed Oath and Declaration with James T. DALTON, Karen A. VEVERKA, and Jeff KEARBEY as named inventors.

The notice issued by the United States Patent and Trademark Office on July 27, 2005, stated that "The signature of the following inventor(s) is missing from the oath or declaration:

Miller, Duane. D.; Steiner Mitchell S."

OIPE IAP45
SEP 26 2005
PATENT & TRADEMARK OFFICE

37 CFR §1.48(c)(2) states that the first submission of an executed (i.e. signed) oath or declaration under **§1.63** by any of the inventors during the pendency of the application will correct earlier identification of inventors. Applicants' first submission of an executed Declaration was on March 1, 2005 in connection with the response to the Notice of Missing Parts.

Thus, James T. DALTON, Karen A. VEVERKA, and Jeff KEARBEY are the named as inventors as set forth on the executed Declaration/Power of Attorney filed on March 1, 2005 with the United States Patent and Trademark Office. Duane D. MILLER and Mitchell S. STEINER are not named as inventors on the executed Declaration/Power of Attorney, and thus their signatures are not required. Therefore, Applicants are in compliance with 37 CFR **§1.63** and have provided a complete and timely reply to the Notice of Missing Parts issued by the United States Patent and Trademark Office on November 19, 2004. Accordingly, Applicants request that the Notice be withdrawn.

No fee is due. However, if any fee is due, the undersigned hereby authorizes the United States Patent and Trademark Office to charge the fees to Deposit Account 50-3355.

Respectfully submitted,

Mark S. Cohen
Attorney/Agent for Applicant(s)
Registration No. 42,425

Dated: September 25, 2005

Pearl Cohen Zedek Latzer, LLP
10 Rockefeller Plaza, Suite 1001
New York, New York 10020
Tel: (212) 632-3480
Fax: (212) 632-3489

OIPE IAP45
SEP 26 2005
PATENT & TRADEMARK OFFICE

Attorney Docket No.: P-5853-US

DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below under my name.

I believe that I am the original and first sole inventor or an original and first joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled:

TREATING BONE-RELATED DISORDERS WITH SELECTIVE ANDROGEN RECEPTOR MODULATORS

the Specification of which

☒ is attached hereto
☐ was filed on
as United States Application Number or PCT International Application No.
and was amended on _____ (if applicable).

I hereby state that I have reviewed and understand the contents of the above-identified Specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, 1.56(a).

I hereby claim foreign priority benefits under Title 35, United States Code, §119 of any provisional application filed in the United States in accordance with 35 U.S.C. §1.119(e), or any application for patent that has been converted to a Provisional Application within one (1) year of its filing date, or any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed.

PRIOR FILED APPLICATION(S)

APPLICATION NUMBER	COUNTRY	(DAY/MONTH/YEAR FILED)	PRIORITY CLAIMED
60/510,138	**US**	**14-October-2003**	**YES**
60/613,206	**US**	**28-September-2004**	**YES**

I hereby claim the benefit under Title 35, United States Code, §120 of any United States application listed below, and, insofar as the subject matter of each of the claims of this application is not disclosed in any prior United States application in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, §1.56(a), which

occurred between the filing date of the prior application and the national or PCT international filing date of this application:

APPLICATION NO.	FILING DATE (DAY/MONTH/YEAR)	STATUS – PATENTED, PENDING, ABANDONED

I hereby appoint as my attorney(s) and agent(s) Mark S. Cohen (Attorney, Registration No. 42,425) or Caleb Pollack (Attorney, Registration No. 37,912) or Guy Yonay (Attorney, Registration No. 52,388) or Guy Levi (Attorney, Registration No. 55,376) said attorney(s) and agent(s) with full power of substitution and revocation to prosecute this application and transact all business in the Patent and Trademark Office connected therewith.

Please address all correspondence regarding this application to:

EITAN, PEARL, LATZER & COHEN ZEDEK, LLP.
10 ROCKEFELLER PLAZA
SUITE 1001
NEW YORK, NEW YORK 10020

Direct all telephone calls to (212) 632-3480 and all facsimiles at (212) 632-3490.

Customer No. 27130

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

FULL NAME OF INVENTOR: **DALTON, James T.**

FULL RESIDENCE ADDRESS: **4180 Greensview Drive, Upper Arlington, OH 43220, USA**

COUNTRY OF CITIZENSHIP: **USA**

FULL POST OFFICE ADDRESS: **same**

SIGNATURE OF INVENTOR _____

DATE 26/10/2004
(day / month / year)

FULL NAME OF INVENTOR: **VEVERKA, Karen A.**

FULL RESIDENCE ADDRESS: **669 Featherwind Cove S., Cordova,TN 38018, USA**

COUNTRY OF CITIZENSHIP: **USA**

FULL POST OFFICE ADDRESS: **same**

SIGNATURE OF INVENTOR _____

DATE 13 Oct 04
(day / month / year)

FULL NAME OF INVENTOR: KEARBEY
~~**KEARBY,**~~ **Jeffrey**

FULL RESIDENCE ADDRESS: 3788 Piper Bay Ln., Lakeland, TN 38002, USA
~~**1835 Galleon Blvd., Hilliard, OH 43024, USA**~~

COUNTRY OF CITIZENSHIP: **USA**

FULL POST OFFICE ADDRESS: **same**

SIGNATURE OF INVENTOR _____

DATE 11/01/04
(day / month / year)

OIPE IAP45 SEP 26 2005 PATENT & TRADEMARK OFFICE

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/961,380	10/12/2004	James T. Dalton	P-5853-US

49443
PEARL COHEN ZEDEK, LLP
10 ROCKEFELLER PLAZA
SUITE 1001
NEW YORK, NY 10020

CONFIRMATION NO. 4485
FORMALITIES LETTER
OC000000016389461

Date Mailed: 08/27/2005

NOTICE OF INCOMPLETE REPLY (NONPROVISIONAL)

Filing Date Granted

The U.S. Patent and Trademark Office has received your reply on 08/01/2005 to the Notice to File Missing Parts (Notice) mailed 11/19/2004 and it has been entered into the nonprovisional application. The reply, however, does not include the following items required in the Notice.

The period of reply remains as set forth in the Notice. You may, however, obtain EXTENSIONS OF TIME under the provisions of 37 CFR 1.136 (a) accompanied by the appropriate fee (37 CFR 1.17(a)).

A complete reply must be timely filed to prevent ABANDONMENT of the above-identified application. Replies should be mailed to: Mail Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450.

- The signature of the following inventor(s) is missing from the oath or declaration:
  Miller, Duane D.; Steiner, Mitchell S.

Replies should be mailed to: Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

A copy of this notice MUST be returned with the reply.

Office of Initial Patent Examination (703) 308-1202
PART 2 - COPY TO BE RETURNED WITH RESPONSE

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

Pearl Cohen Zedek Latzer, LLP
1500 Broadway
12th Floor
New York NY 10036

MAILED

JUN 07 2010

OFFICE OF PETITIONS

In re Application of :
James T. Dalton, et al. :
Application No. 10/961,380 : DECISION ON PETITION
Filed: October 12, 2004 :
Attorney Docket No. **P-5853-US** :

This is a decision on **(a)** the petition, filed March 1, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment and in the alternative, **(b)** a petition to revive the above-identified under the unintentional provision of 37 CFR 1.137(b).

The petition under 37 CFR 1.181 is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This application was held abandoned for failure to reply to the Final Office action mailed July 1, 2009, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on January 27, 2010.

Petitioner asserts that the Office action dated July 1, 2009 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the master docket record for the attorney's firm where the nonreceived Office action would have been entered had it been received must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition fails to satisfy item (3) in the above-listed requirements.

No response to the Final Office Action of July 1, 2009, has been timely received by the Office. Thus the instant application became abandoned by law on October 2, 2009. Accordingly, absent the required evidence to establish nonreceipt of the Office action of July 1, 2009, the petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

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

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and 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.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,110 extension of time fee submitted with the petition on March 1, 2010 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

This application is being referred to Technology Center AU 1627 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
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

John H. Lynn
Suite C 103
2915 Redhill Ave.
Costa Mesa, CA 92626

COPY MAILED

FEB 21 2008

In re Application of :
William F. Fling, et. al. :
Application No. 10/961,389 : ON PETITION
Filed: October 8, 2004 :
Attorney Docket No. Fling.06 :

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

The petition is **DISMISSED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 9, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned after midnight May 9, 2006. A Notice of Abandonment was mailed on September 6, 2006.

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

With respect to item (1), the record fails to show that petitioner submitted the required reply to the non-final Office action mailed February 9, 2006. Therefore, revival of the above application cannot occur until a response to the non-final Office action has been received.

The petition form filed May 9, 2007 is in incomplete, in that, page 2 which contains the signature and the unintentional statement is missing. 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. Therefore, with respect to item (2), the petition should be resubmitted to include page two of the form, which contains the signature of petitioner and the statement required by 37 CFR 1.137(b)(3).

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

OIPE
MAY 12 2008
PATENT & TRADEMARK OFFICE

Attorney Docket: 081468-0312397
Client Reference: P-1723.010-US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re PATENT APPLICATION of: HOOGENDAM et al. Confirmation Number: 4918

Patent No.: 7,352,433 B2 Group Art Unit: 2851
Issued: April 1, 2008

Application No.: 10/961,395 Examiner: Peter B. Kim
Filed: October 12, 2004

Title: Lithographic Apparatus and Device Manufacturing Method

REQUEST FOR CORRECTION OF ASSIGNEE UNDER 37 C.F.R. §3.81(b)

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

Sir:

The Issue Fee Transmittal Form PTOL-85(b) filed in the U.S. Patent and Trademark Office on January 29, 2008 inadvertently omitted an assignee's name and residence. The omitted assignee's name and residence is "Carl Zeiss SMT AG, Oberkochen, Germany". It is respectfully requested that the assignees of the subject patent be amended under 37 C.F.R. §3.81(b) to reflect -- ASML Netherlands B.V., Veldhoven, The Netherlands, AND, Carl Zeiss SMT AG, Oberkochen, Germany -- as the correct assignees, as recorded in the Assignment Branch of the U.S. Patent and Trademark Office on February 17, 2005 under Reel 016277, Frame 0379. A copy of the Notice of Recordation of Assignment Document is attached.

It is respectfully submitted that this error was inadvertent and the fault of the Applicant. Therefore, the Commissioner is hereby authorized to charge the fee under 37 C.F.R. §1.17(i) in the amount of $130 to our Deposit Account No. 03-3975 under Order No. 016374/0305920.

Also attached are two properly completed Certificate of Correction Forms PTO/SB/44 showing the corrections. It is requested that these forms be forwarded to the Certificates of Correction Branch for issuance of a Certificate of Correction, if the above Request is granted. The fee under 37 C.F.R. §1.20(a) in the amount of $100 is authorized to be charged to our Deposit Account No. 03-3975 under Order No. 081468/0312397.

Respectfully submitted,
PILLSBURY WINTHROP SHAW PITTMAN LLP

05/13/2008 SZEWDIE1 00000149 033975 7352433
01 FC:1811 100.00 DA

JEAN-PAUL G. HOFFMAN
Reg. No. 42663

05/13/2008 SZEWDIE1 00000148 033975 7352433
01 FC:1464 130.00 DA
05/13/2008 SZEWDIE1 00000148 033975 7352433
02 FC:1814 130.00 CR

Date: May 12, 2008
P.O. Box 10500
McLean, VA 22102
Tel. No. (703) 770-7900
Fax No. (703) 770-7901

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DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

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PILLSBURY WINTHROP LLP
P.O. BOX 10500
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MCLEAN, VA 22102

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UNITED STATES PATENT AND TRADEMARK OFFICE
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, MAIL STOP: ASSIGNMENT SERVICES DIVISION, P.O. BOX 1450, ALEXANDRIA, VA 22313.

RECORDATION DATE: 02/17/2005 REEL/FRAME: 016277/0379
NUMBER OF PAGES: 4

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:
HOOGENDAM, CHRISTIAAN ALEXANDER DOC DATE: 02/16/2005

ASSIGNOR:
LOOPSTRA, ERIK ROELOF DOC DATE: 02/16/2005

ASSIGNOR:
STREEKERK, BOB DOC DATE: 02/16/2005

ASSIGNOR:
GELLRICH, BERNARD DOC DATE: 02/07/2005

ASSIGNOR:
WURMBRAND, ANDREAS DOC DATE: 01/17/2005

ASSIGNEE:
ASML NETHERLANDS B.V.
DE RUN 6501
VELDHOVEN, NETHERLANDS NL-5504 DR

ASSIGNEE:
CARL ZEISS SMT AG
CARL-ZEISS-STRASS 22
OBERKOCHEN, GERMANY 73447

SERIAL NUMBER: 10961395 FILING DATE: 10/12/2004
PATENT NUMBER: ISSUE DATE:
TITLE: LITHOGRAPHIC APPARATUS AND DEVICE MANUFACTURING METHOD

LAZENA MARTIN, EXAMINER
ASSIGNMENT DIVISION
OFFICE OF PUBLIC RECORDS

PTO/SB/44 (08-07)
Approved for use through 08/31/2007. OMB 0651-0033
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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,352,433 B2

APPLICATION NO.: 10/961,395

ISSUE DATE : April 1, 2008

INVENTOR(S) : CHRISTIAAN ALEXANDER HOOGENDAM, 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 title page, item (73) Assignee:
add --Carl Zeiss SMT AG, Oberkochen, Germany--.

MAILING ADDRESS OF SENDER (Please do not use customer number below):
P. O. Box 10500
McLean, VA 22102

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

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

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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,352,433 B2

APPLICATION NO.: 10/961,395

ISSUE DATE : April 1, 2008

INVENTOR(S) : CHRISTIAAN ALEXANDER HOOGENDAM, 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 title page, item (73) Assignee:
add --Carl Zeiss SMT AG, Oberkochen, Germany--.

MAILING ADDRESS OF SENDER (Please do not use customer number below):
P. O. Box 10500
McLean, VA 22102

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

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

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STEPHEN A. BENT
FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

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MAY 16 2006

OFFICE OF PETITIONS

In re Application of :
KAY, DENNIS M. et al :
Application No. 10/961,396 : DECISION ON PETITION
Filed: October 12, 2004 : TO WITHDRAW
Attorney Docket No. 032954-0170 : 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 2, 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 Stephen A. Bent #29,768 on behalf of all attorneys of record who are associated with customer number 22,428. All attorneys associated with customer number 22,428 have been withdrawn as attorney(s)/agent(s) of record.

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 March 13, 2006 that requires a reply from the applicant.

Telephone inquires concerning this decision should be directed to Amelia Au at 571-272-7414.

Amelia Au
Petitions Examiner
Office of Petitions

cc: BioDerm, Inc.
c/o Dennis Kay
12320 73rd Court North
Largo, FL 33773

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

EITAN, PEARL, LATZER & COHEN, ZEDEK, LLP
10 ROCKEFELLER PLAZA
SUITE 1001
NEW YORK, NY 10020

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SEP 2 6 2007

OFFICE OF PETITIONS

In re Application of :
Boaz Eitan :
Application No. 10/961,398 : DECISION ON PETITION
Filed: October 12, 2004 :
Attorney Docket No. P-1164-US3 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 21, 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 File Missing Parts of Nonprovisional Application (Notice), mailed December 9, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 10, 2005.

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

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

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

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: VLADLMIR SHERMAN
EMPK & SHILOH, LLP
116 JOHN STREET
SUITE 1201
NEW YORK, NY 10036

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.
10/961,404	10/12/2004	Robert D. Arnott	0001-00019	4911

94979 7590 05/18/2010
Albrecht Tousi & Farnum PLLC
8200 Greensboro Drive
Suite 900
McLean, VA 22102

EXAMINER	
JOHNSON, GREGORY L	

ART UNIT	PAPER NUMBER
3691	

NOTIFICATION DATE	DELIVERY MODE
05/18/2010	ELECTRONIC

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

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

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

rpalbrecht@atfirm.com
chtousi@atfirm.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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Albrecht Tousi & Farnum PLLC
8200 Greensboro Drive
Suite 900
McLean VA 22102

Applicant: Arnott
Appl. No.: 10/961,404
Filing Date: October 12, 2004
Title: NON-CAPITALIZATION WEIGHTED INDEXING SYSTEM, METHOD AND COMPUTER PROGRAM PRODUCT
Attorney Docket No.: 0001-00019
Pub. No.: US 2005/0171884 A1
Pub. Date: August 4, 2005

This is a decision on the request for republication of patent application publication under 37 CFR 1.221(a), filed on May 11, 2010, for the above-identified application.

The request under 37 CFR 1.221(a) is DISMISSED.

37 CFR 1.221(a) requires "a copy of the application in compliance with the Office electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)". If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

The applicant did not supply a copy of the application in compliance with the Office electronic filing system, as required by 37 CFR 1.221(a) because **the Applicant submitted the papers as a "Document for an existing application", which are entered into the application file, and not as a "Pre-Grant Publication" submission**. The request for republication does not comply with the electronic filing system requirements, thus republication will not take place.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a Pre-Grant publication submission and must include a copy of the application in compliance with the Office electronic filing system requirements. The applicant is directed to the following website for additional instructions on how to submit a Pre-Grant Publication submission via the electronic filing system:

http://www.uspto.gov/ebc/portal/efs/pgpub_quickstart.pdf

Any questions or requests for reconsideration of the decision should be addressed as follows:

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

By facsimile: 571-273-8300

Telephone inquiries regarding this correspondence should be directed to The Office of Data Management at 571-272-4200.

Tammy J. Koontz
Office of Data Management
United States Patent & Trademark Office

Adjustment date: 05/18/2010 KKING1
05/11/2010 INTEFSW 00006817 10961404
01 FC:1504 -300.00 OP

Refund Ref:
05/18/2010 0030083799

Credit Card Refund Total: $300.00

VISA....: XXXXXXXXXXXX3590

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON, VA 22201

Mail Date: 04/20/2010

Applicant	: Hartmut Rehwinkel	: DECISION ON REQUEST FOR
Patent Number	: 7638515	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/961,406	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **844** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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TESTA HURWITZ & THIBEAULT
HIGH STREET TOWER
125 HIGH STREET
BOSTON, MA 02110

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JUN 15 2006

OFFICE OF PETITIONS

In re Application of	:	
Alan Ross Gilmore et al	:	
Application No. 10/961,415	:	DECISION ON PETITION
Filed: October 8, 2004	:	TO WITHDRAW
Attorney Docket No. MDL-001	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 22, 2005.[1]

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

A review of the file record indicates that the power of attorney to Thomas A. Turano and all the attorneys/agents of record associated with customer No. 021323 have been revoked by the assignee of the patent application on April 21, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

This application is being referred to Technology Center AU 2165.

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

David Bucci
Petitions Examiner
Office of Petitions

cc: WILMER CUTLER PICKERING HALE AND DORR
399 PARK AVENUE
NEW YORK, NY 10022

[1] The instant request was only recently brought to the attention of the deciding official. The Office sincerely apologizes for the delay in responding to the instant petition and the inconvenience caused petitioner by this delay.

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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8/4/09

Patent No. :7516780
Ser. No. :10961416
Inventor(s) : Gunther Schmalzried
Issued : 4/14/09
Title : DEVICE FOR EXCHANGING HEAT AND METHOD OF MANUFACTURING SUCH DEVICE
Docket No. :

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

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

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

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

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

CHRISTOPHER S. HERMANSON
GREER BURNS & CRAIN, LTD.
300 S. WACKER DRIVE- SUITE 2500
Chicago, Illinois 60606

HR

UNITED STATES PATENT AND TRADEMARK OFFICE

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SUITE 2500
300 SOUTH WACKER DRIVE
CHICAGO, IL 60606

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JAN 04 2010

In re Patent No. 7,516,416 :
Issue Date : April 14, 2009 :
Application No. 10/961,416 : ON PETITION
Filed: October 8, 2004 :
Attorney Docket No. 23222.71749 :

This is a decision on the petition, filed September 4, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) so that the Letters Patent will issue to the assignee.

The request is **DISMISSED**.

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

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

The request under 37 CFR 3.81(b) was not accompanied by a statement that the assignment was submitted for recordation before issuance of the patent. As petitioner has failed to comply with the provisions of 37 CFR 3.81(b), the request cannot be granted at this time.

---

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

Inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735. Any questions concerning issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

Thurman K. Page
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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SUITE 2500
300 SOUTH WACKER DRIVE
CHICAGO, IL 60606

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MAR 29 2010

OFFICE OF PETITIONS

In re Patent No. 7,516,780	:	
Issue Date: April 14, 2009	:	
Application No. 10/961,416	:	ON PETITION
Filed: October 8, 2004	:	
Attorney Docket No. 2322.71749	:	

This is a decision on the petition filed February 3, 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**.

Telephone inquiries concerning this decision may be directed to Diane Goodwyn at (571) 272-6735. 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.

Thurman K. Page
Petitions Examiner
Office of Petitions

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

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COOK ALEX LTD
SUITE 2850
200 WEST ADAMS STREET
CHICAGO, IL 60606

Mail Date: 04/21/2010

Applicant	: Ralph W. Folkers	: DECISION ON REQUEST FOR
Patent Number	: 7582986	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/961,425	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **669** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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TECHNOLOGY CENTER 2600

CRAIN CATON & JAMES
FIVE HOUSTON CENTER
17TH FLOOR
HOUSTON TX 77010-4035

In re Application of
Andres Callegari, et al.
Application No. 10/961,428
Filed: October 8, 2004
For: **VOLUME BODY RENDERER**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition to make special filed October 8, 2004 pursuant to 37 C.F.R. §102(c) and M.P.E.P. § 708.02(VI): Energy.

A grantable petition under 37 C.F.R. §1.102(c), and M.P.E.P. §708.02, Section VI, must be accompanied by a showing that the application is for an invention which materially contributes to (A) the discovery or development of energy resources, or (B) the more efficient utilization and conservation of energy resources. Examples of inventions in category (A) would be developments in fossil fuels (natural gas, coal, and petroleum), 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. Such petitions should be accompanied by statements under 37 C.F.R. § 1.102 by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the invention materially contributes to category (A) or (B) set forth above.

The petitioner has met 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.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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NORRIS, MCLAUGHLIN & MARCUS, P.A.
875 THIRD AVE
18TH FLOOR
NEW YORK NY 10022

COPY MAILED

AUG 2 1 2007

OFFICE OF PETITIONS

Applicant: Donnelly et al.
Appl. No.: 10/961,448
Filing Date: October 8, 2004
Title: LUBRICATING COMPOSITIONS CONTAINING SYNTHETIC ESTER BASE OIL, MOLYBDENUM COMPOUNDS AND THIADIAZOLE-BASED COMPOUNDS
Attorney Docket No.: 101221-691
Pub. No.: US 2006/0035791
Pub. Date: February 16, 2006

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on April 3, 2006, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains material errors in claims 1 and 25, wherein there are several omissions in the claims.

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

The errors noted by requestor in claims 1 and 25 are not material Office errors under 37 CFR 1.221. The text was not printed correctly due to the poor quality of the text.

The errors noted by requestor in the claims in this published application are due to the poor quality of the text in the amendment. The text in the claims is not clear, which may be due to faxing the amendment to the Office. The quality of the text is poor, as it is blurry, which makes it difficult to electronically reproduce by digital imaging and optical character recognition. See 37 CFR 1.52.

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

Applicant is advised that he may want to file application papers that are clearer, as the errors are due to the quality of the text. The text in portions of the amendment is blurry and not clear, which makes it difficult to read and to electronically reproduce by digital imaging and optical character recognition. Applicants have been advised to file applications having cleaner and larger text with sufficient clarity and contrast to permit reproduction, such as electronic reproduction by digital imaging and optical character recognition, which will avoid errors in the patent application publication process. See 37 CFR 1.52.

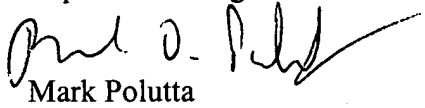
The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the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

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

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

By facsimile: 571-273-8300

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



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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Martin J. Jaquez, Esq.
JAQUEZ & ASSOCIATES
6265 Greenwich Drive, Suite 100D
San Diego CA 92122

JAN 04 2007

In re Application of:
KIM, TAE-KYUNG et al
Serial No.: 10/961,449
Filed: Oct. 7, 2004
Docket: ETN-032-PAP
Title: LIFTER OIL MANIFOLD ASSEMBLY FOR V-TYPE ENGINES

DECISION ON PETITION TO WITHDRAW HOLDING OF FINALITY

This is a decision on the petition filed on Jan. 16, 2007 to withdraw the finality of the Office Action of Dec. 26, 2006. The petition is being considered pursuant to 37 CFR 1.181 and no fee is required for the petition.

The petition is **DISMISSED**.

In the petition, the applicant requested withdrawal of the finality of the Office action dated Jan. 16, 2006 because the amendments presented in the supplement amendment filed Oct. 6, 2006 did not necessitate a new search by changing the subject matter of the claims and that the amendments were made solely to focus the claims in a manner to afford applicants the patent protection to which they are justly entitled.

The record shows that:

1. In response to the non-final Office action dated Apr. 18, 2006, on Aug. 18, 2006, the applicant filed a request for reconsideration including an affidavit filed under 37 CFR 1.131 showing prior invention.
2. On Oct. 10, 2006, the applicant filed a supplemental amendment including amendments to claims 1, 4, 5, 12-15, 19 and 26. In addition, the applicant presented new claim 27.
3. On Dec. 26, 2006, the examiner issued a final Office action rejecting all of the claims.
4. On Jan. 16, 2007, the applicant filed the current request for withdrawal of finality of the Office action and issuance of a new Office action.

Discussion and Analysis

Relevant portions of MPEP 706.07(a): Final Rejection, When Proper on Second Action, states:

> Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p). Where information is submitted in an information disclosure statement during the period set forth in 37 CFR 1.97(c) with a fee, the examiner may use the information submitted, e.g., a printed publication or evidence of public use, and make the next Office action final whether or not the claims have been amended, provided that no other new ground of rejection which was not necessitated by amendment to the claims is introduced by the examiner. See MPEP § 609.04(b). Furthermore, a second or any subsequent action on the merits in any application or patent undergoing reexamination proceedings will not be made final if it includes a rejection, on newly cited art, other than information submitted in an information disclosure statement filed under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p), of any claim not amended by applicant or patent owner in spite of the fact that other claims may have been amended to require newly cited art. Where information is submitted in a reply to a requirement under 37 CFR 1.105, the examiner may NOT make the next Office action relying on that art final unless all instances of the application of such art are necessitated by amendment.

In order to determine whether or not the amendment filed Oct. 10, 2006 necessitated the new grounds of rejection in the final Office action of Dec. 26, 2006, a comparison of the amended claims filed on Oct. 10, 2006 and the original claims filed on Oct. 7, 2004 must be made. A review of the amended claims presented on Oct. 10, 2006 shows that the original independent claims 14 and 15 were broadened in scope by removing the limitation "hydraulically operable deactivation". The scope of the newly presented claim 27 was for the first time presented to the examiner in the amendment filed Oct. 10, 2006. Claim 27 also does not include the limitation "hydraulically operable deactivation". Based on the newly presented claims, the examiner is now required to search classes/subclasses: 251/12, 30.02 and 123/90.27, 90.31 without limitations directed to deactivation valve lifters. The search strategy and search fields are now different. The deletion of "hydraulically operable deactivation" necessitated the new grounds of rejection by requiring US patent 6,138,636 to Kohno et al. to be applied under 35 USC 102 and 35 USC 103 in the final Office action of Dec. 26, 2006. Petitioner's argument in the petition that none of the newly cited references were submitted in an information disclosure statement is not convincing. Applicant's amendment to broaden the independent claims 14 and 15 and presenting of the new independent claim 27 necessitated the new grounds of rejection that the examiner applied with prior art references that were found using a new search strategy and field of search. The review of the record shows that the examiner was in compliance with proper examining practice as set forth in MPEP 706.07(a). Therefore, the amendment to the claims presented on Oct. 10, 2006 necessitated the new grounds of rejection presented in the final Office action issued on Dec. 26, 2006. The examiner's finality of the Office action is correct.

Conclusion

For the foregoing reasons, the relief requested by petitioners will not be granted. Specifically, the examiner's finality of the Office action dated Dec. 26, 2006 is proper.

The application is being forwarded to Examiner Chang of Art Unit 3748 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 Young, Director
Technology Center 3700

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BOSE MCKINNEY & EVANS LLP
111 MONUMENT CIRCLE, SUITE 2700
INDIANAPOLIS IN 46204

MAILED

MAY 17 2010

OFFICE OF PETITIONS

In re Application of	:	
Popescu et al.	:	
Application No. 10/961,456	:	DECISION ON PETITION
Filed: October 8, 2004	:	
Attorney Docket No. 12258-0026	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 22, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before March 1, 2010, as required by the Notice of Allowance and Fee(s) Due mailed December 1, 2009. Accordingly, the date of abandonment of this application is March 2, 2010. A Notice of Abandonment was mailed March 16, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510.00 and publication fee of $300.00; (2) the small entity petition fee of $810.00; and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

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

Joan Olszewski
Petitions Examiner
Office of Petitions

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GARDERE WYNNE SEWELL LLP
INTELLECTUAL PROPERTY SECTION
3000 THANKSGIVING TOWER
1601 ELM ST
DALLAS, TX 75201-4761

Mail Date: 04/21/2010

Applicant	: Jerome Lopez	: DECISION ON REQUEST FOR
Patent Number	: 7573141	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/961,466	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **43** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Paper No.

JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

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MAR 2 9 2010

OFFICE OF PETITIONS

In re Patent No. 7,432,281	:	DECISION ON REQUEST
Kelly et al.	:	FOR
Issue Date: October 7, 2008	:	RECONSIDERATION OF
Application No. 10/961,483	:	PATENT TERM ADJUSTMENT
Filed: October 7, 2004	:	and
Atty Docket No. 10239-148-999	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on November 24, 2008, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by eight hundred ninety-six (896) 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 **eight hundred eighty-six (886)** days.

The "B" delay period begins *on the day after* the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a). See 37 CFR 1.703(b). In this instance, the period is 366 days, counting the number of days beginning on October 8, 2007 and ending on October 7, 2008. As stated in MPEP 2731, when a period is indicated (in 37 CFR 1.703 or 1.704) as "beginning" on a particular day, that day is included in the period, in that such day is "day one" of the period and not "day zero." For example, a period beginning on April 1 and ending on April 10 is ten (and not nine) days in length.

Further, patentee disputes the reduction of 82 days for applicant delay on the basis that such a reduction is not warranted for their filing of a Request to Change Attorney Docket Number. Patentee's argument has been considered and found persuasive to an extent. 37 CFR 1.704(c)(10) provides that:

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

Patentee does not consider that after the mailing of the notice of allowance on July 18, 2008, an amendment under 1.312 was filed. Pursuant to 37 CFR 1.704(c)(10), a reduction is properly associated with the filing of the amendment under 1.312 after the mailing of the notice of allowance. Further, on July 28, 2008, the Office mailed a supplemental notice of allowability in response. Pursuant to 37 CFR 1.704(c)(10), a reduction of 11 days for the period beginning on July 18, 2008 and ending on July 28, 2008 is warranted. The period of reduction of 82 days is being removed and a period of reduction of 11 days is being entered.

As such, the revised patent term adjustment is eight hundred eighty-six (886) 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 **eight hundred eighty-six (886)** days.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,432,281 B2

DATED : **October 7, 2008** **DRAFT**

INVENTOR(S) : Kelly 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 449 days

Delete the phrase "by 449 days" and insert – by 886 days--

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Paper No.

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JUN 29 2010

OFFICE OF PETITIONS

AT & T LEGAL DEPARTMENT - BHGL
ATTN: PATENT DOCKETING ROOM 2A-207
ONE AT&T WAY
BEDMINSTER NJ 07921

In re Patent No. 7627099	: DECISION ON REQUEST
Erfan Amidi	: FOR
Issue Date: 12/01/2009	: RECONSIDERATION OF
Application No. 10/961502	: PATENT TERM ADJUSTMENT
Filed: 10/08/2004	: and
Atty Docket No.	: NOTICE OF INTENT TO ISSUE
08285-00705 (LD1002)	: CERTIFICATE OF CORRECTION

This is a decision on the paper filed on February 1, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand three hundred fifty-seven (1357) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand three hundred fifty-seven (1357) days is **GRANTED**.

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

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand three hundred fifty-seven (1357)** days.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,627,099 B2

DATED : **December 1, 2009** **DRAFT**

INVENTOR(S) : Amidi

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 810 days.

Delete the phrase "by 810 days" and insert – by 1357 days--

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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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AUG 0 3 2006

OFFICE OF PETITIONS

In re Application of	:	
Paul Gallagher, et. al.	:	DECISION ON REQUEST
Application No. 10/961,505	:	TO WITHDRAW FROM
Filed: October 8, 2004	:	RECORD
Attorney Docket No. 017887-05940	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b) or 37 CFR § 10.40, filed on August 23, 2005.

The request to withdraw as attorney or agent is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to all the attorneys or agents associated with Customer Number 20350 have been revoked by the assignee of the patent application, on June 14, 2006. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is moot.

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

cc: BRINKS HOFER GILSON & LIONE / YAHOO! OVERTURE
P.O. BOX 10395
CHICAGO, IL 60610

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APR 1 8 2006

FLEIT KAIN GIBBONS GUTMAN BONGINI & BIANCO
21355 EAST DIXIE HIGHWAY
SUITE 115
MIAMI FL 33180

In re Application of	:	
BRIDSON, WILLIAM	:	DECISION ON PETITION
Application No. 10/961,517	:	
Filed: October 07, 2004	:	
Attorney Docket No. 7740-A04-003	:	

This is a decision on the petition under 37 C.F.R. § 1.102, filed December 29, 2005 to make the above-identified application special.

The petition requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.), Section 708.02, Item VIII: Accelerated Examination.

The petition complies with M.P.E.P. § 708.02, Item VIII: Accelerated Examination, in that it is accompanied by (a) a check covering the required petition fee of $130.00, (b) a statement that all claims are directed a single invention or an offer to make an oral election without traverse should the Patent and Trademark Office hold that the claims are not directed to a single invention, (c) a statement that a pre-examination search has been made by the inventor, attorney, agent, or professional searchers, etc., the field of search was also provided, (d) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims, and (e) a detailed description of the submitted references and discussions pointing out how the claimed subject matter distinguishes over these references.

For the above stated reasons, the petition is GRANTED.

The application file is being forwarded to the examiner for expedited prosecution.

If the examiner can make this application special without prejudice to any possible interfering applications, and he/she should make a rigid search for such, he/she is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the

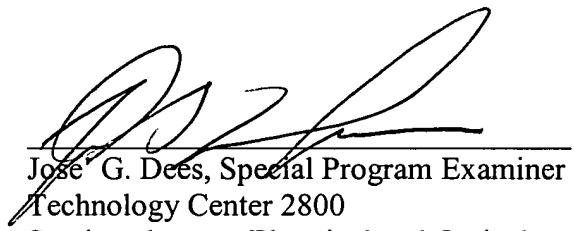
application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

If the examiner finds any interfering application for the same subject matter, he/she should consider such application simultaneously with this application and should state in the official letter of such application that he/she is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application becomes involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

The petition is granted to the extent indicated.



Jose G. Dees, Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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McDermott Will & Emery LLP
Suite 700
4370 La Jolla Village Drive
San Diego CA 92122

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APR 0 4 2006

OFFICE OF PETITIONS

Applicant: Pawlowski et al.
Appl. No.: 10/961,569
Filing Date: October 8, 2004
Title: Card Domain Containing Polypeptides, Encoding Nucleic Acids, and Methods of Use
Attorney Docket No.: 066821-0314
Pub. No.: US 2005/010094 A1
Pub. Date: May 12, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on June 29, 2005, for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

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

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

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KRIEGER INTELLECTUAL PROPERTY, INC.
P.O. Box 872438
Vancouver, WA 98687-2438

MAILED

JAN 0 4 2010

OFFICE OF PETITIONS

In re Application of :
Rono Mathieson, et. al. :
Application No. 10/961,594 : ON PETITION
Filed: October 8, 2004 :
Attorney Docket No. SLA1686 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 10, 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 March 16, 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 2625 for review of the amendment filed with the present petition.

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

Andrea Smith
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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FLIESLER MEYER LLP
650 CALIFORNIA STREET
14TH FLOOR
SAN FRANCISCO, CA 94108

Mail Date: 04/20/2010

Applicant	: Paul Patrick	: DECISION ON REQUEST FOR
Patent Number	: 7594224	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/961,595	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **782** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FLIESLER MEYER LLP
650 CALIFORNIA STREET
14TH FLOOR
SAN FRANCISCO, CA 94108

Mail Date: 05/17/2010

Applicant : Paul Patrick
Patent Number : 7594224
Issue Date : 09/22/2009
Application No: 10/961,595
Filed : 10/08/2004

: 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 **823** 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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ALEXANDRIA, VA 22313-1450
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RICHARD L HUFF
19304 OLNEY MILL ROAD
OLNEY MD 20832

COPY MAILED

MAR 28 2008

OFFICE OF PETITIONS

In re Application of :
Arjomand :
Application No. 10/961,603 : ON PETITION
Filed: October 12, 2004 :
Attorney Docket No. ARJO400 :

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

The petition is **DISMISSED**.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition to revive an abandoned application for patent based on unintentional delay or to accept an unintentionally delayed payment of a fee for issuing a patent. In this instance, the fee required by law for a small entity is $770.00.

The petition in the above-identified application was not accompanied by payment of the required fee; to date, $400.00 has been submitted. 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 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

Telephone inquiries concerning 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
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ALEXANDRIA, VA 22313-1450
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RICHARD L HUFF
19304 OLNEY MILL ROAD
OLNEY MD 20832

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JUN 20 2008

In re Application of :
Arjomand :
Application No. 10/961,603 : ON PETITION
Filed: October 12, 2004 :
Attorney Docket No. ARJO400 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed April 22, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned October 17, 2007 for failure to timely submit a proper reply to the non-final Office action, mailed May 16, 2007. The non-final Office action set a three month shortened statutory period of time for reply. A two month extension of time was submitted October 15, 2007. Notice of Abandonment was mailed December 27, 2007. A petition under 37 CFR 1.137(b) was filed February 29, 2008 and dismissed March 28, 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 petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the required petition fee; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 11/974,597.

Telephone inquiries concerning 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
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PULSE-LINK, INC.
1969 KELLOGG AVENUE
CARLSBAD CA 92008

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DEC 0 5 2007

OFFICE OF PETITIONS

In re Application of :
Lakkis :
Application No. 10/961,614 : DECISION ON PETITION
Filed: October 8, 2004 : UNDER 37 CFR 1.181
Attorney Docket No. 033-135 :
For: ULTRA-WIDEBAND
COMMUNICATION SYSTEMS AND
METHODS

This is a decision on the petition under 37 CFR 1.181, filed November 1, 2007 (certificate of mailing date October 30, 2007), to withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

This application was held abandoned due to applicant's alleged failure to reply to the non-final Office action mailed March 7, 2007, which set an extendable three month period for reply. The Office contended that this application became abandoned on June 8, 2007. A Notice of Abandonment was mailed on September 19, 2007.

Petitioner asserts that a petition for a three month extension of time with required $510.00 fee and an amendment were timely filed on certificate of mailing date September 5, 2007 and received in the Office on September 10, 2007. In support of this assertion, petitioner has provided a copy of applicant's response that contains a proper certificate of mailing bearing a September 5, 2007 date of deposit and a copy of his itemized date stamped postcard receipt that shows the Office received correspondence from applicant on September 10, 2007.

A review of the application file reveals that an eight page amendment, a petition for a three month extension of time, and a check for $510.00, *inter alia*, were received in the Office on September 10, 2007. The check has been negotiated.

Under 37 C.F.R. § 1.8(a)(1) correspondence is considered timely if: (1) the correspondence is mailed or transmitted prior to expiration of the set period for response by being properly addressed to the Patent and Trademark Office as set out in 37 C.F.R. § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail or transmitted to the Patent and Trademark Office in accordance with 37 C.F.R. § 1.6(d); and (2) the correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have a reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

The itemized Transmittal Form bears a proper certificate of mailing, dated September 5, 2007, in compliance with the requirements of 37 C.F.R. § 1.8(a)(1) as set forth above. In addition, the attorney signing the certificate had reasonable basis to expect that the correspondence would be mailed on September 5, 2007.

Accordingly, a timely reply to the March 7, 2007 non-final Office action was filed on certificate of mailing date September 5, 2007 and received in the Office on September 10, 2007. The petition under 37 CFR 1.181 is **GRANTED**, the holding of abandonment is withdrawn, and the September 19, 2007 Notice of Abandonment is vacated.

After the mailing of this decision, the application file will be returned to Technology Center A.U. 2618 for consideration of the amendment filed on September 10, 2007 (certificate of mailing date September 5, 2007).

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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www.uspto.gov

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

Mail Date: 07/09/2010

Applicant	: David Cheng-Song Qi	: DECISION ON REQUEST FOR
Patent Number	: 7646763	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/961,616	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1428** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Kunzler & McKenzie
8 EAST BROADWAY
SUITE 600
SALT LAKE CITY UT 84111

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AUG 07 2007

OFFICE OF PETITIONS

In re Application of :
Verlin M. Simmons, et al. :
Application No. 10/961,622 : ON PETITION
Filed: October 8, 2004 :
Attorney Docket No. 1002.2.4 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 25, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance and Fee(s) Due, mailed February 2, 2007, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on May 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 issue fee and publication fee; (2) the petition fee of $750.00; and (3) an adequate statement of unintentional delay.

The Office acknowledges receipt of the issue fee and publication fee, which were submitted with the petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3213.

The application file is being forwarded to the Publishing Division to be processed into a patent.

Cheryl Gibson-Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KLARQUIST SPARKMAN LLP
121 S.W. SALMON STREET
SUITE 1600
PORTLAND, OR 97204

Mail Date: 04/21/2010

Applicant	: Jayaraman Thiagarajan	: DECISION ON REQUEST FOR
Patent Number	: 7624304	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/961,635	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/07/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1306** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BELL, BOYD & LLOYD LLC
P. O. BOX 1135
CHICAGO IL 60690-1135

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JUL 27 2006

OFFICE OF PETITIONS

In re Application of :
Pridmore, et al. :
Application No. 10/961,644 : ON PETITION
Filed: October 8, 2004 :
Attorney Docket No. 112701-523 :
For: LA1-THE GENOME OF A
LACTOBACILLUS STRAIN

This is a decision on the petition under 37 CFR 1.137(b), filed November 17, 2005 (certificate of mailing date November 15, 2005), 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)." Petitioners are advised that this is not a final agency decision.

This application became abandoned for failure to timely reply to the Notice to File Missing Parts of Application mailed January 12, 2005, which set a two month shortened statutory period to file an executed oath/declaration, a surcharge for its late filing, and a sequence listing and related submissions in compliance with 37 CFR 1.821 –1.825. No extensions of time having been obtained pursuant to 37 CFR 1.136(a) and no reply being received in the Office, this application became abandoned on March 13, 2005. A Notice of Abandonment was mailed on September 22, 2005.

A grantable petition pursuant to 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. 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 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

The instant petition does not satisfy requirement (1) above.

Petitioners have not submitted a compliant compact disk. Please see the enclosed CRF Problem Report by STIC Biotechnology Systems Branch for more information.

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 concerning this decision should be directed to the undersigned at (571) 272-3230. Questions concerning sequence listing issues may be directed to Mark Spencer at (571) 272-2510.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: CRF Problem Report by STIC Biotechnology Systems Branch

STIC Biotechnology Systems Branch

IFW16

CRF Problem Report

The Biotechnology Systems Branch of the Scientific and Technical Information Center (STIC) experienced a problem when processing the following computer readable form (CRF):

Application Serial Number: 10/961,644
Filing Date: 10/8/04
Date Processed by STIC: 11/21/05

STIC Contact: **Mark Spencer: Telephone: 571-272-2510; Fax: 571-273-0221**

Nature of CRF Problem:

____ (circle one) Damaged or Unreadable (for Unreadable, see attached)
____ Blank (no files on CRF) (see attached)
____ Empty file (filename present, but no bytes in file) (see attached)
____ Wrong file saved to CRF (invention title, docket number, or applicant(s) do not match those in official application) (see attached)
____ Not saved in ASCII text
____ Sequence Listing was embedded in the file. According to Sequence Rules, submitted file should **only** be the Sequence Listing.
✓ Did not contain a Sequence Listing. (see attached sample)
____ Other:

PLEASE USE THE CHECKER VERSION 4.3.1 PROGRAM TO REDUCE ERRORS. SEE BELOW FOR ADDRESS:

http:/www.uspto.gov/web/offices/pac/checker/chkrnote.htm

1. EFS-Bio (<http://www.uspto.gov/ebc/efs/downloads/documents.htm> , **EFS Submission User Manual** - ePAVE)
2. **U.S. Postal Service**: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450
3. **Hand Carry, Federal Express, United Parcel Service, or other delivery service (EFFECTIVE 01/14/05):** U.S. Patent and Trademark Office, Mail Stop Sequence, Customer Window, Randolph Building, 401 Dulany Street. Alexandria, VA 22314

Revised 08/30/05

(sample of submitted file)

Please re-generate sequence listing, using the PatentIn ".prj" file (see attached for instructions)

IFW16

RAW SEQUENCE LISTING DATE: 11/21/2005
PATENT APPLICATION: US/10/961,644 TIME: 15:04:28

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Does Not Comply
Corrected Diskette Needed

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they cannot be processed

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E--> 37 <213> ORGANISM:
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42 aaagaaatga taatcgctgt tgaatcaccc gttgcaaagg gatactggga aaagaactta 180
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60 gacgatattc aattcttttc taaaaaagag ggaatccagg aggaattctt ccatactttt 720
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64 attcctgaat tatcagaacg tttagtttca cgctttgctt ggggactaca agttgaaatt 840

FYI: you will need to submit a generated Sequence Listing. To generate one, go to "Application Steps" on PatentIn main menu. Click on "Generate Sequence Listing" and then click "Start" button. PatentIn will validate each sequence; hopefully, you will see "Successful completion" in the white box above the "Start" button.

You can then view the generated Sequence Listing by going to "Project" on main menu, and clicking on "View/Print Sequence Listing." A generated PatentIn Sequence Listing will have an ".ST25" file extension.

For further assistance, please contact Mark Spencer at 571-272-2510.

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P. O. BOX 1135
CHICAGO IL 60690-1135

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In re Application of :
Pridmore, et al. :
Application No. 10/961,644 : ON PETITION
Filed: October 8, 2004 :
Attorney Docket No. 112701-523 :
For: LA1-THE GENOME OF A
LACTOBACILLUS STRAIN

This is a decision on the reconsideration petition under 37 CFR 1.137(b), filed August 28, 2006 (certificate of mailing date August 25, 2006), to revive the above-identified application.

This application became abandoned for failure to timely reply to the Notice to File Missing Parts of Application mailed January 12, 2005, which set a two month shortened statutory period to file an executed oath/declaration, a surcharge for its late filing, and a sequence listing and related submissions in compliance with 37 CFR 1.821 –1.825. No extensions of time having been obtained pursuant to 37 CFR 1.136(a) and no reply being received in the Office, this application became abandoned on March 13, 2005. A Notice of Abandonment was mailed on September 22, 2005.

Applicants have submitted a proper reply to the January 12, 2005 Notice in the form of an executed declaration, a surcharge for its late filing, and an acceptable raw sequence listing, a proper statement of the unintentional nature of the delay in responding to the January 12, 2005 Notice, and the petition fee.

Accordingly, the petition under 37 CFR 1.137(b) is **granted**.

After the mailing of this decision, the file will be returned to the Office of Initial Patent Examination for further processing.

Petitioners have not submitted a compliant compact disk. Please see the enclosed CRF Problem Report by STIC Biotechnology Systems Branch for more information.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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GENOMICS INSTITUTE OF THE
NORVARTIS RESEARCH FOUNDATION
10675 JOHN JAY HOPKINS DRIVE,
SUITE E225
SAN DIEGO CA 92121-1127

COPY MAILED

APR 14 2008

OFFICE OF PETITIONS

In re Application of	:	
Qiang Ding et al	:	
Application No. 10/961,646	:	DECISION GRANTING PETITION
Filed: October 8, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. P1118US10	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 10, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 31, 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 1625 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy
Petitions Examiner
Office of Petitions

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

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SAN DIEGO CA 92121-1127

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JUN 27 2008

OFFICE OF PETITIONS

In re Application of	:	
Qiang Ding et al	:	
Application No. 10/961,646	:	DECISION GRANTING PETITION
Filed: October 8, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. P1118US10	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 31, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue and publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance mailed December 27, 2007, is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 1625 for processing of the request for continued examination under 37 CFR 1.114 received April 10, 2008.

Karen Creasy
Petitions Examiner
Office of Petitions

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PRO-TECHTOR INTERNATIONAL SERVICES
20775 NORADA CT.
SARATOGA CA 95070

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OFFICE OF PETITIONS

In re Application of	:	
Hsin et al.	:	
Application No. 10/961,649	:	ON PETITION
Filed: October 8, 2004	:	
Attorney Docket No. 2011164	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 5, 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 corrected drawings; (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

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

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SEP 30 2008

OFFICE OF PETITIONS

In re Application of
Zhongping Chen et al.
Application No. 10/961,653
Filed: October 8, 2004
Attorney Docket No. CHN1.PAU.01

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed September 2, 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 Joseph C. Andras, on behalf of all attorneys/agents of record. All attorneys/agents of record have been withdrawn.

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

The correspondence address has been changed to that of the inventor at the address of record. The address changed is copied below.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Zhongping Chen
45 Urey Court
Irvine, CA 92617

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/961,653	10/08/2004	Zhongping Chen	CHN1.PAU.01

CONFIRMATION NO. 8290

POWER OF ATTORNEY NOTICE

23386
MYERS DAWES ANDRAS & SHERMAN, LLP
19900 MACARTHUR BLVD.
SUITE 1150
IRVINE, CA 92612

Date Mailed: 09/30/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/02/2008.

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

/kainabinet/

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

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KINNEY & LANGE, P.A.
THE KINNEY & LANGE BUILDING
312 SOUTH THIRD STREET
MINNEAPOLIS, MN 55415-1002

Mail Date: 04/21/2010

Applicant	: Michael P. Corcoran	: DECISION ON REQUEST FOR
Patent Number	: 7625364	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/961,667	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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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Paper No.

JENSEN + PUNTIGAM, P.S.
2033 6th Ave, Suite 1020
SEATTLE WA 98121

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JUN 16 2009

OFFICE OF PETITIONS

In re Application of	:	
Shelley A. Digrolamo	:	
Application No. 10/961,671	:	DECISION ON PETITION
Filed: October 8, 2004	:	PURSUANT TO
Attorney Docket No. 283-262	:	37 C.F.R. § 1.181(A)
Title: PILLOW WITHIN AN OUTER PILLOW SHELL	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.181(a), filed on April 9, 2009, requesting that the holding of abandonment in the above-identified application be withdrawn.

This petition pursuant to 37 C.F.R. § 1.181(a) is **GRANTED**.

BACKGROUND

On September 8, 2008, an Appeal Brief was filed by the applicant. On September 17, 2008, the Office mailed a Notification of Non-Compliant Appeal Brief (37 CFR 41.37), stating that the Appeal Brief was defective. The Notification set a one-month period for response, and required either an amended brief or other appropriate correction, pursuant to MPEP § 1205.03. On September 30, 2008, a "status of claims section" was received. No supplemental appeal brief was submitted. Accordingly, the above-identified application became abandoned on October 18, 2008, and a Notice of Abandonment was mailed on April 1, 2009.

THE RELEVANT SECTION OF THE MPEP

MPEP 1205.03 sets forth, in pertinent part:

In response to the Notice of Non-Compliant Appeal Brief (37 CFR 41.37) or the Office communication that requires an amended brief, appellant is required to file an amended brief that is either a complete new brief with the required corrections or a replacement section(s) as noted below:

(A) When the Office holds the brief to be defective solely due to appellant's failure to name the real party in interest as required by 37 CFR 41.37(c)(1)(i), an entire new brief need not, and should not, be filed. Rather, a paper identifying by name the real party in interest will suffice. Failure to timely respond to the Office's requirement will result in dismissal of the appeal. See MPEP § 1215.04 and § 711.02(b).

(B) When the Office holds the brief to be defective solely due to appellant's failure to provide a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v), an entire new brief need not, and should not, be filed. Rather, a paper providing a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v) will suffice. Failure to timely respond to the Office's requirement will result in dismissal of the appeal. See MPEP § 1215.04 and § 711.02(b).

The examiner should not require a corrected brief for minor non-compliance in an appeal brief (emphasis added) (e.g., the brief has a minor error in the title of a section heading). The following are a few other examples where the examiner may accept a brief that has minor non-compliance:

(A) If the evidence appendix and related proceedings appendix are missing, but the record is clear that there is no evidence submitted and no related proceedings listed in the related appeals and interferences section, the examiner may accept the brief and state in the examiner's answer that it is assumed that the appellant meant to include both appendixes with a statement of "NONE."

(B) If appellant only presents arguments for a dependent claim but not for the independent claim in a group of claims that are subject to the same ground of rejection, the examiner may accept the brief and fully explain how the limitations of the independent claim are rejected and address the appellant's arguments regarding the dependent claim in the examiner's answer.

(C) If appellant fails to include a copy of the claims involved in the appeal in the claims appendix section of the brief, the examiner may either: (1) provide a copy of the claims in the examiner's answer, or (2) object to the appeal brief and require an amended brief.

ANALYSIS

The failure to provide the status of the claims in the original Appeal Brief was a minor issue.

Considering the facts and circumstances at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that the holding of abandonment should be withdrawn.

Accordingly, the petition pursuant to 37 C.F.R. § 1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

CONCLUSION

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 Appeal Brief that was received with this petition can be processed.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the withdrawal of the holding of abandonment has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status**.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.[1] All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions

---

1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any of Petitioner's further action(s).

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FLIESLER MEYER LLP
650 CALIFORNIA STREET
14TH FLOOR
SAN FRANCISCO, CA 94108

Mail Date: 04/20/2010

Applicant	: Paul Patrick	: DECISION ON REQUEST FOR
Patent Number	: 7603547	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/961,674	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **795** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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FLIESLER MEYER LLP
650 CALIFORNIA STREET
14TH FLOOR
SAN FRANCISCO, CA 94108

Mail Date: 05/17/2010

Applicant : Paul Patrick
Patent Number : 7603547
Issue Date : 10/13/2009
Application No: 10/961,674
Filed : 10/08/2004

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **816** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

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FLIESLER MEYER LLP
650 CALIFORNIA STREET
14TH FLOOR
SAN FRANCISCO, CA 94108

Mail Date: 04/20/2010

Applicant	: Paul Patrick	: DECISION ON REQUEST FOR
Patent Number	: 7603548	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/961,675	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **829** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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FLIESLER MEYER LLP
650 CALIFORNIA STREET
14TH FLOOR
SAN FRANCISCO, CA 94108

Mail Date: 05/17/2010

Applicant : Paul Patrick
Patent Number : 7603548
Issue Date : 10/13/2009
Application No: 10/961,675
Filed : 10/08/2004

: 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 **851** 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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KIMBERLY-CLARK WORLDWIDE, INC.
Tara Pohlkotte
2300 Winchester Rd.
NEENAH, WI 54956

Mail Date: 04/21/2010

Applicant	: RameshBabu Boga	: DECISION ON REQUEST FOR
Patent Number	: 7592020	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/961,676	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1249** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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KIMBERLY-CLARK WORLDWIDE, INC.
Tara Pohlkotte
2300 Winchester Rd.
NEENAH, WI 54956

Mail Date: 05/18/2010

Applicant : RameshBabu Boga
Patent Number : 7592020
Issue Date : 09/22/2009
Application No: 10/961,676
Filed : 10/08/2004

: 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 **1323** 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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Patent No. : 7440601
Serial No. : 10/961681
Inventor(s) : Summers et al.

Issued : October 21, 2008
Title : AUTOMATED IDENTIFICATION OF ILEOCECAL VALVE
Docket No. : 4239-64850-02

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.

According to your request of April 8, 2010 for a Certificate of Correction in Column 6, Line 59 on the Form 1050 does not correspond with the Specification dated October 8, 2004.

In view of the foregoing, your request, in this matter, is hereby denied.

A Certificate of Correction will be issued to correct the remaining errors noted in your request.

Tasneem Siddiqui
For Mary Diggs (Supervisor)
Decisions & Certificates
of Correction Branch
(703) 756-1593 or (703) 756-1814
Date: 4/22/2010

Address: Gregory L. Maurer
KLARQUIST SPARKMAN, LLP
One World Trade Center, Suite 1600
121 S.W. Salmon Street
Portland, Oregon 97204

ts/md

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Paper No.

WANDA ANNETTE SHEFFIELD
151 NE 210 ST
MIAMI FL 33179

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FEB 0 9 2007

OFFICE OF PETITIONS

In re Application of :
Wanda Sheffield :
Application No. 10/961,685 : ON PETITION
Filed: January 18, 2005 :
Title: GOLF TEE CIGAR/CIGARETTE :
HOLDER :

This is in response to the letter filed April 6, 2006, requesting that the above-identified application be treated as "a design patent instead of a utility patent under petition # 1.182."

The petition is **DISMISSED**.

Applicant requests relief not specifically provided for in the rules. Thus, this is considered as a petition under 1.182. However, payment of the petition fee is a prerequisite to consideration of the petition on the merits. The instant petition does not include payment of the petition fee of $400.

Nonetheless, it is appropriate to inform *pro se* applicant of the following:

Even with payment of the petition fee, the Office would not convert the instant application to a design application. Further, such extraordinary relief is not warranted where as here applicant has the option of reviving the instant application and filing a design application as a continuation-in-part of the utility application. See MPEP § 1504.20.

It is noted that given her error in filing, applicant does request a continuation-in-part of a new application. Unfortunately, applicant must do more than simply request such an application. As stated in MPEP 201.06,

> A design application may be considered to be a division of a utility application (but not of a provisional application), and is entitled to the filing date thereof if the drawings of the earlier filed utility application show the same article as that in the design application sufficiently to comply with 35 U.S.C. 112, first paragraph. However, such a divisional design application may only be filed under the procedure set forth in 37 CFR 1.53(b) not under 37 CFR 1.53(d).

In order to be complete for filing date purposes, all applications filed under 37 CFR 1.53(b) must include a specification as prescribed by 35 U.S.C. 112 containing a description pursuant to 37 CFR 1.71 and at least one claim pursuant to 37 CFR 1.75, and any drawing required by 37 CFR 1.81(a). The statutory filing fee and an oath or declaration in compliance with 37 CFR 1.63 (and 37 CFR 1.175 (if a reissue) or 37 CFR 1.162 (if for a plant patent)) are also required by 37 CFR 1.51(b) for a complete application, but the filing fee and oath or declaration may be filed after the application filing date upon payment of the surcharge set forth in 37 CFR 1.16(f). See 37 CFR 1.53(f) and MPEP § 607.

Applicant mentions a second application in which a similar error may have occurred. A review of Office records indicates that applicant may be referring to application No. 11/375,404 filed March 15, 2006. It is noted that a non-final Office action was mailed in the '404 application on February 5, 2007. If applicant does not file a response by May 5, 2007, this application will also become abandoned. So, for the required copendency, any design application filed as a continuation-in-part application of application No. 11/375,404 should be filed prior to May 5, 2007 and as stated above should include a specification, claim and drawings and should satisfy all other requirements (i.e., include proper claim for priority).

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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**TOWNSEND AND TOWNSEND
AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834**

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OFFICE OF PETITIONS

In re Application of	:	
Larry Y.L. MO, et al	:	
Application No. 10/961,709	:	DECISION ON PETITION
Filed: October 7, 2004	:	
Attorney Docket No. 022385-000100US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 14, 2009, to revive the above-identified application.

The petition is **DISMISSED** as moot.

A review of the record indicates the Notice of Allowance and Fee(s) Due mailed May 15, 2009, required a reply by August 17, 2009. The Office acknowledges a reply in the form of the issue and publication fees on August 14, 2009. Since the reply was received prior to the due date of August 17, 2009, the application is not abandoned and no petition is required. Accordingly, the petition is dismissed as moot and the petition fee of $810 will be refunded to Deposit Account No. 20-1430.

The Office acknowledges the drawings filed August 14, 2009, and Bradley Harris, from the Office of Data Management, has indicated that they should be entered.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to the Office of Data Management for processing into a patent.

Diane C. Goodwyn
Petitions Examiner
Office of Petitions

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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 04/21/2010

Applicant	: Larry Y.L. Mo	: DECISION ON REQUEST FOR
Patent Number	: 7627386	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/961,709	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/07/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1291** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

WILSON SONSINI GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO, CA 94304-1050

In re Application of
Mark A. Reiley
Application No. 10/961,726
Filed: October 8, 2004
Attorney Docket No. 29914-701.503

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 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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IBM CORPORATION, INTELLECTUAL PROPERTY LAW
DEPT 917, BLDG. 006-1
3605 HIGHWAY 52 NORTH
ROCHESTER, MN 55901-7829

Mail Date: 04/21/2010

Applicant	: William E. Hall	: DECISION ON REQUEST FOR
Patent Number	: 7657756	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/961,743	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1517** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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TEXAS INSTRUMENTS
INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

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OFFICE OF PETITIONS

In re Application of :
Philippe-Conte, et al. :
Application No. 10/961,748 : DECISION
Filed/Deposited: 8 October, 2004 :
Attorney Docket No. TI-37341 :

This is a decision on the petition filed on 11 March, 2009, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

As to the Request to Withdraw
the Holding of Abandonment

Petitioners always are directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness and showing requirements for relief under 37 C.F.R. §1.181.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the non-final Office action mailed on 17 April, 2008, with reply due absent extension of time on or before 17 July, 2008.

The application went abandoned after midnight 17 July, 2008.

On 2 February, 2009, the Office mailed a Notice of Abandonment.

On 11 March, 2009, Petitioner filed a petition requesting withdrawal of the holding of abandonment pursuant to 37 C.F.R. §1.181, and averred timely reply. Petitioner included

therewith a copy of the dated ((Monday, 17-OCT-2008) Electronic Acknowledgement Receipt, along with a copy of the papers (amendment, extension of time and fees) averred to be filed *via* that service on that date, and so satisfied Petitioner's burden is to make a showing pursuant to 37 C.F.R. §1.181 (with narrative and documentary support) consistent with the guidance in the Commentary at MPEP 711.03(c)(I), which provides in pertinent part:

***

> 37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), (e), or (g) (see MPEP §513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.
>
> Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP §503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.
>
> Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. §1.8(b) and MPEP §512. As stated in 37 C.F.R. §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).
>
> 37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. §1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the

> correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP §512. [1]
>
> ***

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), and those registered to practice and all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And the regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[3],[4]

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy

---

1 *See*: MPEP §711.03(c) (I)(B).

2 See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

3 See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

4 The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

> agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[5]

Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(I) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

Allegations as to the Request to
Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required, when it is to be made and how it is to be supported.

It appears that Petitioner has satisfied the showing required.

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.181 is **granted**, and the 2 February, 2009, Notice of Abandonment is **vacated**.

The instant application is released to Technology Center/AU 2183 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

[5] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[6]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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[6] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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TEXAS INSTRUMENTS INCORPORATED
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DALLAS, TX 75265

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OFFICE OF PETITIONS

In re Application of :
Gregory Remy Philippe Conti et al :
Application No. 10/961,755 : ON PETITION
Filed: October 8, 2004 :
Attorney Docket No. TI-37337 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 10, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 27, 2006, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 28, 2007.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2183 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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P.O. BOX 655474, M/S 3999
DALLAS, TX 75265

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OCT 17 2007

OFFICE OF PETITIONS

In re Application of :
Gregory Remy Philippe Conti et al :
Application No. 10/961,756 : ON PETITION
Filed: October 8, 2004 :
Attorney Docket No. TI-37336 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 29, 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 August 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 November 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 2111 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

NOTICE OF FINAL RULEMAKING

REVISED FEE SCHEDULE

The United States Patent and Trademark Office (USPTO) has amended the rules of practice in patent cases to adjust certain patent fee amounts to reflect fluctuations in the Consumer Price Index (CPI). The USPTO is adjusting the patent fee amounts under the Consolidated Appropriations Act, 2005 (Consolidated Appropriations Act), which revised certain patent fees, and provided for a search fee and examination fee separate from the filing fee. Legislation has been enacted that extends the fee rate revisions in the Consolidated Appropriations Act.

A notice was published in the *Federal Register* on August 22, 2007, and in the *Official Gazette of the United States Patent and Trademark Office* on August 28, 2007.

Any fee amount paid on or after September 30, 2007 must be paid as shown in the revised fee schedule. However, fee amounts paid on or after the following dates for the fees below are subject to the revised fee schedule:

- November 9, 2007, for 37 CFR 1.445(a)(2) and (3);
- November 10, 2007, for 37 CFR 2.6(a)(9); and
- November 15, 2007, for certain PCT fees to foreign offices.

The fee schedule is available on our Web site at *www.uspto.gov*. The most up-to-date fee amounts and information, as well as the complete listing and description of fees, are also available on our Web site. Any future changes to the fees will be posted to the Web site.

If you have any questions related to patents and trademarks, please call the USPTO Contact Center at (571) 272-1000 or (800) 786-9199.

Barry K. Hudson
Chief Financial Officer

UNITED STATES PATENT AND TRADEMARK OFFICE
Effective September 30, 2007 *

Any fee amount paid on or after September 30, 2007, must be paid as shown in the revised fee schedule.
The fees subject to reduction for small entities that have established status (37 CFR 1.27) are shown in a separate column.
For additional information, please call the USPTO Contact Center at (571) 272-1000 or (800) 786-9199.

* The effective date for the fee amounts for PCT fee codes 1602 and 1604 is November 9, 2007.
The effective date for the fee amount for Trademark fee code 7212 is November 10, 2007.
The effective date for the fee amounts for PCT fee codes 1701, 1702, and 1710 is November 15, 2007.

Fee Code	37 CFR	Description	Fee	Small Entity Fee (if applicable)
Patent Application Filing Fees				
1011/2011	1.16(a)(1)	Basic filing fee - Utility ***filed on or after December 8, 2004***	310.00	155.00
4011†	1.16(a)(1)	Basic filing fee - Utility (electronic filing) ***filed on or after December 8, 2004***	N/A	75.00
1001/2001	1.16(a)(2)	Basic filing fee - Utility ***filed before December 8, 2004***	810.00	405.00
1201/2201	1.16(h)	Independent claims in excess of three	210.00	105.00
1202/2202	1.16(i)	Claims in excess of 20	50.00	25.00
1203/2203	1.16(j)	Multiple dependent claim	370.00	185.00
1051/2051	1.16(f)	Surcharge - Late filing fee or oath or declaration	130.00	65.00
1081/2081	1.16(s)	Utility Application Size Fee - for each additional 50 sheets	260.00	130.00
1012/2012	1.16(b)(1)	Basic filing fee - Design ***filed on or after December 8, 2004***	210.00	105.00
1002/2002	1.16(b)(2)	Basic filing fee - Design ***filed before December 8, 2004***	360.00	180.00
1017/2017	1.16(b)(1)	Basic filing fee - Design (CPA) ***filed on or after December 8, 2004***	210.00	105.00
1007/2007	1.16(b)(2)	Basic filing fee - Design (CPA) ***filed before December 8, 2004***	360.00	180.00
1082/2082	1.16(s)	Design Application Size Fee - for each additional 50 sheets	260.00	130.00
1013/2013	1.16(c)(1)	Basic filing fee - Plant ***filed on or after December 8, 2004***	210.00	105.00
1003/2003	1.16(c)(2)	Basic filing fee - Plant ***filed before December 8, 2004***	570.00	285.00
1083/2083	1.16(s)	Plant Application Size Fee – for each additional 50 sheets	260.00	130.00
1014/2014	1.16(e)(1)	Basic filing fee - Reissue ***filed on or after December 8, 2004***	310.00	155.00
1004/2004	1.16(e)(2)	Basic filing fee - Reissue ***filed before December 8, 2004***	810.00	405.00
1019/2019	1.16(e)(1)	Basic filing fee - Design Reissue (CPA) ***filed on or after December 8, 2004***	310.00	155.00
1009/2009	1.16(e)(2)	Basic filing fee - Design Reissue (CPA) ***filed before December 8, 2004***	810.00	405.00
1204/2204	1.16(h)	Reissue independent claims in excess of three	210.00	105.00
1205/2205	1.16(i)	Reissue claims in excess of 20	50.00	25.00
1084/2084	1.16(s)	Reissue Application Size Fee – for each additional 50 sheets	260.00	130.00
1005/2005	1.16(d)	Provisional application filing fee	210.00	105.00
1085/2085	1.16(s)	Provisional Application Size Fee - for each additional 50 sheets	260.00	130.00
1052/2052	1.16(g)	Surcharge - Late provisional filing fee or cover sheet	50.00	25.00
1053	1.17(i)	Non-English specification	130.00	
Patent Search Fees				
1111/2111	1.16(k)	Utility Search Fee	510.00	255.00
1112/2112	1.16(l)	Design Search Fee	100.00	50.00
1113/2113	1.16(m)	Plant Search Fee	310.00	155.00
1114/2114	1.16(n)	Reissue Search Fee	510.00	255.00
Patent Examination Fees				
1311/2311	1.16(o)	Utility Examination Fee	210.00	105.00
1312/2312	1.16(p)	Design Examination Fee	130.00	65.00
1313/2313	1.16(q)	Plant Examination Fee	160.00	80.00
1314/2314	1.16(r)	Reissue Examination Fee	620.00	310.00
Patent Post-Allowance Fees				
1501/2501	1.18(a)	Utility issue fee	1,440.00	720.00
1502/2502	1.18(b)	Design issue fee	820.00	410.00
1503/2503	1.18(c)	Plant issue fee	1,130.00	565.00
1511/2511	1.18(a)	Reissue issue fee	1,440.00	720.00
1504	1.18(d)	Publication fee for early, voluntary, or normal publication	300.00	
1505	1.18(d)	Publication fee for republication	300.00	

† The 4000 series fee code may be used via EFS-Web at *www.uspto.gov/ebc/efs/*.

PAYMENTS FROM FOREIGN COUNTRIES MUST BE PAYABLE AND IMMEDIATELY NEGOTIABLE IN THE UNITED STATES FOR THE FULL AMOUNT OF THE FEE REQUIRED

Fee Code	37 CFR	Description	Fee	Small Entity Fee (if applicable)
Patent Maintenance Fees				
1551/2551	1.20(e)	Due at 3.5 years	930.00	465.00
1552/2552	1.20(f)	Due at 7.5 years	2,360.00	1,180.00
1553/2553	1.20(g)	Due at 11.5 years	3,910.00	1,955.00
	1.20(h)	Surcharge - Late payment within 6 months	130.00	65.00
1557	1.20(i)(1)	Surcharge after expiration - Late payment is unavoidable	700.00	
1558	1.20(i)(2)	Surcharge after expiration - Late payment is unintentional	1,640.00	
Miscellaneous Patent Fees				
1801/2801	1.17(e)	Request for Continued Examination (RCE) (see 37 CFR 1.114)	810.00	405.00
1808	1.17(i)	Processing fee, except in provisional applications	130.00	
1803	1.17(i)	Request for voluntary publication or republication	130.00	
1802	1.17(k)	Request for expedited examination of a design application	900.00	
1804	1.17(n)	Request for publication of SIR - Prior to examiner's action	920.00*	
1805	1.17(o)	Request for publication of SIR - After examiner's action	1,840.00*	
1806	1.17(p)	Submission of an Information Disclosure Statement	180.00	
1807	1.17(q)	Processing fee for provisional applications	50.00	
1809/2809	1.17(r)	Filing a submission after final rejection (see 37 CFR 1.129(a))	810.00	405.00
1810/2810	1.17(s)	For each additional invention to be examined (see 37 CFR 1.129(b))	810.00	405.00
Post Issuance Fees				
1811	1.20(a)	Certificate of correction	100.00	
1812	1.20(c)(1)	Request for ex parte reexamination	2,520.00	
1813	1.20(c)(2)	Request for inter partes reexamination	8,800.00	
1821/2821	1.20(c)(3)	Reexamination independent claims in excess of three	210.00	105.00
1822/2822	1.20(c)(4)	Reexamination claims in excess of 20	50.00	25.00
1814/2814	1.20(d)	Statutory disclaimer	130.00	65.00
Patent Extensions of Time Fees				
1251/2251	1.17(a)(1)	Extension for response within first month	120.00	60.00
1252/2252	1.17(a)(2)	Extension for response within second month	460.00	230.00
1253/2253	1.17(a)(3)	Extension for response within third month	1,050.00	525.00
1254/2254	1.17(a)(4)	Extension for response within fourth month	1,640.00	820.00
1255/2255	1.17(a)(5)	Extension for response within fifth month	2,230.00	1,115.00
Patent Appeals/Interference Fees				
1401/2401	41.20(b)(1)	Notice of appeal	510.00	255.00
1402/2402	41.20(b)(2)	Filing a brief in support of an appeal	510.00	255.00
1403/2403	41.20(b)(3)	Request for oral hearing	1,030.00	515.00
Patent Petition Fees				
1462	1.17(f)	Petitions requiring the petition fee set forth in 37 CFR 1.17(f) (Group I)	400.00	
1463	1.17(g)	Petitions requiring the petition fee set forth in 37 CFR 1.17(g) (Group II)	200.00	
1464	1.17(h)	Petitions requiring the petition fee set forth in 37 CFR 1.17(h) (Group III)	130.00	
1451	1.17(j)	Petition to institute a public use proceeding	1,510.00	
1452/2452	1.17(l)	Petition to revive unavoidably abandoned application	510.00	255.00
1453/2453	1.17(m)	Petition to revive unintentionally abandoned application	1,540.00	770.00
1454	1.17(t)	Acceptance of an unintentionally delayed claim for priority, or for filing a request for the restoration of the right of priority	1,410.00	
1455	1.18(e)	Filing an application for patent term adjustment	200.00	
1456	1.18(f)	Request for reinstatement of reduced term	400.00	
1457	1.20(j)(1)	Extension of term patent	1,120.00	
1458	1.20(j)(2)	Initial application for interim extension (see 37 CFR 1.790)	420.00	
1459	1.20(j)(3)	Subsequent application for interim extension (see 37 CFR 1.790)	220.00	

* Reduced by basic filing fee paid.

PAYMENTS FROM FOREIGN COUNTRIES MUST BE PAYABLE AND IMMEDIATELY NEGOTIABLE IN THE UNITED STATES FOR THE FULL AMOUNT OF THE FEE REQUIRED

Fee Code	37 CFR	Description	Fee
Trademark Processing Fees *			
6001	2.6(a)(1)(i)	Application for registration, per international class (paper filing)	375.00
7001	2.6(a)(1)(ii)	Application for registration, per international class (electronic filing)	325.00
7007	2.6(a)(1)(iii)	Application for registration, per international class (electronic filing, TEAS Plus)	275.00
6002/7002	2.6(a)(2)	Filing an Amendment to Allege Use under § 1(c), per class	100.00
6003/7003	2.6(a)(3)	Filing a Statement of Use under § 1(d)(1), per class	100.00
6004/7004	2.6(a)(4)	Filing a Request for a Six-month Extension of Time for Filing a Statement of Use under § 1(d)(1), per class	150.00
6005/7005	2.6(a)(15)	Petitions to the Director	100.00
6006	2.6(a)(19)	Dividing an application, per new application (file wrapper) created	100.00
6008/7008	2.6(a)(1)(iv)	Additional fee for application that doesn't meet TEAS Plus filing requirements, per class	50.00
6201/7201	2.6(a)(5)	Application for renewal, per class	400.00
6203/7203	2.6(a)(6)	Additional fee for filing renewal application during grace period, per class	100.00
6204	2.6(a)(21)	Correcting a deficiency in a renewal application	100.00
6205/7205	2.6(a)(12)	Filing § 8 affidavit, per class	100.00
6206/7206	2.6(a)(14)	Additional fee for filing § 8 affidavit during grace period, per class	100.00
6207	2.6(a)(20)	Correcting a deficiency in a § 8 affidavit	100.00
6208/7208	2.6(a)(13)	Filing § 15 affidavit, per class	200.00
6210	2.6(a)(7)	Publication of mark under § 12(c), per class	100.00
6211	2.6(a)(8)	Issuing new certificate of registration	100.00
6212/7212	2.6(a)(9)	Certificate of correction, registrant's error	100.00
6213	2.6(a)(10)	Filing disclaimer to registration	100.00
6214	2.6(a)(11)	Filing amendment to registration	100.00
6401/7401	2.6(a)(16)	Petition for cancellation, per class	300.00
6402/7402	2.6(a)(17)	Notice of opposition, per class	300.00
6403/7403	2.6(a)(18)	Ex parte appeal, per class	100.00
Trademark Madrid Protocol Fees *			
6901/7901	7.6(a)(1)	International application based on single application or registration, per class	100.00
6902/7902	7.6(a)(2)	Certifying an International application based on more than one basic application	150.00
6903/7903	7.6(a)(3)	Transmitting a Request to Record an Assignment or restriction under § 7.23 or 7.24	100.00
6904/7904	7.6(a)(4)	Filing a Notice of Replacement, per class	100.00
6905/7905	7.6(a)(5)	Filing an affidavit under § 71 of the Act	100.00
6906/7906	7.6(a)(6)	Surcharge for filing affidavit under § 71 of the Act during grace period, per class	100.00
6907/7907	7.6(a)(7)	Transmitting a subsequent designation	100.00
Trademark Service Fees			
8501	2.6(b)(1)	Printed copy of registered mark, delivery by USPS, USPTO Box, or electronic means	3.00
8503	2.6(b)(4)(i)	Certified copy of registered mark, with title and/or status, regular service	15.00
8504	2.6(b)(4)(ii)	Certified copy of registered mark, with title and/or status, expedited local service	30.00
8507	2.6(b)(2)	Certified copy of trademark application as filed	15.00
8508	2.6(b)(3)	Certified or uncertified copy of trademark-related file wrapper and contents	50.00
8513	2.6(b)(5)	Certified or uncertified copy of trademark document, unless otherwise provided	25.00
8514	2.6(b)(7)	For assignment records, abstracts of title and certification per registration	25.00
8902	2.6(b)(9)	Self-service copy charge, per page	0.25
8521	2.6(b)(6)	Recording trademark assignment, agreement or other paper, first mark per document	40.00
8522	2.6(b)(6)	For second and subsequent marks in the same document	25.00
8523	2.6(b)(10)	Labor charges for services, per hour or fraction thereof	40.00
8524	2.6(b)(11)	Unspecified other services, excluding labor	AT COST
Fastener Quality Act Fees			
6991	2.7(a)	Recordal application fee	20.00
6992	2.7(b)	Renewal application fee	20.00
6993	2.7(c)	Late fee for renewal application	20.00

* The 7000 series fee code (e.g., 7001, 7002, etc.) is used for electronic filings via TEAS, which is available at *www.uspto.gov/teas/*. In addition, the 6000 series fee codes under the Trademark Madrid Protocol Fees are being offered for use as a paper-based filing alternative.

PAYMENTS FROM FOREIGN COUNTRIES MUST BE PAYABLE AND IMMEDIATELY NEGOTIABLE IN THE UNITED STATES FOR THE FULL AMOUNT OF THE FEE REQUIRED

Fee Code	37 CFR	Description	Fee	Small Entity Fee (if applicable)
PCT Fees - National Stage				
1631/2631	1.492(a)	Basic National Stage Fee	310.00	155.00
1641/2641	1.492(b)(2)	National Stage Search Fee - U.S. was the ISA	100.00	50.00
1642/2642	1.492(b)(3)	National Stage Search Fee - search report prepared and provided to USPTO	410.00	205.00
1632/2632	1.492(b)(4)	National Stage Search Fee - all other situations	510.00	255.00
1633/2633	1.492(c)(2)	National Stage Examination Fee - all other situations	210.00	105.00
1614/2614	1.492(d)	Claims - extra independent (over three)	210.00	105.00
1615/2615	1.492(e)	Claims - extra total (over 20)	50.00	25.00
1616/2616	1.492(f)	Claims - multiple dependent	370.00	185.00
1681/2681	1.492(j)	National Stage Application Size Fee - for each additional 50 sheets	260.00	130.00
1617/2617	1.492(h)	Oath or declaration after 30 months from priority date	130.00	65.00
1618	1.492(i)	English translation after 30 months from priority date	130.00	
PCT Fees - International Stage				
1601	1.445(a)(1)	Transmittal fee	300.00	
1602	1.445(a)(2)	Search fee - regardless of whether there is a corresponding application (see 35 U.S.C. 361(d) and PCT Rule 16)	1,800.00	
1604	1.445(a)(3)	Supplemental search fee when required, per additional invention	1,800.00	
1605	1.482(a)(1)	Preliminary examination fee - U.S. was the ISA	600.00	
1606	1.482(a)(1)	Preliminary examination fee - U.S. was not the ISA	750.00	
1607	1.482(a)(2)	Supplemental examination fee per additional invention	600.00	
1619		Late payment fee	VARIABLE	
1621		Transmitting application to Intl. Bureau to act as receiving office	300.00	
PCT Fees to Foreign Offices *				
1701		International filing fee (first thirty pages) - PCT Easy	1,080.00	
1702		International filing fee - (first thirty pages)	1,163.00	
1703		Supplemental international filing fee (for each page over thirty)	12.00	
1704		International search (EPO)	2,197.00	
1705		Handling fee	155.00	
1706		Handling fee – 75% reduction, if applicant(s) meets criteria specified at: *www.wipo.int/pct/en/fees/fee_reduction.pdf*	38.75	
1708		International CD applications	4,800.00	
1709		International search (KIPO)	232.00	
1710		International filing fee (first 30 pages) – filed electronically w/ PCT Easy file	997.00	
Patent Enrollment Fees				
9001	1.21(a)(1)(i)	Application fee (non-refundable)	40.00	
9003	1.21(a)(2)	Registration to practice or grant limited recognition under §11.9(b) or (c)	100.00	
9004	1.21(a)(3)	Reinstatement to practice	40.00	
9005	1.21(a)(4)	Certificate of good standing as an attorney or agent	10.00	
9006	1.21(a)(4)	Certificate of good standing as an attorney or agent, suitable for framing	20.00	
9010	1.21(a)(1)(ii)(A)	For test administration by commercial entity	200.00	
9011	1.21(a)(1)(ii)(B)	For test administration by the USPTO.	450.00	
9012	1.21(a)(5)(i)	Review of decision by the Director of Enrollment and Discipline under §11.2(c)	130.00	
9013	1.21(a)(5)(ii)	Review of decision of the Director of Enrollment and Discipline under §11.2(d)	130.00	
9014	1.21(a)(10)	Application fee for person disciplined, convicted of a felony or certain misdemeanors under §11.7(h)	1,600.00	

* PCT Fees to Foreign Offices are subject to periodic change due to fluctuations in exchange rates. Refer to the *Official Gazette of the United States Patent and Trademark Office* for current amounts.

PAYMENTS FROM FOREIGN COUNTRIES MUST BE PAYABLE AND IMMEDIATELY NEGOTIABLE IN THE UNITED STATES FOR THE FULL AMOUNT OF THE FEE REQUIRED

Fee Code	37 CFR	Description	Fee
Patent Service Fees			
8001	1.19(a)(1)	Printed copy of patent w/o color, delivery by USPS, USPTO Box, or electronic means	3.00
8003	1.19(a)(2)	Printed copy of plant patent in color	15.00
8004	1.19(a)(3)	Color copy of patent (other than plant patent) or SIR containing a color drawing	25.00
8005	1.19(a)(1)	Patent Application Publication (PAP)	3.00
8007	1.19(b)(1)(i)(A)	Copy of patent application as filed	20.00
8008	1.19(b)(1)(i)(B)	Copy of patent-related file wrapper and paper contents of 400 or fewer pages	200.00
8009	1.19(b)(1)(i)(C)	Each additional 100 pages of patent-related file wrapper and (paper) contents, or portion thereof	40.00
8010	1.19(b)(1)(i)(D)	Certification of patent-related file wrapper and (paper) contents	25.00
8011	1.19(b)(1)(ii)(B)	Copy of patent-related file wrapper and contents if provided electronically or on a physical electronic medium as specified in § 1.19(b)(1)(ii)	55.00
8012	1.19(b)(1)(ii)(C)	Each continuing physical electronic medium in single order of § 1.19(b)(1)(ii)(B)	15.00
8041	1.19(b)(2)(i)(A)	Copy of patent-related file wrapper contents, other than as available in § 1.19(b)(1); first physical electronic medium in a single order	55.00
8042	1.19(b)(2)(i)(B)	Each continuing copy of patent-related file wrapper and contents as specified in § 1.19(b)(2)(i)(A)	15.00
8043	1.19(b)(2)(ii)	Copy of patent-related file wrapper contents other than as available in § 1.19(b)(1); provided electronically other than on a physical electronic medium	55.00
8013	1.19(b)(3)	Copy of office records, except copies of applications as filed	25.00
8014	1.19(b)(4)	For assignment records, abstract of title and certification, per patent	25.00
8904	1.19(c)	Library service	50.00
8015	1.19(d)	List of U.S. patents and SIRs in subclass	3.00
8016	1.19(e)	Uncertified statement re status of maintenance fee payments	10.00
8017	1.19(f)	Copy of non-U.S. document	25.00
8050	1.19(g)	Petitions for documents in form other than that provided by this part, or in form other than that generally provided by Director, to be decided in accordance with merits	AT COST
8019	1.21(d)	Local delivery box rental, annually	50.00
8020	1.21(e)	International type search report	40.00
8902	1.21(g)	Self-service copy charge, per page	0.25
8021	1.21(h)	Recording each patent assignment, agreement or other paper, per property	40.00
8022	1.21(i)	Publication in *Official Gazette*	25.00
8023	1.21(j)	Labor charges for services, per hour or fraction thereof	40.00
8024	1.21(k)	Unspecified other services, excluding labor	AT COST
8025	1.21(l)	Retaining abandoned application	130.00
8026	1.21(n)	Handling fee for incomplete or improper application	130.00
8027	1.296	Handling fee for withdrawal of SIR	130.00

GENERAL FEES

Finance Service Fees			
9201	1.21(b)(1) or 2.6(b)(13)(i)	Establish deposit account	10.00
9202	1.21(b)(2) or 2.6(b)(13)(ii)	Service charge for below minimum balance	25.00
9202	1.21(b)(3)	Service charge for below minimum balance restricted subscription deposit account	25.00
9101	1.21(m) or 2.6(b)(12)	Processing each payment refused or charged back	50.00
Computer Service Fees			
8031/8531		Computer records	AT COST

PAYMENTS FROM FOREIGN COUNTRIES MUST BE PAYABLE AND IMMEDIATELY NEGOTIABLE IN THE UNITED STATES FOR THE FULL AMOUNT OF THE FEE REQUIRED

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MORRISON & FOERSTER LLP
425 MARKET STREET
SAN FRANCISCO CA 94105-2482

COPY MAILED
JUN 13 2006
OFFICE OF PETITIONS

In re Application of	:	
Prakash et al.	:	DECISION ON PETITION
Application No. 10/961,761	:	TO WITHDRAW
Filed: October 7, 2004	:	FROM RECORD
Attorney Docket No. 412692000710	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 13, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to attorneys associated with Customer Number 20872 has been revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

There are outstanding Office actions mailed January 25, 2006 and April 4, 2006 that require a reply.

All future communications from the Office will continue to be directed to the 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:

UNITED STATES SURGICAL
A DIVISION OF TYCO HEALTHCARE GROUP LP
195 MCDERMOTT ROAD
NORTH HAVEN, CT 06473

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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OFFICE OF PETITIONS

Sprint Communications Company L.P.
6391 Sprint Parkway
Mailstop: KSOPHT0101-Z2100
Overland Park, KS 66251-2100

In re Application of :
Randy Ulvenes et al. :
Application No. 10/961,764 : DECISION ON PETITION
Filed: October 8, 2004 :
Attorney Docket No. 2435 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 23, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 29, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 30, 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 after non-final, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay. Accordingly, the amendment is accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 2444 for appropriate action by the Examiner in the normal course of business on the reply received December 23, 2008.

Carl Friedman
Petitions Examiner
Office of Petitions

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SPRINT COMMUNICATIONS COMPANY L.P.
6391 SPRINT PARKWAY
MAILSTOP: KSOPHT0101-Z2100
OVERLAND PARK, KS 66251-2100

Mail Date: 04/21/2010

Applicant	: Randy Ulvenes	: DECISION ON REQUEST FOR
Patent Number	: 7664832	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/961,764	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1116** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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SPRINT COMMUNICATIONS COMPANY L.P.
6391 SPRINT PARKWAY
MAILSTOP: KSOPHT0101-Z2100
OVERLAND PARK, KS 66251-2100

Mail Date: 05/18/2010

Applicant : Randy Ulvenes
Patent Number : 7664832
Issue Date : 02/16/2010
Application No: 10/961,764
Filed : 10/08/2004

: 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 **1218** 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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JUL - 8 2005

In re Application of	:	
James L. Nulph	:	
Serial No. 10/961,783	:	DECISION ON PETITION
Filed: October 8, 2004	:	TO MAKE SPECIAL
For: METHOD AND SYSTEM FOR MARKETING AND GAME SELECTION FOR LOTTERY PRODUCTS	:	

Applicant's petition, filed October 8, 2004, seeks to have this application made special pursuant to the Accelerated Examination Program. The petition is GRANTED.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(VIII) of the Manual of Patent Examining Procedures (MPEP).

Applicant is advised that the examiner's search will be restricted to the subject matter encompassed by the claims. In the event that the application receives a first action rejection, applicant is encouraged to arrange for an interview with the examiner, and to provide the examiner with a working copy of any proposed amendment one working day prior to the interview. Any amendment filed in response to a first action rejection which would require broadening of the field of search will be treated as an improper response.

PETITION GRANTED.

Richard A. Bertsch

E. R. Kazenske, Director
Technology Center 3700

John W. McIlvaine
Webb Ziesenheim Logsdon Orkin & Hanson
436 Seventh Ave., 700 Koppers Bldg.
Pittsburgh, PA 15219-1818

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ALEXANDRIA, VA 22313-1450
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JUL 13 2005

In re Application of	:	
James L. Nulph	:	
Serial No. 10/961,783	:	DECISION ON PETITION
Filed: October 8, 2004	:	TO MAKE SPECIAL
For: METHOD AND SYSTEM FOR MARKETING AND GAME SELECTION FOR LOTTERY PRODUCTS	:	

Applicant's petition, filed October 8, 2004, seeks to have this application made special pursuant to the Accelerated Examination Program. The petition is GRANTED.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(VIII) of the Manual of Patent Examining Procedures (MPEP).

Applicant is advised that the examiner's search will be restricted to the subject matter encompassed by the claims. In the event that the application receives a first action rejection, applicant is encouraged to arrange for an interview with the examiner, and to provide the examiner with a working copy of any proposed amendment one working day prior to the interview. Any amendment filed in response to a first action rejection which would require broadening of the field of search will be treated as an improper response.

PETITION GRANTED.

Richard A. Bertsch, Director
Technology Center 3700

James W. McIlvaine
700 Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219-1818

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OFFICE OF PETITIONS

Mark C. Pickering
Law Offices of Mark C. Pickering
P.O. Box 300
Petaluma, CA 94953

In re Application of	:	
ENS, et al.	:	
Application No. 10/961,788	:	DECISION ON PETITION
Filed: October 07, 2004	:	TO WITHDRAW
Attorney Docket No. 20567-025001	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 05, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Mark C. Pickering has been revoked by the assignee of the patent application on September 01, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Patricia Volpe at 571-272-6825.

David Bucci
Petitions Examiner
Office of Petitions

cc: FISH & RICHARDSON, PC
P.O. Box 1022
Minneapolis, MN 55440-1022

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G. MATTHEW MCCLOSKEY, ESQ.
MCDERMOTT, WILL & EMERY, LLP
28 STATE STREET
BOSTON, MA 02109

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OFFICE OF PETITIONS

In re Application of :
Eric Bornstein :
Application No. 10/961,796 : DECISION ON PETITION
Filed: October 8, 2004 :
Attorney Docket No. 07228.0013 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 6, 2007, to revive the above-identified application This is also a decision on the petition under 37 CR 1.182, filed on November 5, 2007, to accelerate consideration of the instant petition.

The petition under 37 CFR 1.182 is **GRANTED**.

The petition under 37CFR 1.137(b) is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed January 12, 2005. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 13, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a reply, (2) the petition fee of $750, 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 the Office of Patent Application Processing to process the reply received September 6, 2007.

April M. Wise
Petitions Examiner
Office of Petitions

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INVENTARIUM
SUITE 1607
4050, ROSEMONT BLVD
MONTREAL QC H1X2M4
CANADA

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OFFICE OF PETITIONS

In re Application of Simard :
Application No. 10/961,801 : Decision on Petition
Filing Date: October 8, 2004 :
For: Floatation Device for Small Airplanes :

This is a decision on the petition under 37 CFR 1.137(b), filed August 23, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed January 7, 2005. The Notice set a period for reply of two (2) months from the mail date of the Notice. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on March 8, 2005. A Notice of Abandonment was mailed on July 18, 2007.

The instant petition requests revival of the instant 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 (3) above, petitioner has submitted a statement that the delay was unintentional. Normally, a statement is sufficient to satisfy 37 CFR 1.137(b)(3). However, 37 CFR 1.137(b)(3) allows the Office to request further information regarding the "unintentional" delay. In this case, the facts raise a question as to whether the entire delay in filing a petition under 37 CFR 1.137(b) was unintentional. Specifically, the application was abandoned for more than 2 years and five

months prior to petitioner filing the instant petition to revive. Where there is a question whether the 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).

Petitioner should submit an explanation for the delay in the filing of the instant petition. For example, did petitioner fail to receive the January 7, 2005 Notice?

The Office notes the address on the application transmittal sheet filed with the original application papers lists a zip code of H1X2M4. The petition lists the zip code as H1X1M4. Any request for reconsideration should explicitly state the correct zip code. At this time, the Office is sending a copy of the instant decision to each zip code.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)."

Further correspondence with respect to this matter should be addressed as follows:

By 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: INVENTARIUM
SUITE 1607
4050, ROSEMONT BLVD
MONTREAL QC H1X1M4
CANADA

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BOSTON MA 02110

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OFFICE OF PETITIONS

In re Application of
Moberg et al.
Application No. 10/961,804
Filed: October 8, 2004
For: ENDOPROSTHESIS DELIVERY SYSTEM
Attorney Docket No. 10527-550001/04-0044

: Decision on
: Petition

The above-identified application has been forwarded to this office for consideration of the paper styled "Request to Rescind Request For Early Publication Request" received on March 22, 2005, which is being treated as a petition under 37 CFR 1.182 for Questions Not Specifically Provided For.

The petition is dismissed.

Applicant requested early publication on October 8, 2004. The application was scheduled for early publication on March 24, 2005. The application was published on March 24, 2005, as Patent Application Publication 2005/0065591 A1. The petition was received too late in the publication cycle to withdraw the early publication request.

The petition fee of $400.00 under 37 CFR 1.17(f) has been charged to petitioners' Deposit Account No. 06-1050. The publication fee will not be refunded, as the fee was properly paid by applicant. See 37 CFR 1.26(a). Applicant requested early publication and he was properly charged the publication fee.

Telephone inquiries regarding this communication should be directed to Mark O. Polutta at (571) 272-7709.

Mark O. Polutta for KF

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

Attorney's Docket No.: 10527-550001 / 04-0044

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : John R. Moberg et al.
Serial No. : 10/961,804
Filed : October 8, 2004
Title : ENDOPROSTHESIS DELIVERY SYSTEM

Art Unit : 3731
Examiner : Unknown

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST TO RESCIND REQUEST FOR EARLY PUBLICATION

Applicant hereby request that the request for early publication be rescinded.

Please apply any charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

Date: 3/22/05

Sean P. Daley
Reg. No. 40,978

Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110-2804
Telephone: (617) 542-5070
Facsimile: (617) 542-8906

21049733.doc

05/26/2005 NKELLEY 00000010 061050 10961804
01 FC:1462 400.00 DA

CERTIFICATE OF TRANSMISSION BY FACSIMILE

I hereby certify that this correspondence is being transmitted by facsimile to the Patent and Trademark Office on the date indicated below.

3-22-05
Date of Transmission

Patricia Smith
Signature

Patricia Smith
Typed or Printed Name of Person Signing Certificate

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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CROMPTON, SEAGER & TUFTE, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS, MN 55403-2420

Mail Date: 04/21/2010

Applicant	: John R. Moberg	: DECISION ON REQUEST FOR
Patent Number	: 7658757	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/961,804	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1524** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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KLAUBER & JACKSON
411 HACKENSACK AVENUE
HACKENSACK, NJ 07601

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OFFICE OF PETITIONS

In re Application of :
Michael G. **KELLY**, et al. :
Application No. 10/961,817 :
Filed: October 7, 2004 :
Attorney Docket No. **2605-1-028N2** :

DECISION ON PETITION
Under 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed August 31, 2007 and re-submitted December 12, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed September 27, 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 October 28, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election; (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

The application is being referred to Technology Center Art Unit 2189 for consideration of the election filed August 31, 2007 and re-submitted December 12, 2008.

Brian W. Brown
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PILLSBURY WINTHROP SHAW PITTMAN LLP
ATTENTION: DOCKETING DEPARTMENT
P.O BOX 10500
MCLEAN, VA 22102

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APR 0 4 2006

OFFICE OF PETITIONS

In re Application of :
Gary ARONSON :
Application No. 10/961,824 : ON PETITION
Filed: October 8, 2004 :
Attorney Docket No. 019896 0312559 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 24, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed January 12, 2005. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 13, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the statutory basic filing fee, a properly signed oath or declaration, the late filing fee surcharge for the oath or declaration, and additional claim filing fees in the amount of $2,475; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay. Accordingly, the Response to Notice to File Missing Parts of January 12, 2005 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.

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 $1,080 extension of time fee submitted with the petition on October 24, 2005 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Charles Marmor, II at (571) 272-6052, or in his absence, the undersigned at (571) 272-7099.

The application file is being referred to the Office of Initial Patent Examination.

David Bucci
Petitions Examiner
Office of Petitions

cc: Donna O. Perdue
Pillsbury Winthrop Shaw Pittman LLP
11682 El Camino Real
Suite 200
San Diego, CA 92130-2092

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ATD CORPORATION
255 SATELLITE BLVD
SUITE 300
SUWANEE GA 30024

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OFFICE OF PETITIONS

In re Application of :
Ragland, et al. :
Application No. 10/961,827 :
Filed: October 8, 2004 :
Attorney Docket No. Z1-0101.219US1 :

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47, filed February 10, 2005, which is being treated as a petition under 37 CFR 1.47(a).

The petition under 37 CFR 1.47(a) is **GRANTED**.

The above-identified application was filed on October 8, 2004, without a fully executed oath or declaration. Accordingly, on November 22, 2004, the Initial Patent Examination Division mailed a Notice to File Missing Parts, requiring an oath or declaration, together with a surcharge for its late filing, as well as the statutory basic filing fee and additional claims fee.

In reply, applicant filed the instant petition on February 10, 2005, together with the petition fee, the surcharge for late filing of the declaration, and the statutory basic filing fee and additional claims fee. To make timely this petition, applicant obtained a one month extension of time.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor(s).

On petition, Rule 47 applicant has included a copy of a cover letter to inventor Brad Pearce, dated December 2, 2004, transmitting the application papers. According to Rule 47 applicant, to date no response from Pearce has been received.

On petition, Rule 47 applicant has satisfied the requirements of 37 CFR 1.47(a). The declaration submitted with the petition has been determined to be in compliance with 37 CFR 1.63. Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status.

Pursuant to 37 CFR 1.47(c), this Office will forward notice of this application's filing to the last known address provided in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to the Office of Initial Patent Examination for pre-examination processing.

Telephone inquiries related to this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

FLIESLER MEYER LLP
650 CALIFORNIA STREET
14TH FLOOR
SAN FRANCISCO, CA 94108

Mail Date: 04/20/2010

Applicant	: Paul Patrick	: DECISION ON REQUEST FOR
Patent Number	: 7594112	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/961,839	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1209** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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WATTS, HOFFMANN CO., L.P.A.
STE. 1750
1100 SUPERIOR AVE.
CLEVELAND OH 44114

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MAY 03 2007

OFFICE OF PETITIONS

In re Application of :

FRUTKIN, Elliott D. et al. :
Application No. 10/961,854 : DECISION ON PETITION
Filed: October 08, 2004 : TO WITHDRAW
Attorney Docket No. **16-752** : 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, 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 Stephen J. Schultz, on behalf of all attorneys 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.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **ELLIOT D. FRUTKIN**
830 STILL CREEK LANE
GAITHERSBURG, MD 20878

cc: **TAROLLI, SUNDHEIM, COVELL & TUMMINO L.L.P.**
1300 EAST NINTH STREET, SUITE 1700
CLEVEVLAND, OH 44114

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DIW Feb-08

NATALIE BOGDANOS, ESQ.
C/O ENZO BIOCHEM, INC.
9TH FLOOR
527 MADISON AVENUE
NEW YORK NY 10022

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FEB 12 2008

OFFICE OF PETITIONS

In re Application of :
Ilan et al. :
Application Number: 10/961861 : DECISION ON PETITION
Filing Date: 10/08/2004 :
Attorney Docket Number: Enz-71 :

This is a decision on the petition filed on September 10, 2007, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on February 25, 2007, for failure to timely submit a reply to the Office action requiring restriction and/or election mailed on January 24, 2007, which set a one (1)-month or 30 day shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on September 12, 2007.

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

Receipt of the response to the restriction requirement is acknowledged.

The application is being referred to Technology Center Art Unit 1647 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D. Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE, 46TH FLOOR
1650 MARKET STREET
PHILADELPHIA PA 19103

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JUL 0 3 2006

OFFICE OF PETITIONS

In re Application of	:	
Bedingfield, James C. Sr.	:	DECISION ON PETITION
Application No. 10/961,870	:	TO WITHDRAW
Filed: October 8, 2004	:	FROM RECORD
Attorney Docket No. BELL-0344/00414CIP	:	

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 9, 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 Jonathan M. Waldman on behalf of all the attorneys of record who are associated with Customer Number 38952. All attorneys/agents associated with Customer Number 38952 have been withdrawn. Applicants are reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named inventor; or (2) the assignee of the entire interest. All future communications from the Office will continue to be directed to the first named inventor at the first below-listed address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

for David Bucci
Petitions Examiner
Office of Petitions

Cc:

JAMES C. BEDINGFIELD, SR.
67 BLUE SPRINGS COURT
LILBURN, GA 30047

POTOMAC PATENT GROUP, PLLC
P.O. BOX 270
FREDERICKSBURG, VA 22404

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P.O. BOX 270
FREDERICKSBURG, VA 22404

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FEB 26 2008

In re Application of	:	
James C. BEDINGFIELD, SR	:	
Application No. 10/961,870	:	DECISION ON PETITION
Filed: October 8, 2004	:	
Attorney Docket No.0220-096	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 17, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, October 31, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 1, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 2176 for appropriate action by the Examiner in the normal course of business on the reply received October 17, 2007.

April Wise
Petitions Examiner
Office of Petitions

cc: KRISHNA KALIDINDI
P.O. BOX 855
MCLEAN, VA 22101

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/961,870	10/08/2004	James C. Bedingfield SR.	

CONFIRMATION NO. 8122

52270
POTOMAC PATENT GROUP PLLC
P.O. BOX 270
FREDERICKSBURG, VA 22404

POA ACCEPTANCE LETTER

OC000000026442830

Date Mailed: 02/05/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/17/2007.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/jlwilliams/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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DEC 10 2004

In re Application of	:	
Theodore C. Tremblay et al.	:	
Serial No. 10/961,878	:	DECISION ON PETITION
Filed: October 8, 2004	:	TO MAKE SPECIAL
For: COMBINATION RATCHET/	:	
BREAKER BAR WRENCH	:	

Applicant's petition, filed October 8, 2004, requests that this application be rendered special for examination in that applicant is over sixty-five (65) years of age.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(IV) of the Manual of Patent Examining Procedure (MPEP).

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

James A. Sheridan
Pandiscio & Pandiscio, PC
470 Totten Pond Road
Waltham, MA 02451

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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
10/961,906	10/08/2004	1614	808	21741 US1		21	1

CONFIRMATION NO. 5911

CORRECTED FILING RECEIPT

OC000000015782651

00151
HOFFMANN-LA ROCHE INC.
PATENT LAW DEPARTMENT
340 KINGSLAND STREET
NUTLEY, NJ 07110

Date Mailed: 04/19/2005

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)

David Robert Bolin, Montclair, NJ;
Shaoqing Chen, Bridgewater, NJ;
Steven Gregory Mischke, Florham Park, NJ;
Yimin Qian, Wayne, NJ;

Power of Attorney: The patent practitioners associated with Customer Number **00151**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/511,954 10/16/2003

Foreign Applications

If Required, Foreign Filing License Granted: 02/14/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/961,906

Projected Publication Date: 05/26/2005

Non-Publication Request: No

Early Publication Request: No

Title

Glutamine fructose-y-phosphate amidotransferase (GFAT) inhibitors

Preliminary Class

514

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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JOSEPH T. LEONE
DEWITT ROSS & STEVENS SC
8000 EXCELSIOR DRIVE, SUITE 401
MADISON, WI 53717-1914

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OFFICE OF PETITIONS

In re Application of :
Danice Mobley :
Application No. 10/961,915 : DECISION ON PETITION
Filed: October 8, 2004 :
Attorney Docket No. 56200.000 :

This is a decision on the communication, filed August 7, 2006, which is appropriately being treated as a petition under 37 CFR 1.182, to change the inventor's name from "Danice Mobley" to – Danice Dombeck --. *See* MPEP 605.04(c).

The petition is **DISMISSED**.

Initially, the petition is not accompanied by the $400 fee required by 37 CFR 1.182. Accordingly, the petition must be dismissed for failure to submit the appropriate petition fee.

Secondly, the petition fails to comply with the provisions of MPEP 605.04(c) in that the petition must have been accompanied by "an affidavit signed by the inventor setting forth both names and the procedure whereby the change of name was effected, or a certified copy of the court order."

For the above stated reasons, the petition cannot be granted.

Effective May 29, 2000, the Office changed the practice by clarifying that an amendment under 37 CFR 1.312 (after allowance) must be filed prior to or with payment of the issue fee, and eliminated 37 CFR 1.312(b). Since a change to the inventor's name is an amendment to the application, and amendments are not permitted after payment of the issue fee, any renewed petition under 37 CFR 1.182 to now change the inventor's name cannot be granted.

Nevertheless, the petition may still be granted if a renewed petition under 37 CFR 1.182, along with a request for a certificate of correction and fee of $100, are submitted.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

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CARSTENS YEE & CAHOON, LLP
P.O. BOX 802334
DALLAS, TX 75380

MAIL

SEP 0 6 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Gary Davidson :
Application No. 10/961,923 : DECISION ON PETITION
Filed: October 8, 2004 : TO MAKE SPECIAL
For: USING A HANDHELD :
COMMUNICATION DEVICE WITH A HOT :
SPOT NETWORK

This is a decision on the petition under 37 C.F.R. §1.102 to make special filed August 15, 2005 which is considered as pursuant to MPEP §708.02 (IV), applicant's age.

A petition to make special under MPEP §708.02, IV, must show that petitioner is 65 years of age, or more. Acceptable evidence includes a birth certificate, copy of a driver's license, or simply a statement by the applicant. No fee is required.

The petition includes a statement by Gary Davidson stating that he is over 65 years of age.

Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

The application is being forwarded to the examiner for expedited prosecution.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

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DOUGLAS T. JOHNSON
MILLER & MARTIN
1000 VOLUNTEER BUILDING
832 GEORGIA AVENUE
CHATTANOOGA, TN 37402-2289

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DEC 10 2008

In re Application of
Glen Hamrick, et al.
Application No. 10/961,930
Filed: October 8, 2004
Attorney Docket No. 06962-0103

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 18, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed July 16, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on October 17, 2007. A Notice of Abandonment was mailed on February 25, 2008. On September 18, 2008, the present petition was filed.

The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), including the fee of $405 and the submission required by 37 CFR 1.114; (2) the petition fee of $770; and (3) an adequate statement of unintentional delay[1].

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Although the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement will be construed as the statement required by 37 CFR

This application is being referred to Technology Center AU 1794 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Stephen Donovan
Allergan, Inc.
2525 Dupont Drive
Irvine CA 92612

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OFFICE OF PETITIONS

In re Application of	:	
Li, Zhang, Aoki and Lin	:	
Application No. 10/961,935	:	DECISION REFUSING STATUS
Filed: October 7, 2004	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. ALLE0009-1000(17639 (BOT))	:	

This is in response to the petition under 37 CFR 1.47(a), filed February 15, 2005.

The petition is **dismissed**.

Applicants are given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on October 7, 2004, without an executed oath or declaration. Accordingly, on December 22, 2004, the Office mailed a "Notice to File Missing Parts of Nonprovisional Application," requiring, *inter alia*, an executed oath or declaration and a surcharge for its late filing. On February 15, 2005, applicants submitted the present petition, a declaration executed by 3 of the 4 joint inventors, and paid the requisite fees.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with

35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicants lack item (1) as set forth above.

As to item (1), the petitioner states that a "Combined Declaration and Power of Attorney" was sent to Wei-Jen Lin for her signature. It is unclear from the record whether Ms. Lin was presented with the complete application papers. Unless Ms. Lin was presented with a complete copy of the application papers, including the specification, claims and drawings, she could not attest that she has "reviewed and understands the application papers," and therefore, could not sign the declaration that she was given. Accordingly, applicants failed to show or provide proof that the nonsigning inventor has refused to sign the declaration. See MPEP 409.03(d). To show that the inventor has refused to join in the application, applicants must show that complete copies of the application papers, including the specification, claims and drawings, were presented to Ms. Lin and that she did not respond to the request that she sign the declaration. The facts surrounding Ms. Lin's refusal to join the application must be submitted by a person with first-hand knowledge of the events.

Further correspondence with respect to this matter should be addressed as follows and **to the attention of Christina Tartera Donnell, Senior Petitions Attorney:**

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (517) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Stephen Donovan
Allergan, Inc.
2525 Dupont Drive
Irvine CA 92612

COPY MAILED

APR 25 2005

OFFICE OF PETITIONS

In re Application of :
Li, Zhang, Aoki and Lin :
Application No. 10/961,935 : DECISION GRANTING STATUS
Filed: October 7, 2004 : UNDER 37 CFR 1.47(a)
Attorney Docket No. ALLE0009-1000(17639 (BOT)) :

This is in response to the renewed petition under 37 CFR 1.47(a), filed April 12, 2005.

The petition is granted.

Petitioner has shown that Wei-Jen Lin, 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, in the Declaration of Facts, Stephen Donovan stated that he mailed a copy of the application papers to the non-signing inventor. Mr. Donovan further stated that Ms. Lin returned the unsigned declaration to him with a note stating that she could not sign the declaration. A copy of the letter and the note accompany the present petition.

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.

This matter is being referred to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Wei-Jen Lin
16708 Moorbrook Avenue
Cerritos, CA 90703

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APR 25 2005

OFFICE OF PETITIONS

In re Application of :
Li, Zhang, Aoki and Lin :
Application No. 10/961,935 : LETTER
Filed: October 7, 2004 :
Attorney Docket No. ALLE0009-1000(17639 (BOT)) :

Dear Ms. Lin:

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).

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Stephen Donovan, Allergan, Inc.
2525 Dupont Drive
Irvine CA 92612

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/961,942	10/08/2004	Mark A. Shirk	SHIRK-1X

CONFIRMATION NO.

7802

JEFFREY HALL
212 CLINTON ST
SANTA CRUZ CA 95062

Date Mailed: April 7, 2005

Decision Dismissing Petition under 37 CFR 1.138(c)

The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(c) filed on April 6, 2005, for express abandonment to avoid publication of the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☑ The petition under 37 CFR 1.138(c) was not filed in sufficient time to permit the appropriate officials to recognize the abandonment and remove the application from the publication process.

2. ☑ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).

3. ☐ The Application was published on April 14, 2005, in compliance with 35 U.S.C. 122(b), the publication number is US20050076639A1, and it is available on the USPTO web site at http://www.uspto.gov/patft/index.html.

The application **has/will be published** as scheduled.

Telephone inquiries should be directed Office of Patent Publication, Pre-Grant Publication Division, 703-605-4283.

Barbara J. Debnam
Office of Patent Publication,
Pre-Grant Publication Division

Rev. 10/01

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JAN 31 2005

OFFICE OF PETITIONS

HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET, NY 11791

In re Application of :
Ketan Mehta, et al. :
Application No. 10/961,977 : ON PETITION
Filed: October 9, 2004 :
Attorney Docket No. 1467-3 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET NY 11791

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OCT 13 2006

OFFICE OF PETITIONS

In re Application of :
MEHTA, et al. :
Application No. 10/961,977 : DECISION ON PETITION
Filed: October 9, 2004 : TO WITHDRAW
Attorney Docket No. 1467-3 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 26, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Daniel A. Scola and all attorneys associated with customer number 23869 has been revoked by the assignee of the patent application on August 26, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Monica A. Graves at 571-272-7253.

David Bucci
Petitions Examiner
Office of Petitions

cc: **HOWSON AND HOWSON**
501 OFFICE CENTER DRIVE, SUITE 210
FT WASHINGTON, PA 19034

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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STROOCK & STROOCK & LAVAN LLP
180 MAIDEN LANE
NEW YORK NY 10038

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APR **0 3** 2008

OFFICE OF PETITIONS

In re Application of :

HOUSMAN, Donald A. :
Application No. 10/961,989 : DECISION ON PETITION
Filed: October 08, 2004 : TO WITHDRAW
Attorney Docket No. **279486/0002 SBP/KB** : 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 06, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Steven Pokotilow on behalf of all attorneys of record who are associated with customer No. 26610. All attorneys/agents associated with the Customer Number 26610 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 signing inventor at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **DONALD A. HOUSMAN**
40 ROBIN HOOD DRIVE
MOUNTAIN LAKES, NJ 07046

cc: **HOUSMAN INDUSTRIES LLC**
P.O. BOX 178
MOUNTAIN LAKES, NJ 07046

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LAWRENCE R. YOUST
DANAMRAJ & YOUST, P.C.
5910 NORTH CENTRAL EXPRESSWAY
SUITE 1450
DALLAS, TX 75206

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MAY 0 3 2006
OFFICE OF PETITIONS

In re Application of
Roger L. Schultz et al.
Application No. 10/962,005
Filed: October 9, 2004
Attorney Docket Number: 1301-1182

ON PETITION

This is a decision on the "Petition To Withdraw The Holding Of Abandonment" filed April 17, 2006, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513. The petition is treated under 37 CFR 1.181

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 1.181," or, as explained in more detail below, "...under 37 CFR 1.137(a)" or (b). This is not a final agency decision.

This application became abandoned on June 9, 2005 after the applicant failed to file a timely response to the non-Final Office Action mailed March 8, 2005. Accordingly, a Notice of Abandonment was mailed March 28, 2006.

Petitioner argues that the non-Final Office Action was not received and includes copies of the file jacket and docket to establish non-receipt. Petitioner also argues that although an oath or declaration from the parent application was filed with the application on October 9, 2004, petitioner's current address was included on the Utility Patent Application Transmittal submitted on October 9, 2004.

A review of the file reveals that the non-Final Office Action was mailed to the address of record on March 8, 2005, but was returned by the US Postal Service on March 22, 2005 as undeliverable, that a second courtesy copy of the office action was re-mailed but was also returned by the US Postal Service on May 2, 2005 as undeliverable.

While petitioner points out that the correspondence address was included on the application transmittal submitted on October 9, 2004, it should be pointed out that correspondence addresses are taken from the oath or declaration. Applicant failed to provide the office with a proper notification of change of address specifying applicant's new address. The mere inclusion, in a paper filed in the application for another purpose, of an address differing from the previously provided correspondence address, without mentioning the fact that an address change was made, does not constitute a proper change of address notification." See MPEP sections 601.03 and 711.02(c).

A proper change of correspondence address filed March 28, 2006 has been made of record.

As petitioner has not presented any evidence that the address found in the oath or declaration filed upon application was not to be used as the address of record and in the absence of a change of address filed with the USPTO, prior to the mailing of the non-Final Office Action, the showing of record is therefore insufficient to warrant withdrawal of the holding of abandonment.

ALTERNATIVE VENUES

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(a)[1] or 37 CFR 1.137(b),[2] which now provides that where the delay in reply was unintentional, a

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[1]A grantable petition under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed; In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional 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 be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(l);

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

[2]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);

petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

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

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

(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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DANAMRAJ & YOUST, P.C.
5910 NORTH CENTRAL EXPRESSWAY
SUITE 1450
DALLAS TX 75206

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OFFICE OF PETITIONS

In re Application of :
Roger L. Schultz et al. :
Application No. 10/962,005 : ON PETITION
Filed: October 9, 2004 :
Attorney Docket No.: 1301-1182 :

This is a decision on the petition filed May 19, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed March 8, 2005. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned June 9, 2005. Accordingly, a Notice of Abandonment was mailed March 28, 2006.

This matter is being referred to Technology Center 3672 for appropriate action on the amendment filed May 19, 2006.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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DARBY & DARBY P.C.
P.O. BOX 770
CHURCH STREET STATION
NEW YORK, NY 10008-0770

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MAY 16 2008

OFFICE OF PETITIONS

In re Application of :
Shmuel Okon et al :
Application No. 10/962,032 : ON PETITION
Filed: October 7, 2004 :
Attorney Docket No. 03267/100H162-US2

This is a decision on the petition, filed May 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 March 17, 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]

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2617 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: David Leason
Leason Ellis LLP
81 Main Street, Suite 100
White Plains, NY 10601

[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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J. DAVID NELSON
NELSON SNUFFER DAHLE & POULSEN, P.C.
10885 SOUTH STATE STREET
SANDY, UT 84070

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NOV 09 2007

OFFICE OF PETITIONS

In re Application of :
Neldon P. Johnson :
Application No. 10/962,051 : ON PETITION
Filed: October 7, 2004 :
Attorney Docket No. :

This is a decision on the petition filed July 26, 2007 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and Publication fee in a timely manner in reply to the Notice of Allowance mailed March 21, 2007, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on June 22, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue fee and Publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This matter is being referred to the Publishing Division for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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TOWNSEND TOWNSEND & CREW, LLP
TWO ENBARCADERO CENTER, EIGHT FLOOR
SAN FRANCISCO, CA 94111-3834

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JUL 10 2008

OFFICE OF PETITIONS

In re Application of :
MCCASLIN, et al. :
Application No. 10/962,065 : DECISION ON PETITION
Filed: October 7, 2004 : TO WITHDRAW
Attorney Docket No. **MGNC-203** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 19, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to **TOWNSEND TOWNSEND & CREW, LLP** has been revoked by the assignee of the patent application on July 30, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **INTELLECTUAL PROPERTY LAW OFFICE OF JOEL VOELZKE**
24772 SADDLE PEAK ROAD
MALIBU, CA 90265

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United States Patent and Trademark Office
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KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

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JAN 14 2005

OFFICE OF PETITIONS

In re Application of: Kyeong-Soo Lee :
Application No. 10/962,076 : NOTICE
Filed: October 7, 2004 :
Attorney Docket No. EZINT4.003C1 :

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 for further processing.

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

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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FLIESLER MEYER LLP
650 CALIFORNIA STREET
14TH FLOOR
SAN FRANCISCO, CA 94108

Mail Date: 04/20/2010

Applicant	: Paul Patrick	: DECISION ON REQUEST FOR
Patent Number	: 7644432	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/962,079	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **871** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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FLIESLER MEYER LLP
650 CALIFORNIA STREET
14TH FLOOR
SAN FRANCISCO, CA 94108

Mail Date: 05/17/2010

Applicant : Paul Patrick
Patent Number : 7644432
Issue Date : 01/05/2010
Application No: 10/962,079
Filed : 10/08/2004

: 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 **904** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

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MICHAEL BEST & FRIEDRICH LLP
100 E WISCONSIN AVENUE
Suite 3300
MILWAUKEE, WI 53202

Mail Date: 04/21/2010

Applicant	: Brian K. Zeilinger	: DECISION ON REQUEST FOR
Patent Number	: 7594875	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/962,094	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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.

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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
10/962,109	10/07/2004	2814	1092	04685/LH	12	27	5

CONFIRMATION NO. 9656

01933
FRISHAUF, HOLTZ, GOODMAN & CHICK, PC
767 THIRD AVENUE
25TH FLOOR
NEW YORK, NY 10017-2023

CORRECTED FILING RECEIPT

OC000000015657769

Date Mailed: 04/05/2005

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)

Masahiko Tsuchiya, Tokyo, JAPAN;
Naochika Horio, Tokyo, JAPAN;

Assignment For Published Patent Application

Stanley Electric Co., Ltd., Tokyo, JAPAN

Power of Attorney:

Herbert Goodman--17081
Leonard Holtz--22974
Marshall Chick--26853
Richard Barth--28180
Douglas Holtz--33902
Robert Michal--35614

Domestic Priority data as claimed by applicant

Foreign Applications

JAPAN 2003-385645 11/14/2003

If Required, Foreign Filing License Granted: 12/11/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/962,109

Projected Publication Date: 05/19/2005

Non-Publication Request: No

Early Publication Request: No

Title

Semiconductor device and its manufacture method capable of preventing short circuit of electrodes when semiconductor device is mounted on sub-mount substrate

Preliminary Class

257

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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ANDERSON, KILL & OLICK, P.C.
1251 AVENUE OF THE AMERICAS
NEW YORK, NY 10020-1182

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JUL 18 2007

OFFICE OF PETITIONS

In re Patent No. 7,152,887
Issued: December 26, 2006
Application No. 10/962,114
Filed: October 16, 2004
Attorney Docket Number: MM4749

ON PETITION

This is a decision on the petition, filed January 29, 2007, under 37 CFR 3.81(b) [1], to correct the assignee's name on the front of the Patent.

The petition is **GRANTED**.

Petitioner states that the assignee is DOUGLAS PIRRONE, and that the failure to include the correct assignee name on the Fee(s) Transmittal form PTOL-85(b) was inadvertent. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The request is accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that DOUGLAS PIRRONE is the assignee of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to issue.

---

[1] *See* Official Gazette of June 22, 2004

The petition fee in the amount of $130.00 and the certificate of correction fee in the amount of $100.00 have been charged to deposit account no. 50-3814 as authorized in the petition.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3212. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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OCT 15 2009

OFFICE OF PETITIONS

In re Application of :
Moses et al. :
Application No. 10/962,116 : ON PETITION
Filed: October 8, 2004 :
Attorney Docket No. 2935CIP2(203-3738CIP2) :

This is a decision on the petition under 37 CFR §§ 1.78(a)(3), filed July 30, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of the prior-filed nonprovisional and provisional application set forth in the concurrently filed amendment.

The petition is **DISMISSED AS MOOT**.

A petition under 37 CFR §§ 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000.

Along with the instant petition under 37 CFR §§ 1.78(a)(3), petitioner has submitted an amendment to the first sentence of the specification following the title to include a reference to the prior-filed application.

The current procedure where a proper claim for priority under 37 CFR §§ 1.78(a)(3) is not included in the first sentence of the specification or in an ADS but does properly appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR §§ 1.78(a)(2)(ii). However, on the other hand, if the USPTO does not note the claim for priority to the prior-filed application(s) set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR §§ 1.78(a)(3).[1] In the instant case, the Office

[1] *Note* MPEP 201.11 (V), page 200-75 (Rev. 1. Feb. 2004 and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

noted the claim for priority of prior-filed Application No. 10/873,860, filed June 22, 2004, in the transmittal letter filed with the application, as shown by its inclusion on the filing receipt mailed November 22, 2004.

In view of the above, the $1,410.00 petition fee submitted is unnecessary and will be refunded to petitioner's deposit account in due course.

It is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

Any questions concerning this decision on petition may be directed to Joan Olszewski at 571-272-7751. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to the Examiner of Technology Center AU 3739 for appropriate action on the amendment filed July 30, 2009.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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HESLIN ROTHENBERG FARLEY & MESITI PC
5 COLUMBIA CIRCLE
ALBANY, NY 12203

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AUG 12 2005

OFFICE OF PETITIONS

In re Application of	
Damick, et al.	DECISION GRANTING STATUS
Application No. 10/962,123	UNDER 37 CFR 1.47(a)
Filed: October 8, 2004	
Atty. Dkt. No.: 2217.001A	
For: SYSTEMS AND METHODS FOR FEEDING ARTICLES TO AND REMOVING ARTICLES FROM AN AUTOMATIC WASHER	

This decision is in response to the petition under 37 CFR 1.47(a) filed June 21, 2005.

The petition is **GRANTED**.

Petitioners have shown that inventor Edward J. Horeth has refused to execute the declaration for 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 inventors at the addresses 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 returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Edward J. Horeth
125 Wildmere Road
Rochester, NY 14617

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AUG 12 2005

OFFICE OF PETITIONS

In re Application of :
Damick, et al. :
Application No. 10/962,123 : LETTER
Filed: October 8, 2004 :
Atty. Dkt. No.: 2217.001A :
For: SYSTEMS AND METHODS FOR :
FEEDING ARTICLES TO AND :
REMOVING ARTICLES FROM AN :
AUTOMATIC WASHER :

Dear Sir:

You are named as an inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3205. 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 matter should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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HESLIN ROTHENBERG FARLEY & MESITI, PC
5 COLUMBIA CIRCLE
ALBANY, NY 12203

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AUG 19 2009

OFFICE OF PETITIONS

In re Patent No. 7,325,667 :
Issue Date: February 5, 2008 :
Application No. 10/962,123 : DECISION ON PETITION
Filed: October 8, 2004 :
Patentee(s): Keith D. Damick, et. al. :

This is a decision on the request under 37 CFR 3.81[1] filed on March 11, 2009, to correct the name of the assignee on the front page of the above patent by way of a certificate of correction.

The petition is **dismissed**.

37 CFR 3.81(b) permits the patent to issue in the name of an assignee if the assignment was submitted after payment of the issue fee, but ***prior to issuance of a patent***.

Petitioner requests issuance of a Certificate of Correction in the name of "Visron Design, Inc.". However, U.S. Patent and Trademark Office assignment records fail to show that an assignment listing the name of the assignee as "Visron Design, Inc.," was submitted for recordation **prior** to issuance of the above patent. Therefore, a Certificate of Correction would not be in order.

This patent file is being referred to Files Repository.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

[1] See MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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APR 13 2005

Director's Office
Group 3700

Ilya Zborovsky
6 Schoolhouse Way
Dix Hills, N.Y. 11746

In re application of
Young, Ronald Alexander

Serial Number: 10/962135
Filed: December 12, 2004

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 CFR. 1.102(c)

For: **DEVICE FOR SHOWERING**

This is a decision on the petition filed on April 02, 2005, under 37 CFR. 1.102(c) to make special the above identified application because of the age/health of the applicant. Since the requirements of the M.P.E.P Section 708.02 IV have been met, the petition will be GRANTED.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only is Petitioner makes a prompt bona-fide effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the Examiner to accomplish this purpose.

Summary: Decision on Petition **GRANTED**.

Richard A. Bertsch
Director
Technology Center 3700
(571) 272-3750

rt: 4/12/05

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Ilya Zborovsky
6 Schoolhouse Way
Dix Hills NY 11746

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APR 27 2009

OFFICE OF PETITIONS

In re Application of :
Sam Zhadanov, et al. :
Application No. 10/962,135 : DECISION ON PETITION
Filed: October 12, 2004 : TO MAKE SPECIAL UNDER
Attorney Docket No. N/A : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed March 20, 2009, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a copy of the applicant Sam Zhadanov's driver's license proving that he is 65 years of age or older. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3752 for action on the merits commensurate with this decision.

Terri Williams
Petitions Examiner
Office of Petitions

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ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8704

Mail Date: 04/21/2010

Applicant	: Shoujun Wang	: DECISION ON REQUEST FOR
Patent Number	: 7598779	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/962,137	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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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WASHINGTON DC 20007

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NOV 17 2006

OFFICE OF PETITIONS

Applicant: Diepolder et al.
Appl. No.: 10/962,145
Filing Date: October 7, 2004
Title: CD4+ T-LYMPHOCYTE-SPECIFIC HEPATITIS C VIRUS EPITOPES
Attorney Docket No.: 085449-0167
Pub. No.: US 2005/0249754 A1
Pub. Date: November 10, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on January 10, 2006, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains material errors in claim 2 wherein Sequence ID NO:16 "(EPO16) PLLESWKDPDYVPPVVGCP" is misprinted as "(EPO16) PLLESWKDPDYVPPWGCP" and Sequence ID NO17: "(EPO17) DVVCCSMSYTWTWTGALITPCA" is misprinted as "(EPO17) DWCCSMSYTWTWTGALITPCA". Applicant's representative asserts that the errors are not due to eligible text, since the sequences were printed correctly in the specification of the publication.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The errors noted by requestor in claim 2 wherein Sequence ID NO:16 "(EPO16) PLLESWKDPDYVPPVVGCP" is misprinted as "(EPO16) PLLESWKDPDYVPPWGCP" and Sequence ID NO17: "(EPO17) DVVCCSMSYTWTWTGALITPCA" is misprinted as "(EPO17)

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

DWCCSMSYTWTWTGALITPCA" are not material Office errors under 37 CFR 1.221. The errors noted by requestor with respect to printing "VV" as "W" in this published application is due to the quality of the text in the application. The text in the sequence listings is very close together, which makes it difficult to read and difficult to electronically reproduce. The text of the application must be written by either a typewriter or machine printed in dark ink. See 37 CFR 1.52. Patent application publications with errors, which are due to the legibility of the text in the application will not be corrected by corrected publication under 37 CFR 1.221(b).

Applicants have been advised to file applications having larger text, which is cleaner and with sufficient clarity and contrast to permit reproduction to avoid errors in the patent application publication process. See 37 CFR 1.52. When, the text in the application, which is small and close together, which makes it blurry and not clear, also makes it difficult to read and to electronically reproduce by digital imaging and optical character recognition.

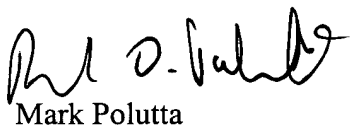
The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice).



Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DONALD J. ERSLER
ATTORNEY AT LAW
725 GARVENS AVENUE
BROOKFIELD, WI 53005

COPY MAILED

MAR 28 2007

OFFICE OF PETITIONS

In re Application of :
John Robert Goepfert :
Application No. 10/962,156 : DECISION ON PETITION
Filed: October 7, 2004 : TO WITHDRAW
Attorney Docket No. 1455 : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 30, 2007.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The 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 Kimberly Inabinet at 571-272- 4618.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: John Robert Goepfert
1621 North Washington Street
Janesville, WI 53548

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Commissioner for Patents
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Donald J. Ersler
Attorney at Law
725 Garvens Avenue
Brookfield, WI 53005

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MAY 21 2007

OFFICE OF PETITIONS

In re Application of

John Robert Goepfert
Application No. 10/962,156
Filed: October 7, 2004
Attorney Docket No. 1455

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 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 Donald J. Ersler, sole attorney of record.

Donald J. Ersler has been withdrawn as attorney or agent of record.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

A non-final office action was mailed on April 6, 2007. Failure to timely reply will result in the abandonment of this application.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: John Robert Goepfert
1621 North Washington Street
Janesville, WI 53548

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/962,156	10/07/2004	John Robert Goepfert	

CONFIRMATION NO. 2438

OC000000023962120

Donald J. Ersler
Attorney at Law
725 Garvens Avenue
Brookfield, WI 53005

Date Mailed: 05/21/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/06/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Kimberly Gravinet

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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MACMILLAN SOBANSKI & TODD, LLC
ONE MARITIME PLAZA FIFTH FLOOR
720 WATER STREET
TOLEDO, OH 43604-1619

Mail Date: 04/21/2010

Applicant	: Charles L. Robertson	: DECISION ON REQUEST FOR
Patent Number	: 7575286	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/962,163	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **96** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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DENNEMEYER & COMPANY LTD.
REGENT HOUSE
HEATON LANE
STOCKPORT, CHESHIRE
ENGLAND SK4 1BB,
UNITED KINGDOM

Mail Date: 04/21/2010

Applicant	: Hartmut Rehwinkel	: DECISION ON REQUEST FOR
Patent Number	: 7662821	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/962,169	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **840** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days,** whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Edmund J. Walsh
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston, MA 02210-2206

Mail Date: 06/14/2010

Applicant	: David Fusari	: DECISION ON REQUEST FOR
Patent Number	: 7647328	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/962,178	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1424** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 04/20/2010

Applicant	: Kenneth M. Cloyd	: DECISION ON REQUEST FOR
Patent Number	: 7634888	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/962,185	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/07/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1315** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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CLISE, BILLION & CYR, P.A.
605 U.S. HIGHWAY 169
SUITE 300
PLYMOUTH, MN 55441

MAILED

JUN 21 2010

OFFICE OF PETITIONS

In re Application of :
MATT KRIESEL ET AL. :
Application No. 10/962,189 : DECISION ON PETITION
Filed: October 8, 2004 :
Attorney Docket No. **C228 1020.4** :

This is a decision on the petition, filed December 4, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the final Office action mailed March 16, 2009, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on June 17, 2009.

Petitioner asserts that the Office action dated March 16, 2009 was not received.

A review of the written record indicates the final Office was indeed returned to the USPTO as undeliverable.

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 of Art Unit 3765 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
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P.O. Box 1450
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Carol A. Lewis White
W.L. Gore & Associates, Inc.
551 Paper Mill Road
P.O. Box 9206
Newark DE 19714-9206

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JUL 0 7 2005

OFFICE OF PETITIONS

In re Application of
Okada, et al.
Application No. 10/962,214
Filed: October 7, 2004
Attorney Docket No. FL/148

ON PETITION

This is a decision on the petition filed March 7, 2005 (certificate of mailing date March 4, 2005), requesting, in effect, that the application be accorded a filing date of October 7, 2004, with Figures 24, 25, and 26 as part of the original disclosure of the application. The petition will be treated under 37 CFR 1.182.

The petition under 37 CFR 1.182 is **DISMISSED**.

Regarding fees, President Bush signed the Consolidated Appropriations Act on December 8, 2004. This Act changed many patent fees. The 37 CFR 1.182 petition fee became $400.00. Petitioners' deposit account was charged $130.00 on March 8, 2005. Pursuant to petitioners' authorization, deposit account no. 07-1729 will be charged the balance due, or $270.00.

The application was filed on October 7, 2004. However, on January 4, 2005, the Office of Initial Patent Examination mailed a notice stating, *inter alia*, that the application had been accorded a filing date of October 7, 2004, but advising applicants that Figures 24, 25, and 26 described in the specification appeared to have been omitted.

In response, the present petition was filed wherein applicants argue that this application is a counterpart application to PCT/JP2003/05140, filed April 23, 2003, which priority date applicants are relying on for this application. Petitioners state that the PCT publication contains all the drawings relied upon in this filing.

Petitioners are informed that this application was filed under 35 U.S.C. 111, not 35 U.S.C. 371. The transmittal letter for the application states in pertinent part, "We enclose the following papers for filing in the U.S. Patent and Trademark Office in connection with the above-identified new Patent Application:..." Applicants did not clearly identify the application as a submission to enter

the national stage under 35 U.S.C. 371. Therefore, the application was treated as an application filed under 35 U.S.C. 111. 37 CFR 1.495(g); MPEP 1893.03(a). Petitioners have 30 months from the April 23, 2003 priority date to file another application to enter the national stage under 35 U.S.C. 371.

It is noted that there is no incorporation by reference statement present.

Therefore, petitioners cannot rely on the PCT application to provide the omitted drawings. Either the drawings were present in the Office on the filing date of the application or they were not. If they were not present on the filing date, they cannot be considered a part of the original disclosure of the application. Applicants do not allege in the petition that the omitted figures were present in the Office on October 7, 2004, and a review of the file confirms that the omitted figures were not present on October 7, 2004. Therefore, the application cannot be accorded the October 7, 2004 filing date with the drawings of Figures 24, 25 and 26 as a part of the original disclosure. The issue of new matter is one appropriately addressed during prosecution of the application after the filing date of the application has been determined.

Of course, applicants may submit the omitted figures as an amendment to the drawings in which case the examiner will determine whether the additional sheets of drawings contain new matter (see MPEP 608.02(h)).

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of October 7, 2004. Figures 24, 25 and 26 will not be processed and are not considered part of the original application papers.

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

Any inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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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
10/962,216	10/07/2004	2655	3070	3123-598	9	51	6

CONFIRMATION NO. 5985

UPDATED FILING RECEIPT

OC000000015157087

32093
HANSRA PATENT SERVICES
4525 GLEN MEADOWS PLACE
BELLINGHAM, WA 98226

Date Mailed: 02/10/2005

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)

Robert Jackson, Union City, CA;
Donald E. Adams, Pleasanton, CA;

Power of Attorney:

David Sigmond–34013
Tejpal Hansra–38172

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 US10/962,216

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

Temperature estimator for electronic device

Preliminary Class

369

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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Hansra Patent Services
4525 Glen Meadows Place
Bellingham, WA 98226

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JUN 18 2007

OFFICE OF PETITIONS

In re Application of :
Robert Jackson et al. :
Application No. 10/962,216 : DECISION ON PETITION
Filed: October 7, 2004 : TO WITHDRAW
Attorney Docket No. 3123-598 : 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 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 Tejpal S. Hansra on behalf of all attorneys of record.

All attorneys/agents have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is no outstanding Office action.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Robert Jackson**
33170 Quail Drive
Union City, CA 94587-3155

cc: **Seagate Technology LLC**
Intellectual Property Dept.-COL2LGL
389 Disc Drive
Longmont, CA 80503

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/962,216	10/07/2004	Robert Jackson	3123-598

CONFIRMATION NO. 5985

Hansra Patent Services
4525 Glen Meadows Place
Bellingham, WA 98226

OC000000024392144

Date Mailed: 06/18/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/13/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Terri Williams

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

OIPE IAP76
JUN 25 2007
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JUN 18 2007

OFFICE OF PETITIONS

In re Application of

Robert Jackson et al.
Application No. 10/962,216
Filed: October 7, 2004
Attorney Docket No. 3123-598

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 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 Tejpal S. Hansra on behalf of all attorneys of record.

All attorneys/agents have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is no outstanding Office action.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Robert Jackson**
33170 Quail Drive
Union City, CA 94587-3155

cc: **Seagate Technology LLC**
Intellectual Property Dept.-COL2LGL
389 Disc Drive
Longmont, CA 80503

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FROM DIRECTORS OFFICE

FEB 0 3 2005

TECHNOLOGY CENTER 3600

Richard L. Miller
12 Parkside Drive
Dix Hills, NY 11746

In re application of : **DECISION ON PETITION**
Paul J. Grimes : **TO MAKE SPECIAL**
Application No. 10/962,227 : **(ACCELERATED**
Filed: October 8, 2004 : **EXAMINATION)**
For: FIREARM FOR EXTINGUISHING A FIRE
FROM A POSITION REMOTE FROM THE FIRE

This is in response to the petition filed on January 10, 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).

The petition fails to adequately meet requirement (B) above.

With regard to condition (B) the petition has failed to include an election without traverse or a statement that applicant will elect without traverse should a restriction or election be required. Merely stating that all claims are directed to a single invention does not meet the requirements of condition (B).

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 of Patents and Trademarks, Washington, D.C. 20231. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/jwk: 1/25/05

Newsome, Lamonte

From: Mei, Xu
Sent: Wednesday, May 06, 2009 1:09 PM
To: Newsome, Lamonte; Chin, Vivian
Subject: RE: SPE's Reponse2-3-09

vivian:

the CoC should be "Approved...All changes apply"...

thx...

From: Newsome, Lamonte
Sent: Monday, May 04, 2009 4:31 PM
To: Mei, Xu
Subject: SPE's Reponse2-3-09

Paper No.: _____

DATE : 5/4/09

TO SPE OF : ART UNIT 2614

SUBJECT : Request for Certificate of Correction for Appl. No.: 10962233 Patent No.: 7386133 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:

_____

_____

_____

_____

_____

_____

SPE
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20060926

DATE : September 26, 2006

TO SPE OF : ART UNIT 2878

SUBJECT : Request for Certificate of Correction on Patent No.: 6,995,386

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

Georgia Y. Epps

SPE: Georgia Epps **Art Unit** 2878

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JUL 22 2005

Director's Office
Group 3700

RICHARD L. MILLER
12 PARKSIDE DRIVE
DIX HILLS, NY 11746

In re Application of
BIANCO, MARK LO
Application No.: 10/962,243
Filed: October 08, 2004

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed January 10, 2005 to make special under 37 CFR 1.102(d).

Since the requirements of 37 CFR 1.102(d) and MPEP 708.02, VIII have been met, the petition is granted.

The application is being forwarded to the examiner for an action on the merits.

Linda J. Sholl
Special Program Examiner
Technology Center 3700
Phone: (571) 272-4391

UNITED STATES PATENT AND TRADEMARK OFFICE

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J. NICHOLAS GROSS
2030 ADDISON STREET, SUITE 610
BERKELEY, CA 94704

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JUL 18 2006

OFFICE OF PETITIONS

In re Application of :
Mark B. Johnson :
Application No. 10/962,253 : DECISION GRANTING PETITION
Filed: October 8, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. MJ 2004-6C1 :

This is a decision on the petition, filed July 14,2006, 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 6, 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 2827 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement and the amendment submitted September 8, 2005.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\july9\962253.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), 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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VAN DYKE, GARDNER, LINN & BURKHART, LLP
SUITE 207
2851 CHARLEVOIX DRIVE, S.E.
GRAND RAPIDS, MI 49546

Mail Date: 04/21/2010

Applicant	: Eric Combs	: DECISION ON REQUEST FOR
Patent Number	: 7644777	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/962,271	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1383** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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ATTN: PATENT DOCKETING 32ND FLOOR
P.O. BOX 7037
ATLANTA GA 30357-0037

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FEB 21 2006

OFFICE OF PETITIONS

In re Application of
Geoffrey Howells :
Application No. 10/962,297 : ON PETITION
Filed: October 8, 2004 :
Attorney Docket No: S2471161.1 :

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition is **GRANTED**.

This application became abandoned on January 24, 2005, for failure to file a timely response to the Notice to File Missing Parts, mailed November 23, 2004, which set a two (2) month statutory period for reply. Accordingly, a Notice of Abandonment was mailed August 19, 2005. Petitioner asserts that the Notice to File Missing Parts was never received.

The file record discloses that the Notice to File Missing Parts was mailed to the address of record which is the same address used on the Notice of Abandonment. Petitioner has provided statements from two individuals responsible for receiving mail from the docketing department and a copy of the docket report wherein receipt of the Notice to File Missing Parts mailed November 23, 2004 would have been filed, had it been received. To show that the Notice mailed November 23, 2004 was not received, petitioner also explains that after searching the file jacket it was concluded that no correspondence was received for this matter from the USPTO,

In that the statement from the petitioner and the exhibit from the docket record for the instant matter show no entry indicating receipt of the Notice to File Missing Parts mailed November 23, 2004, it is apparent that the Notice was not received. The evidence submitted corroborates non-receipt of the Notice.

In view of the facts set forth in the petition, it is concluded that the Notice to File Missing

Parts was never received at the address of record. Accordingly, the holding of abandonment is withdrawn and no petition fee is due.

This application is being forwarded to the Office of Initial Patent Examination for a re-mailing of the Notice to File Missing Parts.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/962,297	10/08/2004	Geoffrey Howells	S247 1161.1	9831

26158 7590 07/31/2009

WOMBLE CARLYLE SANDRIDGE & RICE, PLLC
ATTN: PATENT DOCKETING
P.O. BOX 7037
ATLANTA, GA 30357-0037

EXAMINER	
SHAPIRO, JEFFERY A	

ART UNIT	PAPER NUMBER
3653	

MAIL DATE	DELIVERY MODE
07/31/2009	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.

SUPPLEMENTAL EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Andrew N. Claerbout on 7/29/09.

The application has been amended as follows:

IN THE ABSTRACT:

The current abstract has been rewritten and replaced with the following.

A coin discriminator measures both the surface and average electrical conductivity of coins in order to distinguish genuine minted coins from fake or bogus coins such as cast coins which may be nominally of the same material as a minted coin. The conductivities are measured using a coil to induce eddy currents within the coin. The high frequency components of the eddy current are monitored to measure the surface conductivity. The low frequency components are measured to monitor the bulk or average conductivity.

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JEFFREY A. SHAPIRO whose telephone number is (571)272-6943. The examiner can normally be reached on Monday-Friday, 9:00 AM-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick H. Mackey can be reached on (571)272-6916. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jeffrey A. Shapiro/
Primary Examiner, Art Unit 3653

July 29, 2009

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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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AUG 17 2009

OFFICE OF PETITIONS

In re Application of :
Johnny D. Callahan, et al. :
Application No. 10/962,305 : ON PETITION
Filed: October 8, 2004 :
Attorney Docket No. 022052-000110US :

This is a decision on the petition under 37 CFR 1.137(b), filed June 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 non-final Office action mailed October 17, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on January 18, 2008. The Notice of Abandonment was mailed June 19, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $810; and (3) 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 the undersigned at (571) 272-2991.

The application file is being referred to Technology Center AU 1637 for appropriate action on the concurrently filed amendment.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Kawai Lau**
P.O. Box 5803
Bellevue, WA 98006

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KARIM HAWASH
1300 SW 201ST AVENUE
BEAVERTON, OR 97006

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SEP 22 2009

OFFICE OF PETITIONS

In re Application of :
Karim Hawash :
Application No. 10/962,317 : ON PETITION
Filed: October 12, 2004 :
Attorney Docket No. :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 20, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 3, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). Since the amendment submitted 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 grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) 1.

The proposed reply required for reconsideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See

MPEP 711.03(c)(II)(A)(2). Since the amendment submitted January 13, 2009 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).

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

April M. Wise
Petitions Examiner
Office of Petitions

Attachment: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 10/962,317	**Applicant(s)** HAWASH, KARIM	
	Examiner ADRIANA FIGUEROA	**Art Unit** 3633	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 13 January 2009 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: 11-26.
   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: See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/ADRIANA FIGUEROA/
Examiner, Art Unit 3633

Continuation of 11. does NOT place the application in condition for allowance because: The newly added limitation "wherein the catch basket is sized to collect all debris falling from the catch screen when it is in its second position" fails to further distinguish the invention from what is taught by the prior art of Moller and Collins as discussed in the Final Office Action of 12/3/2008 .

UNITED STATES PATENT AND TRADEMARK OFFICE

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JOEL I ROSENBLATT
445 11TH AVENUE
INDIALANTIC FL 32903

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SEP 0 5 2006

OFFICE OF PETITIONS

In re Application of
Foster et al.

Application No. 10/962,318
Filed: October 12, 2004

Attorney Docket Number: 1041006

Title of Invention: Interactive Communication and Data Processing System For Restaurant Services

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.183, filed July 26, 2006, to waive the rules under 37 CFR 1.134. Petitioner has also filed a petition to revive under 37 CFR 1.137(b).

The petition filed under 37 CFR 1.183 is **DISMISSED.**

The petition filed under 37 CFR 1.137(b) is **DISMISSED**.

Petition under 37 CFR 1.183

Any request for reconsideration should be filed within **TWO MONTHS** of the mailing date of this decision in order to be considered timely. 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136.

Petitioner has requested that the time period for reply to an Office action be waived. However, a review of the record shows that the $400.00 petition fee has not been submitted. Receipt of the petition fee is a prerequisite to treatment of the petition.

Accordingly, the petition is dismissed.

The Petition has **not** been reviewed on its merits.

Petition Under 37 CFR 1.137(b)

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** final agency action within the meaning of 5 U.S.C. §704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional"; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03 (c)(III)(c) and (D).

The petition has not been properly executed. Pursuant to 37 CFR 1.4 the S-signature must consist only of letters, or Arabic numerals, or both, with appropriate spaces and commas, periods, apostrophes, or hyphens for punctuation, and the person signing the correspondence must insert his or her own S-signature with a first single forward slash mark before, and a second single forward slash mark after, the S-signature (e.g., /Dr. James T. Jones,Jr. /) The signature does not contain the required forward slashes.

The Petition has **not** been reviewed on its merits.

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 delivery service:
(FedEx, UPS, DHL, etc.)

U.S. Patent and Trademark Office
Customer Service Window,
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JOEL I ROSENBLATT
445 11TH AVENUE
INDIALANTIC FL 32903

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DEC 0 1 2006

OFFICE OF PETITIONS

In re Application of
Foster et al.

Application No. 10/962,318
Filed: October 12, 2004

Attorney Docket Number: 1041006

Title of Invention: Interactive Communication and Data Processing System For Restaurant Services

DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR §1.137(b), filed September 14, 2006 to revive the above-identified application.

This petition is hereby **Dismissed**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** final agency action within the meaning of 5 U.S.C. §704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional"; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03 (c)(III)(c) and (D).

The instant petition lacks items (1). Although corrected drawings were submitted with the petition, the Draftsperson has objected to the drawings. Accordingly, corrected drawings are required. Please refer to the Notice of Draftsperson's Patent Drawing Review 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 facsimile:	(571) 273-8300
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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www.uspto.gov

JOEL I ROSENBLATT
445 11TH AVENUE
INDIALANTIC FL 32903

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JAN 0 8 2007

OFFICE OF PETITIONS

In re Application of
Foster et al.

Application No. 10/962,318
Filed: October 12, 2004

Attorney Docket Number: 1041006

Title of Invention: Interactive Communication and Data Processing System For Restaurant Services

DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR §1.137(b), filed December 11, 2006 to revive the above-identified application.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

This application is being forwarded to the Office of Patent Publication for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Petitions Attorney

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HARNESS DICKEY & PIERCE PLC
5445 CORPORATE DRIVE
SUITE 400
TROY, MI 48098

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DEC 30 2005

OFFICE OF PETITIONS

In re Application of	:	
Saeed Azimi	:	
Application No. 10/962,321	:	DECISION GRANTING PETITION
Filed: October 12, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. MP0043.C1	:	

This is a decision on the petition, filed December 16, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 23, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2111 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b) (along with any balance due at the time of payment), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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BAKER & HOSTETLER LLP
WASHINGTON SQUARE, SUITE 1100
1050 CONNECTICUT AVE. N.W.
WASHINGTON, DC 20036-5304

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SEP 0 4 2007
OFFICE OF PETITIONS

In re Patent No. 7,188,556 :
Issue Date: March 13, 2007 :
Application No. 10/962,330 : DECISION GRANTING PETITION
Filed: October 12, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 59587.21640 :

This is a decision on the petition, filed April 10, 2007, which is being treated as a petition under 37 CFR 1.137(b) to accept an unintentionally delayed notification to the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country or under a multinational treaty that requires publication of applications eighteen-months after filing. *See* 37 CFR 1.137(f).

The petition under 37 CFR 1.137(b) is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on October 12, 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. Therefore, pursuant to the provisions of 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c), petitioner failed to timely notify the USPTO of the filing of a counterpart application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(b) to accept an unintentionally delayed notification to the USPTO of the filing of a counterpart application in an eighteen-month publication country must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days as provided by 35 U.S.C. § 122(b)(2)(B)(iii) is accepted as having been unintentionally delayed.

This application matured into Patent No. 7,188,556 on March 13, 2007. Therefore, no further action being required, this patented file is being referred to Files Repository.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Harold V. Stotland
Seyfarth Shaw LLP
Suite 4200
55 East Monroe Street
Chicago IL 60603-5803

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APR 19 2005

OFFICE OF PETITIONS

In re Application of :
Cutler et al. : DECISION ON PETITION
Application No. 10/962,332 :
Filed: October 8, 2004 :
Attorney Docket No. 460190 :

This is a decision on the petition under 37 CFR 1.53, filed March 28, 2005, requesting that the above-identified application be accorded a filing date of October 8, 2004, with 3 sheets of drawings as part of its original disclosure.

On October 8, 2004, applicants deposited the above-identified application. On March 11, 2005, the Office mailed a Notice of Incomplete Nonprovisional Application, stating that the application was deposited without drawings and that the filing date would be the date of receipt of the drawings. Additionally, the Notice indicated that the oath/declaration was unsigned.

In response, on March 28, 2005, applicants filed the present petition, an executed declaration, and a copy of applicants' postcard receipt acknowledging receipt of 3 sheets of drawings on October 8, 2004. Additionally, applicants submitted 3 sheets of drawings with the present petition.

Upon review of the record, the 3 sheets of drawings, deposited on October 8, 2004, have not been located among the application papers. However, the evidence is convincing that the application papers deposited on October 8, 2004, included 3 sheets of drawings, which were subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application, including the 3

sheets of drawings, was complete on filing and will be granted a filing date of October 8, 2004.

Accordingly, the petition is granted.

The requirement for drawings set forth in the Notice of Incomplete Nonprovisional Application was sent in error and is hereby vacated. Accordingly, no petition fee is necessary. The $400.00 petition fee will be credited to Deposit Account No. 19-1351.

The Office of Initial Patent Examination is directed **to accord the above-identified application a filing date of October 8, 2004**, using the 3 sheets of drawings submitted on March 28, 2005, as part of the original disclosure, and to mail a corrected filing receipt.

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patent No. : 7,415,836 B2
Ser. No. : 10/962,348
Inventor(s) : Shinichi Enomoto
Issued : August 26, 2008
Title : COOLING APPARATUS AND A THERMOSTAT WITH THE APPARATUS INSTALLED THEREIN
Docket No. : FUJ00682P00311US

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.

Ennis Young
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) **756-1542** or (703) 756-1814

UNITED STATES PATENT AND TRADEMARK OFFICE

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WOOD, PHILLIPS, KATZ, CLARK & MORTIMER
500 W. MADISON STREET
SUITE 3800
CHICAGO, IL 60661

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OFFICE OF PETITIONS

In re Patent No. 7,415,836	:	
Issue Date: August 26, 2008	:	
Application No. 10/962,348	:	ON PETITION
Filed: October 11, 2004	:	
Attorney Docket No. 00682-0059US	:	

This is a decision on the petition filed August 14, 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 the April M. Wise at (571) 272-1642. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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DEBORAH A. PEACOCK
PEACOCK MYERS, P.C.
201 THIRD STREET, N.W.
SUITE 1340
ALBUQUERQUE, NM 87102

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AUG 28 2006

OFFICE OF PETITIONS

In re Application of :
San Bong Lee, et al. :
Application No. 10/962,357 : DECISION ON REQUEST
Filed: October 8, 2004 : TO WITHDRAW
Attorney Docket No. 30394-1132 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed April 11, 2006.

The request is **NOT APPROVED**.

The request is signed by Deborah A. Peacock on behalf of herself, Jeffrey D. Myers, Paul Adams, Rod D. Baker, Stephen A. Slusher, Vidal A. Oaxaca and Janeen Viven. Since the original power of attorney appointment was made by Customer Number 005179, the request to withdraw attorneys must either name all the attorneys cited under the customer number or simply request that all the attorneys associated with Customer Number 005179 be withdrawn. In this case, the request to withdraw is for less than all attorneys appointed by Customer Number 005179. Therefore, the request cannot be approved.

Further, it is noted that while assignee attempted to intervene in the above-identified application, the power of attorney filed June 23, 2005 did not comply with 37 CFR 3.73(b) in that the power of attorney was not properly signed and does not include the reel and frame number where the recorded assignment appears in the assignment records of the USPTO. Therefore in order for the power of attorney to be acceptable, compliance with 37 CFR 3.73(b) must be satisfied. A form for complying with the provisions of 37 CFR 3.73(b) may be found on the USPTO.gov website (Form No. PTO/SB/96).

All future communication from the Office will be directed to PEACOCK MYERS, P.C. until otherwise properly notified by applicant. A courtesy copy of this decision is being mailed to MCDERMOTT WILL & EMERY LLP.

There is no outstanding Office action that requires a reply from applicant.

Telephone inquiries concerning this decision should be directed to Sherry D. Brinkley at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Conferee: Amelia Au

cc: MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON, DC 20005-3096

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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DEBORAH PEACOCK
PEACOCK MYERS, P.C.
201 THIRD STREET, NW
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ALBUQUERQUE, NM 87102

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APR 10 2007

OFFICE OF PETITIONS

In re Application of	:	
Sang Bong Lee, et al.	:	
Application No. 10/962,357	:	DECISION ON REQUEST
Filed: October 8, 2004	:	TO WITHDRAW
Attorney Docket No. 30394-1132	:	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 3, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Deborah Peacock and all the other attorneys/agents associated with Customer Number 005179 was revoked by the assignee of the patent application on November 7, 2006. 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.

There is no outstanding Office action that requires a reply from the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON DC 20005-3096

UNITED STATES PATENT AND TRADEMARK OFFICE

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DEBORAH PEACOCK
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201 THIRD STREET, N.W.
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SEP 0 4 2008

In re Application of	:	
Sang Bong Lee	:	
Application No. 10/962,357	:	DECISION ON PETITION
Filed: October 8, 2004	:	TO WITHDRAW
Attorney Docket No. 30394-1132	:	FROM RECORD

This is a decision on the Request to Withdraw (Request) as attorney or agent of record under 37 C.F.R. § 1.36(b), filed first on April 11, 2006 and again on November 28, 2006.

The request is **APPROVED**.

On April 10, 2007, this request was "not approved as being moot" since the power of attorney appeared to have been revoked by the assignee. However, further review of the file revealed that the power of attorney was not properly revoked by an assignee and the request to withdraw as attorney or agent of record was not moot. Nonetheless, correspondence in this application has been conducted since November 2006 by the practitioners at McDermott Will & Emery LLP independent of the practitioners at Peacock Meyers, P.C. The prosecution history developed since this time demonstrates that the Applicant knowingly and freely assents to the termination of employment by Peacock Meyers, P.C. Accordingly, the request for the practitioners at Peacock Meyers, P.C. to withdraw as attorney or agent of record is approved.

The correspondence address of record will remain with McDermott Will & Emery LLP, customer number 20277, as it has since November 2006 and as was designated in the Request. A courtesy copy of this decision is being mailed to McDermott Will & Emery LLP. Also, courtesy copies of this decision are being mailed to the named inventors, Sang Bong Lee and Yong Jin Yang, at the addresses given on the original signed declaration.

Telephone inquiries concerning this decision should be directed to Christopher Bottorff at 571-272-6692.

/David Bucci/
David Bucci
Petitions Examiner
Office of Petitions

cc: McDermott Will & Emery LLP
600 13th Street, N.W.
Washington, D.C. 2005-3096

Sang Bong Lee
212-1103, Daelim Apt. Choweon Maul
Pyongchon-dong
Anyang City Kyonggi-Do, Korea

Yong Jin Yang
254-4SK TOWN HOUSE
Kumi-Dong, Bundang-Gu
Seongnam City, Korea

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MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON, DC 20005-3096

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SEP 17 2008

OFFICE OF PETITIONS

In re Application of :
Sang Bong Lee et al. :
Application No. 10/962,357 : DECISION ON PETITIONS
Filed: October 8, 2004 :

This is a decision on:

(1) the petition under 37 C.F.R. 1.183, filed April 28, 2008, requesting a waiver of the requirement under 37 C.F.R. 3.21 that an assignment relating to a national patent application identify the application by the application number;

(2) the Request to Revoke the attorney or agent of record under 37 C.F.R. 1.36(a) and the petition to expunge information under 37 C.F.R. 1.59, filed concurrently on January 22, 2008; and

(3) the request to correct inventorship under 37 C.F.R. 1.48(a), filed November 9, 2007, and the associated petition under 37 C.F.R. 1.47 to accept a declaration that is not signed by all of the inventors.

This is also a **corrected decision** on:

(4) the revocation of power of attorney and appointment of new attorney by an assignee under 37 C.F.R. 1.36(a) filed October 3, 2006, resubmitted November 7 2006, and accepted January 25, 2007.

The petition under 37 C.F.R. 1.183 requesting a waiver is **dismissed**; the Request to Revoke the attorney or agent of record under 37 C.F.R. § 1.36(a) is **not approved**; the petition to expunge information under 37 C.F.R. § 1.59 is **dismissed**; the request to correct inventorship under 37 C.F.R. 1.48(a) is **dismissed**, and the Request to Revoke the attorney or agent of record is **not approved**.

BACKGROUND

On January 24, 2005, a signed declaration was filed in the present application identifying Sang Bong Lee (Lee) and Yong Jin Yang (Yang) as the first and second inventors, respectively. Also, on August 23, 2005, an assignment of rights from Lee and Yang to Komipharm International Co., Ltd. (Kimopharm) was recorded at real 016661 and frame 0653, but incorrectly identified the application to which it corresponded as 10/962,257 rather than the present application, 10/962,357.

The petition under 37 C.F.R. 1.183 now attempts to correct the typographical error in the serial number listed on the assignment filed August 17, 2005 and recorded at real 016661 and frame 0653.

The request under 37 C.F.R. 1.48(a) attempts to correct the inventorship through the deletion of Yang and addition of another inventor, Bernardus Rademaker (Rademaker) such that the inventors are listed on a supplemental declaration as Rademaker and Lee as the first and second inventors, respectively.

The petition under 37 C.F.R. 1.59 attempts to expunge the petition under 37 C.F.R. 1.47, which supports the petition under 37 C.F.R. 1.48(a).

The petition under 37 C.F.R. 1.47, filed by McDermott Will & Emery LLP on behalf of Komipharm, provides, on page 2, that Yang is the president of Komipharm and not an inventor in the present application as indicated on the original declaration and assignment recorded at real 016661 and frame 0653. Furthermore, Lee, Yang and Rademaker, misunderstood "the meaning of the term 'inventorship' under U.S. patent law and international law."

Lee submitted the petition under 37 C.F.R. 1.59 on January 22, 2008 to remove the petition under 37 C.F.R. 1.47 and indicated that he and Rademaker are the first and second inventors, respectively, in this case. Lee filed the Request to Revoke the attorney or agent of record under 37 C.F.R. 1.36(a) to prevent further actions by McDermott Will & Emery LLP on behalf of Komipharm and indicated that he does not consent to the actions of Komipharm in this application. Also, Lee indicates that he can be reached at 2746 W. 235th Street, #9, Torrance, California 90505.

OPINION

As to the petition under §1.183:

Petitioner seeks a waiver in order to correct the typographical error in the serial number listed on the assignment filed August 17, 2005 and recorded at real 016661 and frame 0653. The cover sheet error was corrected and the assignment was recorded on July 20, 2007 at real 019585 and frame 0319. The error in the assignment document has not been corrected.

However, circumstances resulting from petitioners', or petitioners' counsel's, failure to exercise due care, or lack of knowledge of, or failure to properly apply, the patent statutes or rules of practice are not, in any event, extraordinary circumstances where the interests of justice require the granting of relief. See, In re Tetrafluor, Inc., 17 USPQ2d 1160, 1162 (Comm'r Pats. 1990); In re Bird & Son, Inc. 195 USPQ 586, 588 (Comm'r Pats. 1977). Accordingly, a typographical error would not be an extraordinary circumstance where the interests of justice require the granting of relief under section 1.183. Moreover, extraordinary relief will not be considered where the rules of practice already provide an avenue for relief. It is brought to petitioner's attention that the USPTO will not normally consider an extraordinary remedy, when the rules already provide an avenue for obtaining the relief sought. See Cantello v. Rasmussen, 220 USPQ 664, 664 (Comm'r Pat. 1982). Here, correction could be made by way of the procedure discussed in MPEP 323.01(b). Thus, a waiver will not be granted in this circumstance.

Also, the petition fee of $400 will be charged to petitioners Deposit Account No. 50-0417, as authorized in the petition.

As to the petitions under §§1.48 and 1.47:

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition under 37 CFR §§1.47(a) and 1.48(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration and a statement of lack of deceptive intent executed by the currently 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).

If the inventive entity is set forth in error in an executed § 1.63 oath or declaration in a nonprovisional application, and such error arose without any deceptive intention on the part of the person named as an inventor in error or on the part of the person who through error was not named as an inventor, the inventorship of the nonprovisional application may be amended to name only the actual inventor or inventors.

In those instances wherein a request under 37 CFR 1.48(a) and a petition under 37 CFR 1.47 have both been filed in an application, the Office of Petitions may first issue a decision on the request under 37 CFR 1.48(a) so as to determine the appropriate oath or declaration under 37 CFR 1.63 required for the petition under 37 CFR 1.47. Every existing assignee of the original named inventors must give its consent to the requested correction. Where there is more than one assignee giving its consent, the extent of that interest (percentage) should be shown. Where no assignment has been executed by the inventors, or if deletion of a refusing inventor is requested, waiver will not be granted absent unequivocal support for the correction sought. Petitions under 37 CFR 1.47 are not applicable to the requirement for signatures from each originally named inventor on the supplemental oath or declaration.

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by:

(1) A request to correct the inventorship that sets forth the desired inventorship change;

(2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;

(3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47;

(4) The processing fee set forth in § 1.17(i); and

(5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b)).

The request under 37 CFR 1.48(a) lacks compliance with items (3) and (5).

In regard to item (3), a grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee set forth in § 1.17(g); and (4) a statement of the last known address of the non-signing inventor. The petition lacks item (1) set forth above.

The evidence of record indicates that non-signing inventor Lee has not refused to sign the declaration after having been presented with the application papers (specification, claims and drawings). Rather, the petition indicates that Lee was not contacted in this regard since such contact was assumed to be "futile" due to the strained relationship between Komipharm and Lee. Moreover, the petition filed by Lee on January 22, 2008 states on page 3 that "[j]ust because of the fact that I am in the middle of litigation with Assignee [Komipharm] in Korea, both of them [Komipharm and McDermott Will & Emery LLP] are wittingly not contacting me." This suggests that Lee has not refused to sign the declaration after having been presented with the application papers (specification, claims and drawings). Since there is no proof of record that the non-signing inventor refuses to sign the corrected declaration after having been presented with the application papers (specification, claims and drawings), the petition under 37 CFR 1.47(a) cannot be granted.

Petitioner should note that on very infrequent occasions, the requirements of 37 CFR 1.64 have been waived upon the filing of a request and the fee set forth in § 1.17(f) for a petition under 37 CFR 1.183 (along with the supplemental oath or declaration) to permit the acceptance of that supplemental oath or declaration signed by less than all the originally signing named inventors. Petitions under 37 CFR 1.47 are only applicable to the initial execution of an original oath or declaration by a given inventor and are not applicable to the reexecution of another or supplemental oath or declaration by that originally signing inventor. In such circumstances, the USPTO will consider a petition under 37 CFR 1.183 requesting waiver of the requirement of 37 CFR 1.64 that each of the actual inventors execute the supplemental oath or declaration, particularly where assignee consent is given to the requested correction. Absent assignee

consent, the petition under 37 CFR 1.183 requesting waiver of the reexecution of the oath or declaration will be evaluated as to whether the nonsigning inventor was actually given the opportunity to reexecute the oath or declaration, or whether the nonsigning inventor could not be reached. In essence, petitioner must show that the inability to again obtain the signature statement from originally signing inventor Sang Bong Lee is, notwithstanding the exercise of reasonable care and diligence, due to circumstances beyond his control.

In regard to item (5), the statement under 3.73(b) in support of the written consent by Komipharm cites an incorrect assignment that was recorded at reel 016661 and frame 0653. Thus, the statement under 3.73(b) is incorrect and does not support the required written consent of an assignee to correct the inventorship. Moreover, the accuracy of the assignment of rights from Lee and Yang to Komipharm is not clear. Yang purportedly was not an inventor with rights to assign and the record indicates that neither Lee nor Yang understood the meaning of "inventorship" such that they would understand the rights that they were assigning. The recorded assignment of rights must be clarified on this record before Komipharm may prosecute this application as an assignee under 37 CFR 3.71.

Also, the petition fees of $130.00 and $200.00, for the petitions under §§1.48 and 1.47 respectively, will be charged to petitioners Deposit Account No. 50-0417, as authorized in the petitions.

As to the request under §1.36 filed October 3, 2006, resubmitted November 7 2006, and accepted January 25, 2007:

A power of attorney, pursuant to § 1.32(b), may be revoked at any stage in the proceeding of a case by an applicant for patent (§ 1.41(b)) or an assignee of the entire interest of the applicant under § 3.71(b). Fewer than all of the applicants (or by fewer than the assignee of the entire interest of the applicant) may only revoke the power of attorney upon a showing of sufficient cause, and payment of the petition fee set forth § 1.17(h). For the assignee to take action a proper statement under § 3.73(b) is required.

The request cannot be approved because the statement under 3.73(b) is not proper. The statement under 3.73(b), filed October 3, 2006 and resubmitted November 7 2006, cited an incorrect assignment that was recorded at reel 016661 and frame 0653. Thus, the statement under 3.73(b) was incorrect and did not give Komipharm the right to act at that time to revoke the then existing power of attorney and appoint new attorneys.

Accordingly the acceptance of this request on January 25, 2007 was in error and is hereby vacated.

Since the original attorneys have withdrawn from this application, there are currently no attorneys or agents of record in this application. Until the Office is otherwise properly notified, all correspondences will be mailed to the address above for McDermott Will & Emery LLP, customer number 20277, as they have since November 2006 and as indicated on the request for withdrawal filed November 28, 2006.

As to the request under § 1.36(a) and the petition under § 1.59 filed concurrently on January 22, 2008:

In regard to the power of attorney, currently there is no power of attorney to revoke. The power of attorney previously granted by Komipharm was not proper and is vacated. Also, the originally designated attorneys at Peacock, Meyers & Adams, P.C. have withdrawn from representation in this application. Thus, there are no attorneys of record in this application.

Furthermore, a power of attorney, pursuant to § 1.32(b), may be revoked at any stage in the proceeding of a case by an applicant for patent (§ 1.41(b)) or an assignee of the entire interest of the applicant under § 3.71(b). Fewer than all of the applicants (or by fewer than the assignee of the entire interest of the applicant) may only revoke the power of attorney upon a showing of sufficient cause, and payment of the petition fee set forth § 1.17(h). For the assignee to take action a proper statement under § 3.73(b) is required.

Future revocations of power of attorney must be signed by all of the inventors or, if the revocation is submitted by fewer than all of the applicants, it must include a showing of sufficient cause based on evidence rather than speculation and opinion. Similarly, future changes of address must be submitted in accordance with 37 CFR § 1.33. In addition, a properly designated assignee does have the authority to grant and revoke power of attorney in accordance with the provisions of 37 CFR §§ 1.32 and 1.36. Petitioner Lee did sign an assignment of patent rights to Komipharm, which was originally recorded with the U.S Patent and Trademark Office on August 23, 2005. While the accuracy of the assignment of rights from Lee to Komipharm is not clear due to Lee's misunderstanding of U.S. legal standards such as the meaning of "inventorship," Lee's signature on the assignment suggests that he intended to assign his rights to Komipharm.

In regard to the petition to expunge information, the petition must establish to the satisfaction of the Director that the expungement of the information is appropriate. See 37 CFR § 1.59. This was not done here. Petitioner offered speculation and personal opinion to suggest that the expungement of the petition under 37 C.F.R. § 1.47 filed on November 8, 2007 is appropriate. However, well substantiated evidence is required for such a showing. Since the inventorship of the present application remains at issue and the record fails to establish to the satisfaction of the Director that the expungement of the information is appropriate, the petition under 37 C.F.R. § 1.47 will not be expunged.

DECISION

For the reasons given above, the petition for a waiver is **dismissed**, the request for correction of inventorship is **dismissed**, the requests to revoke the attorney or agent of record are **not approved**, and the petition to expunge information is **dismissed**.

Also, the Office will not engage in double correspondence with an applicant and a patent practitioner. See 37 CFR § 1.33. While a courtesy copy of this decision is being mailed to Lee at the address provided on the Request to Revoke the attorney or agent of record filed by on January 22, 2008, all future correspondence will be directed to the address of McDermott Will & Emery LLP currently of record until appropriate instructions are received.

Any inquiries concerning this communication may be directed to Christopher Bottorff at (571) 272-6692.

David Bucci
Petitions Examiner
Office of Petitions

cc: Sang Bong Lee
2746 W. 235th Street, #9
Torrance, California 90505

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OFFICE OF PETITIONS

In re Application of :
Sang Bong Lee et al. :
Application No. 10/962,357 : DECISION ON PETITIONS
Filed: October 8, 2004 :

This is a decision on:

(1) a request under 37 C.F.R. 1.48(a), filed November 17, 2008, by a representative of Komipharm International Co., Ltd. (Komipharm) to amend the inventive entity by the addition of Bernardus Rademaker (Rademaker) and deletion of Yong Jin Yang (Yang) and Sang Bong Lee (Lee), with a petition under 37 C.F.R. 1.183 requesting a waiver of the rules to permit the deletion without the cooperation of Sang Bong Lee;

(2) a Request for Review, filed December 30, 2008 and supplemented on February 10, 2009, by Lee, opposing his deletion as inventor;

(3) a response to Lee's Request for Review, filed March 5, 2009; and

(4) a revocation of power of attorney and appointment of new attorney by an assignee under 37 C.F.R. 1.36(a) filed November 12, 2008.

After consideration of all of the papers filed by or on behalf of all parties, all petitions and requests are **dismissed**.

CORRESPONDENCE

The decision mailed September 17, 2008 clearly and unambiguously indicated that the U.S. Patent and Trademark Office (USPTO) will not engage in double correspondence with an applicant and a patent practitioner. Nonetheless, duel correspondences have been filed by Lee and Judith L. Toffenetti representing Komipharm. In order to assure that all interests are properly and effectively represented in the *ex parte* prosecution of this application, all further correspondence to the USPTO in this application, or resultant patent, must be signed by **both** Lee, or his representative, **and** a representative of Komipharm as long as Lee retains rights in the

application. In addition, any papers submitted to the USPTO in this application that do not represent all parties having an interest in the application, including Lee, will be considered papers presented for an improper purpose. See 37 C.F.R. 10.18. For example, the filing of a paper by a party in situations not authorized by the rules of practice delays the examination and processing of applications, which may cause harm to the general public if it results in the USPTO missing any one of the examination time frames specified in 35 U.S.C. §§ 154(b)(1)(A) or 154(b)(1)(B). Such a communication may adversely affect the validity or enforceability of any patent resulting from this application and may result in the USPTO referring the communication to the Office of Enrollment and Discipline for appropriate action. Any communication filed subsequent to the mailing of this decision that is not signed by **both** parties must be regarded as informal as long as Lee retains rights in the application.

BACKGROUND

On January 24, 2005, a signed declaration was filed in the present application identifying Lee and Yang as the first and second inventors, respectively. Also, on August 23, 2005, an assignment of rights from Lee and Yang to Komipharm was recorded at real 016661 and frame 0653, but incorrectly identified the application to which it corresponded as 10/962,257 rather than the present application, 10/962,357.

A petition filed on April 28, 2008 by McDermott Will & Emery LLP on behalf of Komipharm provides, on page 2, that Yang is the president of Komipharm and not an inventor in the present application as indicated on the original declaration and assignment recorded at real 016661 and frame 0653. This petition attempted to correct the inventorship through the deletion of Yang and addition of Rademaker such that the inventive entity would be recognized as Rademaker and Lee as the first and second inventors, respectively. A decision dismissing this petition was mailed on September 17, 2008.

The request under 37 C.F.R. 1.48(a), filed November 17, 2008, desires to now delete Yang and Lee entirely and set forth Rademaker as the sole inventor. Lee opposes his deletion as inventor.

OPINION

As to the petition under §§ 1.48(a) and 1.183:

37 C.F.R. 1.48(a) requires that an amendment to the named inventive entity be accompanied by: (1) A request to correct the inventorship that sets forth the desired inventorship change; (2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part; (3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47; (4) The processing fee set forth in § 1.17(i); and (5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b)).

The petition clearly lacks the statement from Lee that the error in inventorship occurred without deceptive intention on his part. The record shows that Lee was presented with an opportunity to make such a statement but did not make the statement as he disagrees with his deletion as inventor.

Lee's refusal to make this statement cannot be remedied through a petition under 37 C.F.R. 1.47. See MPEP 201.03 II.A. On very infrequent occasions, the requirements of 37 CFR 1.48(a) have been waived upon the filing of a petition and fee under 37 C.F.R. 1.183 (along with the request and fee under 37 C.F.R. 1.48(a)) to permit the filing of a statement by less than all the parties required to submit a statement. In re Cooper, 230 USPQ 638, 639 (Dep. Assist. Comm'r Pat. 1986). However, such a waiver will not be considered unless the facts of record unequivocally support the correction sought. In re Hardee, 223 USPQ 1122, 1123 (Comm'r Pat. 1984). Here, the facts of record do not unequivocally support the correction sought since the question of inventorship between the diverse parties is vigorously contested. Furthermore, a petition under 37 C.F.R. 1.183 must show that an extraordinary situation exists in which justice requires waiver of the rules. However, there is no evidence of record showing that such an extraordinary situation exists or that justice requires the requested waiver. As 37 C.F.R. 1.48(a) is intended as a simple procedural remedy and does not represent a substantive determination as to inventorship, the numerous papers filed relating to the inventors' or alleged inventors' actual contributions to conception and reduction to practice are not appropriate for consideration in determining whether the record unequivocally supports the correction sought and do not establish that an extraordinary situation exists in which justice requires waiving the rules. Accordingly, the USPTO will not relax the requirements of 37 C.F.R. 1.48 by way of 37 C.F.R. 1.183. The petitions to amend the inventorship and for waiver are **dismissed**.

Also, while the record shows that Lee refuses to sign the declaration previously submitted with the petition under 37 C.F.R. 1.47, the inventorship is still not clear such that the substitute declaration filed November 9, 2007 complies with 25 U.S.C. §§ 115 and 116. That decleration identified both Lee and Rademaker as joint inventors. However, petitioner now contends that Lee is not an inventor at all and that Rademaker is the sole inventor. If Rademaker is the sole inventor, then the declaration filed November 9, 2007 would not comply with 25 U.S.C. §§ 115 and 116 and the renewed petition under 37 C.F.R. 1.47 can not be granted. Since the various requests to amend inventorship involved the identification of distinct inventive entities, they are recognized as separate and distinct requests.

Generally, an available remedy to obtain correction of inventorship where waiver of a required statement is not available to correct the inventorship in a particular application is to refile the application naming the correct inventive entity. See MPEP 201.03 II.A. A request under 37 CFR 1.48(a) would not then be required in the newly filed application as no correction would be needed. However, where, as here, the original named inventors are to be deleted and a new inventor is to be added, the benefit of the parent application's filing date would not be available under 35 U.S.C. 120. Since numerous documents are now available that were not available at the time of filing the instant application, including U.S. Patent Application Publication No. 2005/0106262, prior art exists that could be applied under 35 U.S.C. §§ 102 and 103 against a refilled application. Moreover, as Yang is the president of Komipharm and agrees that he is not an inventor in the present application, the application cannot be refilled in his name so as to

obtain priority under 35 U.S.C. 120. Therefore, merely refiling the application is not an available remedy to obtain the correction sought. Any renewed petition under §1.48 that attempts to delete Lee as an inventor must include a statement from Lee that the error in inventorship occurred without deceptive intention on his part. Absent such a statement from Lee, he will not be deleted as an inventor in the instant application under §1.48.

As to the request under §1.36 filed November 12, 2008:

A power of attorney, pursuant to § 1.32(b), may be revoked at any stage in the proceeding of a case by an applicant for patent (§ 1.41(b)) or an assignee of the entire interest of the applicant under § 3.71(b). Fewer than all of the applicants (or by fewer than the assignee of the entire interest of the applicant) may only revoke the power of attorney upon a showing of sufficient cause, and payment of the petition fee set forth § 1.17(h).

Petitioner asserts that Lee assigned his entire right, title, and interest in the instant application to Komipharm, and Komipharm possesses the entire right, title, and interest in the instant application such that it may act under § 3.71. However, the record does not support this assertion.

The application as filed named Lee and Yang as inventors. Inventorship is the starting point for determining ownership. See University Patents, Inc. v. Kligman, 762 F.Supp. 1212, 1218-19, 20 USPQ2d 1401, 1405 (E.D. Pa. 1991). Unless there is an assignment, the USPTO will presume the named inventor(s) to be the owner(s), see 37 C.F.R. 3.73(a). Also, while documents may be characterized as "assignments" and recorded with the USPTO under 37 C.F.R. 3.11, the recording of a document with the USPTO is not a determination by the Office of the validity of the document or the effect that document has on the title to an application, a patent, or a registration. See 37 C.F.R. 3.54. That is, the recording of a document with the USPTO is merely a ministerial act and not an Office determination of the effect of the assignment document on the ownership of the patent property. When necessary, the Office will determine what effect a document has, including whether a party has the authority to take an action in a matter pending before the Office. See 37 C.F.R. 3.54. Here, the "assignment" documents recorded with the USPTO, which allegedly show the transfer of Lee's entire right, title, and interest in the instant application to Komipharm, have been carefully considered along with the evidence submitted in the petition filed November 17, 2008 to determine if Komipharm has the authority to act as an assignee in the instant application. Komipharm does not have such authority.

The petition offers an agreement made between Komipharm, Yang and Lee on May 16, 2005 [Exhibit 3 of the November 17, 2008 petition] as evidence of the transfer of all of Lee's rights to Komipharm. This agreement shows, among other things, that Komipharm, Yang and Lee are co-owners of any intellectual property resulting from the subject invention (section 3 (1) and (2)) and that Yang and Lee only delegated to Komipharm the power to dispose of the products (e.g.: intellectual property) related to the invention, including the grant of a license to a third party (section 4 (2)). This agreement merely establishes a business relationship between Komipharm, Yang and Lee in which each of Yang and Lee had a one-third ownership interest in the invention. Also, since the delegation by Yang and Lee to Komipharm of the power to dispose of

the products (e.g.: intellectual property) related to the invention is not a transfer of ownership, neither Yang nor Lee delegated an ownership interest by this agreement.

The petition further offers a letter of confirmation from Komipharm to Lee, signed August 11, 2005, [Exhibit 5 of the November 17, 2008 petition] as evidence that Lee bargained for and received consideration for the assignment of his ownership rights to Komipharm before signing the assignment of the instant application. However, this letter, as translated, expressly states that "On May 16, 2005, 'B' (Yang) and 'C' (Lee) entered into an agreement by which 'B' (Yang) and 'C' (Lee) gave to 'A' (Komipharm) the power to dispose of patent rights for Kominox. The contents of the assignment agreement currently requested for the U.S. Patent Office is in line with the above agreement. ... The old agreement continues to be valid and effective even after 'B' (Yang) and 'C' (Lee) assign the applicantship to 'A' (Komipharm) for the U.S. patent application." Rather than addressing consideration as petitioner contends, this letter confirmed that Lee retained his ownership interest, as previously agreed, and merely gave to Komipharm the power to dispose of patent rights for the invention recognized as Kominox.

None of the documents recorded in the USPTO for the instant application establish that Lee transferred his entire right, title, and interest in the instant application to Komipharm. Accordingly, Komipharm is not currently the assignee of the entire right, title, and interest in the instant application. Moreover, as petitioner has consistently identified Yang as the president of Komipharm and not an inventor in the present application, and rights to a patent application are assigned first by inventors, Yang did not have the rights of an inventor to assign to Komipharm. Therefore, the record does not show that Komipharm is currently an assignee with the right to act in the instant application. The request under §1.36 cannot be approved because the statement by Komipharm under 3.73(b) is not proper and does not give Komipharm the right to act to appoint new attorneys.

As to the dispute between Lee and Komipharm:

Only the owner of the *entire* interest in an application has the sole right to control prosecution of an application. See In re Goldstein, 16 USPQ2d 1963, 1964 (Comm'r Pat. 1988; see also In re Scold, 195 USPQ 335, 335 (Comm'r Pat. 1976); Ex parte Harrison, 1925 Dec. Comm'r Pat. 122, 123 (Comm'r Pat. 1924). The procedures set forth in the regulations (e.g., 37 C.F.R. §§ 1.36, 3.71 and 3,73(b)) serve to assure that papers filed with the USPTO in an application or patent are submitted on behalf of the owner(s) of the *entire* interest in the application or patent. See Goldstein, 16 USPQ2d at 1964. Accordingly, it would also be contrary to intent of the regulations to permit Komipharm, *ex parte,* to unilaterally extinguish the property rights that Lee currently has in this application. Lee, as an originally named inventor, currently has a property right in this application that can be canceled, revoked, or annulled *only* by proceedings that afford due process of law. Iowa State University Research Foundation v. Sperry Rand Corp., 444 F.2d. 406, 410, 170 USPQ 374,377 (4th Cir. 1971). An *ex parte* proceeding in the USPTO is *not* the appropriate forum for the contested extinction of a property right in an application. See Baker Hughes, Inc. v. Kirk, 921 F.Supp. 801 (D.D.C. 1995). That is especially so in, as here, the presence of the express objection of the party whose interest(s) is being extinguished. Id.; In re Hardee, 223 USPQ 1122 (Comm'r.Pat. 1984). Since not all of the original inventors are in

agreement, no one side can reasonably expect or be permitted to control the prosecution of this application to the exclusion of the other.

Also, it is well settled that the USPTO is not the appropriate forum for resolving a dispute concerning the ownership of an application, and, as such, the USPTO will not permit itself to become embroiled in ownership disputes. See, Ex Parte Harrison, 1925 Dec. Comm'r Pat. 122, 123 (Comm'r Pat. 1924); In re Moiler, 1904 Dec. Comm'r Pat. 70, 71 (Comm'r Pat. 1904); Ex Parte McTammany, 1900, 168, 181 (Comm'r Pat. 1900); Ex Parte McFarlane, 1896 Dec. Comm'r Pat. 37, 38 (Comm'r Pat. 1896); Ex Parte Gallatin, 1892 Dec. Comm'r Pat 106 (Comm'r Pat. 1892). Furthermore, in circumstances as herein, the USPTO seeks to preserve the rights of all parties to the extent it is able. See Rainer v. McPhail, 1899 C.D. 196, 197 (Comm'r Pat: 1899). Therefore, any ownership disputes between Lee and Komipharm should be brought to a proper forum.

DECISION

For the reasons given above, all of the papers filed by or on behalf of all parties, all petitions and requests are **dismissed**.

Deposit Account 50-0417 has been charged the fees under 37 C.F.R. §§ 1.17(i) and 1.17(f) as authorized by petitioner for consideration of the petitions under 37 C.F.R. §§ 1.48 and 1.183.

Any inquiries concerning this communication may be directed to Christopher Bottorff at (571) 272-6692.

David Bucci
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON, DC 20005-3096

In re Application of :
Sang Bong Lee et al. :
Application No. 10/962,357 : DECISION ON PETITIONS
Filed: October 8, 2004 :

This is a decision on the petition, filed April 6, 2009 and supplemented May 12, 2009 under 37 C.F.R. 1.181(a)(3) requesting that the Director exercise his supervisory authority and designate the March 5, 2009 petition decision a final agency decision for the purposes of judicial review and reverse the conclusion in the March 5, 2009 decision regarding ownership of the above-referenced application.

The petition is **DENIED**[1].

BACKGROUND

On January 24, 2005, a signed declaration was filed in the present application identifying Sang Bong Lee (Lee) and Yong Jin Yang (Yang) as the first and second inventors, respectively. Also, on August 23, 2005, an assignment of rights from Lee and Yang to Komipharm International Co., Ltd. (Komipharm) was recorded at reel 016661 and frame 0653, but incorrectly identified the application to which it applies as 10/962,257 rather than the present application, 10/962,357.

A petition filed on April 28, 2008 by McDermott Will & Emery LLP on behalf of Komipharm provides, on page 2, that Yang is the president of Komipharm and not an inventor in the present application as indicated on the original declaration and assignment recorded at reel 016661 and frame 0653. This petition attempted to correct the inventorship through the deletion of Yang and addition of Bernardus Rademaker (Rademaker) such that the inventive entity would be recognized as Rademaker and Lee as the first and second inventors, respectively. A decision dismissing this petition was mailed on September 17, 2008.

On November 12, 2008, Komipharm filed a revocation of power of attorney and appointment of new attorney by an assignee under 37 C.F.R. 1.36(a).

A request under 37 C.F.R. 1.48(a), filed November 17, 2008, desired to delete Yang and Lee entirely and set forth Rademaker as the sole inventor. This request was accompanied by a

petition under 37 C.F.R. 1.183 requesting a waiver of the rules to permit the deletion without the cooperation of Lee. Lee opposes his deletion as inventor.

On March 5, 2009, the request under 37 C.F.R. 1.48(a) was dismissed along with the petition under 37 C.F.R. 1.183 requesting a waiver of the rules to permit the deletion without the cooperation of Lee. The March 5, 2009 decision also prevented Komipharm from revoking the power of attorney and appointing a new attorney under 37 C.F.R. 1.36(a).

The petition requesting that the Director exercise his supervisory authority was then filed.

STATUTE, REGULATION, AND EXAMINING PROCEDURE

35 U.S.C. (2)(B)(2) provides, in part, that:

> The Office-- may, establish regulations, not inconsistent with law, which
>
> (A) shall govern for the conduct of proceedings in Office.

35 U.S.C. 116 provides, in part, that:

> Whenever through error a person is named in an application for patent as the inventor, or through an error an inventor is not named in an application, and such error arose without any deceptive intention on his part, the Director may permit the application to be amended accordingly, under such terms as he prescribes.

37 C.F.R. 1.48(a) provides that:

> If the inventive entity is set forth in error in an executed § 1.63 oath or declaration in a nonprovisional application, and such error arose without any deceptive intention on the part of the person named as an inventor in error or on the part of the person who through error was not named as an inventor, the inventorship of the nonprovisional application may be amended to name only the actual inventor or inventors. Amendment of the inventorship requires:
> (1) A request to correct the inventorship that sets forth the desired inventorship change;
> (2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;
> (3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47;
> (4) The processing fee set forth in § 1.17(i); and
> (5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

37 C.F.R. 1.183 provides that:

> In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(f).

37 C.F.R. 3.54 provides that:

> The recording of a document pursuant to § 3.11 is not a determination by the Office of the validity of the document or the effect that document has on the title to an application, a patent, or a registration. When necessary, the Office will determine what effect a document has, including whether a party has the authority to take an action in a matter pending before the Office.

37 C.F.R. 3.71(b) provides that:

> The assignee(s) who may conduct either the prosecution of a national application for patent or a re-examination proceeding are:
> (1) *A single assignee*. An assignee of the entire right, title and interest in the application or patent being reexamined who is of record, or
> (2) *Partial assignee(s) together or with inventor(s)*. All partial assignees, or all partial assignees and inventors who have not assigned their right, title and interest in the application or patent being reexamined, who together own the entire right, title and interest in the application or patent being reexamined. A partial assignee is any assignee of record having less than the entire right, title and interest in the application or patent being reexamined.

37 C.F.R. 1.36(a) provides in pertinent part that:

> ... the assignee of the entire interest of the applicant may revoke previous powers of attorney and give another power of attorney of the assignee's own selection as provided in § 1.32(b).

The Manual of Patent Examining Procedure (MPEP) 2301 provides in pertinent part that:

> An interference is a contest under 35 U.S.C. 135(a) between an application and either another application or a patent. An interference is declared to assist the Director of the United States Patent and Trademark Office in determining priority, that is, which party first invented the commonly claimed invention within the meaning of 35 U.S.C. 102(g)(1).

OPINION

Petitioner asserts that 37 CFR 1.48 was not applied correctly and, in any event, an extraordinary situation exists for a waiver of 37 CFR 1.48 under 37 CFR 1.183. Also, petitioner requests that

the March 5, 2009 petition decision be designated as a final agency decision so that Petitioner may seek judicial review of that decision under the APA with the desire of having the substantive issue of inventorship determined. After reconsideration, the decision of March 5, 2009 is maintained.

35 U.S.C. 116 is not so liberal that it provides for the resolution of inventorship disputes by way of petition and the protections afforded by 37 C.F.R. 1.48 are consistent with that statute, contrary to petitioner's contention. Since the provisions of 37 C.F.R. 1.48 should not be casually cast aside through a waiver under 37 C.F.R. 1.183, the requirements of 37 C.F.R. 1.48(a) must be satisfied before inventorship will be changed absent an extraordinary circumstance supporting the waiver.

In particular, 37 C.F.R. 1.48(a) requires that an amendment to the named inventive entity be accompanied by: (1) A request to correct the inventorship that sets forth the desired inventorship change; (2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part; (3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47; (4) The processing fee set forth in § 1.17(i); and (5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b)).

The petition filed November 17, 2008 clearly lacks the statement from Lee that the error in inventorship occurred without deceptive intention on his part. The record shows that Lee was presented with an opportunity to make such a statement but did not make the statement as he disagrees with his deletion as inventor.

Lee's refusal to make this statement cannot be remedied through a petition under 37 C.F.R. 1.47. See MPEP 201.03 II.A. On very infrequent occasions, the requirements of 37 C.F.R. 1.48(a) have been waived upon the filing of a petition and fee under 37 C.F.R. 1.183 (along with the request and fee under 37 C.F.R. 1.48(a)) to permit the filing of a statement by less than all the parties required to submit a statement. In re Cooper, 230 USPQ 638, 639 (Dep. Assist. Comm'r Pat. 1986). However, such a waiver will not be considered unless the facts of record unequivocally support the correction sought. In re Hardee, 223 USPQ 1122, 1123 (Comm'r Pat. 1984). Here, the facts of record do not unequivocally support the correction sought since the question of inventorship between the diverse parties is vigorously contested.

Furthermore, a petition under 37 C.F.R. 1.183 must show that an extraordinary situation exists in which justice requires waiver of the rules. However, there is no evidence of record showing that such an extraordinary situation exists or that justice requires the requested waiver. The numerous documents and explainations of record establish that a dispute exists, but do not present a conclusive determination on inventorship that establishes an extraordinary situation. For example, the record does not include a decision regarding inventorship from an appropriate forum. Petitioner should note that disputes regarding inventorship may be addressed by the USPTO through an interference proceeding before the Board of Patent Appeals and Interferences. See MPEP 2301. Such a dispute cannot be resolved by petition under 37 C.F.R. 1.48(a). As 37 C.F.R. 1.48(a) is intended as a simple procedural remedy and does not represent a

substantive determination as to inventorship, the numerous papers filed relating to the inventors' or alleged inventors' actual contributions to conception and reduction to practice are not appropriate for consideration in this *ex parte* proceeding in determining whether the record unequivocally supports the correction sought. Accordingly, the USPTO will not relax the requirements of 37 C.F.R. 1.48 by way of petition under 37 C.F.R. 1.183.

Petitioner further challenges the alleged determination that Komipharm is not currently the *owner* of the entire right, title, and interest in the instant application based upon the assignment documents filed. However, the decision of March 5, 2009 never made a determination of ownership. As noted in the decision, "while documents may be characterized as 'assignments' and recorded with the USPTO under 37 C.F.R. 3.11, the recording of a document with the USPTO is not a determination by the Office of the validity of the document or the effect that document has on the title to an application, a patent, or a registration. See 37 C.F.R. 3.54. That is, the recording of a document with the USPTO is merely a ministerial act and not an Office determination of the effect of the assignment document on the ownership of the patent property." Rather, the "assignment" documents recorded with the USPTO were considered to determine the extent to which Komipharm may take action in the application pursuant to 37 C.F.R. 3.54, and the determination was made that Komipharm may not act as assignee of the entire right, title, and interest in the instant application.

The determination that Komipharm may not act as assignee of the entire right, title, and interest in the instant application has been reconsidered and is maintained. The record offers an agreement made between Komipharm, Yang and Lee on May 16, 2005 [Exhibit 3 of the November 17, 2008 petition] as evidence of the transfer of all of Lee's rights to Komipharm. This agreement shows, among other things, that Komipharm, Yang and Lee are co-owners of any intellectual property resulting from the subject invention (section 3 (1) and (2)) and that Yang and Lee only delegated to Komipharm the power to dispose of the products (e.g.: intellectual property) related to the invention, including the grant of a license to a third party (section 4 (2)). This agreement merely establishes a business relationship between Komipharm, Yang and Lee in which each of Yang and Lee had a one-third ownership interest in the invention. Also, since the delegation by Yang and Lee to Komipharm of the power to dispose of the products (e.g.: intellectual property) related to the invention is not a transfer of ownership, neither Yang nor Lee delegated an ownership interest by this agreement.

The record further offers a letter of confirmation from Komipharm to Lee, signed August 11, 2005, [Exhibit 5 of the November 17, 2008 petition] as evidence that Lee bargained for and received consideration for the assignment of his ownership rights to Komipharm before signing the assignment of the instant application. However, this letter, as translated, expressly states that "On May 16, 2005, 'B' (Yang) and 'C' (Lee) entered into an agreement by which 'B' (Yang) and 'C' (Lee) gave to 'A' (Komipharm) the power to dispose of patent rights for Kominox. The contents of the assignment agreement currently requested for the U.S. Patent Office is in line with the above agreement. ... The old agreement continues to be valid and effective even after 'B' (Yang) and 'C' (Lee) assign the applicantship to 'A' (Komipharm) for the U.S. patent application." Rather than addressing consideration, this letter confirmed that Lee retained his ownership interest, as previously agreed, and merely gave to Komipharm the power to dispose of patent rights for the invention recognized as Kominox.

None of the documents recorded in the USPTO for the instant application establish that Lee transferred his entire right, title, and interest in the instant application to Komipharm. Accordingly, the recorded documents do not show that Komipharm is the assignee of the entire right, title, and interest in the instant application. Moreover, the record identifies Yang as the president of Komipharm and not an inventor in the present application, and rights to a patent application are assigned first by inventors. Yang did not have the rights of an inventor to assign to Komipharm. Therefore, the record does not show that Komipharm is currently an assignee with the right to act in the instant application. Komipharm cannot act as the assignee with the entire right, title, and interest in the instant application to revoke a power of attorney and appointment a new attorney under 37 C.F.R. 1.36.

DECISION

The Decision on Petition mailed March 5, 2009 is maintained as set forth above. The petition is granted to the extent that the decision of March 5, 2009 has been reviewed, but is denied with respect to making any change therein. The petition is **denied**.

Charles Pearson
Director, Office of Petitions

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[1] This decision is a final agency action within the meaning of 5 U.S.C. § 704 for purposes of obtaining judicial review. See MPEP 1002.02.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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MCDERMOTT WILL & EMERY LLP
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WASHINGTON, DC 20005-3096

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OFFICE OF PETITIONS

In re Application of :
Sang Bong Lee et al. :
Application No. 10/962,357 : DECISION ON PETITIONS
Filed: October 8, 2004 :

This is a decision on the petition under 37 CFR 1.103, filed November 20, 2009, requesting suspension of action by the Office in the above-identified application for six months, with a waiver under 37 CFR 1.183 of the requirement that the Office will not suspend action if a reply by applicant to an Office action is outstanding. In the alternative, the petition requests withdrawal of the June 3, 2009 Non-Final Office action. This is also a petition under 37 CFR 1.182, filed November 20, 2009, to expedite the petition under 37 CFR 1.103.

The petition to withdraw the June 3, 2009 Non-Final Office action is **granted**.

The requirements of 37 CFR 1.182 to expedite the petition to suspend action have been satisfied. Accordingly, the petition to suspend action has been processed promptly.

After careful review of the prosecution history, the Office has determined that the June 3, 2009 Non-Final Office Action only responded to the amendment filed April 4, 2008 filed on behalf of Komipharm International Co., Ltd. (Komipharm) and did not address the amendment filed January 30, 2008 by Sang Bong Lee (Lee). This is contrary to the Decision on Petitions mailed March 5, 2009 which required consideration of all parties having an interest in the application. Accordingly, the Non-Final Office action mailed June 3, 2009 is hereby withdrawn. Currently, none of the parties are obligated to respond to an Office action.

In regard to the requested suspension of action, the Office will not suspend action if a reply by applicant to an Office action is outstanding. See 37 CFR 1.103; see also 35 USC 133. However, the Office action has been withdrawn by this decision. Therefore, action in this application is suspended until further notice.

The fee of $200.00 for the petition under 37 CFR 1.103 and the fee of $400.00 for the petition to expedite consideration of the petition under 37 CFR 1.103 has been assessed to petitioners Deposit Account as authorized.

Any inquiries concerning this communication may be directed to Anthony Knight at (571) 272-3687.

Robert Bahr
Associate Commissioner for Patent
Examination Policy, Acting

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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APR 23 2010

OFFICE OF PETITIONS

MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON, DC 20005-3096

In re Application of :
Sang Bong Lee et al. :
Application No. 10/962,357 : DECISION ON PETITION
Filed: October 8, 2004 :

This is a decision on the renewed petition, filed February 12, 2010, under 37 C.F.R. 1.181(a)(3) requesting that the Director reconsider the Decision on Petitions mailed October 27, 2009 and exercise his supervisory authority to find that Komipharm International Co., Ltd. (Komipharm) is:

1. the owner of the entire, right, title, and interest in the instant application and

2. entitled to control the application's prosecution.

The petition is **DENIED**.[1]

BACKGROUND

On January 24, 2005, a signed declaration was filed in the present application identifying Sang Bong Lee (Lee) and Yong Jin Yang (Yang) as the first and second inventors, respectively. Also, on August 23, 2005, an assignment of rights from Lee and Yang to Komipharm was recorded at reel 016661 and frame 0653, but incorrectly identified the application to which it applies as 10/962,257 rather than the present application, 10/962,357.

A petition filed on April 28, 2008 by McDermott Will & Emery LLP on behalf of Komipharm provides, on page 2, that Yang is the president of Komipharm and not an inventor in the present application as indicated on the original declaration and assignment recorded at reel 016661 and frame 0653. This petition attempted to correct the inventorship through the deletion of Yang and addition of Bernardus Rademaker (Rademaker) such that the inventive entity would be recognized as Rademaker and Lee as the first and second inventors, respectively. A decision dismissing this petition was mailed on September 17, 2008.[2]

On November 12, 2008, Komipharm filed a revocation of power of attorney and appointment of new attorney by an assignee under 37 C.F.R. 1.36(a).

A request under 37 C.F.R. 1.48(a), filed November 17, 2008, desired to delete Yang and Lee entirely and set forth Rademaker as the sole inventor. This request was accompanied by a petition under 37 C.F.R. 1.183 requesting a waiver of the rules to permit the deletion without the cooperation of Lee. Lee opposes his deletion as inventor.

On March 5, 2009, the request under 37 C.F.R. 1.48(a) was dismissed along with the petition under 37 C.F.R. 1.183 requesting a waiver of the rules to permit the deletion without the cooperation of Lee. The March 5, 2009 decision also prevented Komipharm from revoking the power of attorney and appointing a new attorney under 37 C.F.R. 1.36(a).

A petition requesting that the Director exercise his supervisory authority was filed April 6, 2009 and supplemented May 12, 2009. A final agency decision denying this petition was mailed October 27, 2009.

Suit was then brought against the USPTO by Komipharm under the Administrative Procedure Act (APA) in the U.S. District Court for the Eastern District of Virginia, Civil Action No. 1:09-cv-1332. On January 26, 2010, the court, upon request by the parties to that action, ordered the remand of that action to the USPTO for further administrative proceedings.

A renewed request for reconsideration was filed on February 12, 2010 and included supplemental materials for consideration. Among these materials was disclosure of an on-going California state action between Komipharm and Lee et al., case no. BC417818, in which numerous issues were raised including ownership of the right, title and interest in certain Intellectual Property. The instant application presents such Intellectual Property.

STATUTE, REGULATION, AND EXAMINING PROCEDURE

35 U.S.C. 2(b) provides, in part, that:

> The Office–
> (2)may, establish regulations, not inconsistent with law, which-
> (A) shall govern for the conduct of proceedings in the Office.

35 U.S.C. 261 provides, in part, that:

> Applications for patent, patents, or any interest therein, shall be assignable in law by an instrument in writing. The applicant, patentee, or his assigns or legal representatives may in like manner grant and convey an exclusive right under his application for patent, or patents, to the whole or any specified part of the United States.

37 C.F.R. 1.48(a) provides that:

> If the inventive entity is set forth in error in an executed § 1.63 oath or declaration in a nonprovisional application, and such error arose without any deceptive intention on the

part of the person named as an inventor in error or on the part of the person who through error was not named as an inventor, the inventorship of the nonprovisional application may be amended to name only the actual inventor or inventors. Amendment of the inventorship requires:
(1) A request to correct the inventorship that sets forth the desired inventorship change;
(2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;
(3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47;
(4) The processing fee set forth in § 1.17(i); and
(5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

37 C.F.R. 3.1 provides, in part, that:

Assignment means a transfer by a party of all or part of its right, title and interest in a patent, patent application, registered mark or a mark for which an application to register has been filed.

37 C.F.R. 3.54 provides that:

The recording of a document pursuant to § 3.11 is not a determination by the Office of the validity of the document or the effect that document has on the title to an application, a patent, or a registration. When necessary, the Office will determine what effect a document has, including whether a party has the authority to take an action in a matter pending before the Office.

37 C.F.R. 3.71(b) provides that:

The assignee(s) who may conduct either the prosecution of a national application for patent or a re-examination proceeding are:
(1) *A single assignee*. An assignee of the entire right, title and interest in the application or patent being reexamined who is of record, or
(2) *Partial assignee(s) together or with inventor(s)*. All partial assignees, or all partial assignees and inventors who have not assigned their right, title and interest in the application or patent being reexamined, who together own the entire right, title and interest in the application or patent being reexamined. A partial assignee is any assignee of record having less than the entire right, title and interest in the application or patent being reexamined.

37 C.F.R. 1.36(a) provides in pertinent part that:

... the assignee of the entire interest of the applicant may revoke previous powers of attorney and give another power of attorney of the assignee's own selection as provided in § 1.32(b).

OPINION

Petitioner challenges the alleged determination that Komipharm is not currently the owner of the entire right, title, and interest in the instant application based upon the assignment document filed. However, the decision of March 5, 2009 never made a determination of ownership, and this decision is not a determination of ownership. A decision on ownership must be made by a proper forum, such as in the on-going litigation in California between Komipharm and Lee et al. It is well settled that state law governs contractual obligations and transfers of property rights, including those relating to patents. See Regents of the University of New Mexico v. Knight, 66 USPQ2d 1001, 1008 (Fed. Cir. 2003). The USPTO cannot settle disputes as to title because a judicial tribunal is the appropriate forum to resolve such controversy. See Jim Arnold Corp. v. Hydrotech Sys., Inc., 109 F.3d 1567, 1572, 42 USPQ2d 1119, 1123 (Fed. Cir. 1997) ("the question of who owns the patent right and on what terms typically is a question exclusively for state courts"); Roach v. Crouch, 24 N.W.2d 400, 33 USPQ2d 1361 (Iowa 1994) (patent ownership issue properly triable in state court); In re Haines, 1900 C.D. 102, 103 (Comm'r Pat. 1900). In fact, the Office has no authority to decide ownership issues. See Cedars-Sinai Medical Center v. Watkins, 11 F.3d. 1573, 1581 n.10, 29 USPQ2d 1188, 1194 n.10 (Fed. Cir. 1993), cert. denied, 512 U.S. 1235 (1994).

As noted in the decision of March 5, 2009, "while documents may be characterized as 'assignments' and recorded with the USPTO under 37 C.F.R. 3.11, the recording of a document with the USPTO is not a determination by the Office of the validity of the document or the effect that document has on the title to an application, a patent, or a registration." See 37 C.F.R. 3.54. That is, the recording of a document with the USPTO is merely a ministerial act and not an Office determination of the effect of the assignment document on the ownership of the patent property. Id. Rather, the "assignment" documents recorded with the USPTO were considered to determine the extent to which Komipharm may take action in the application pursuant to 37 C.F.R. 3.54, and the determination was made that Komipharm may not act as assignee of the entire right, title, and interest in the instant application as a result of the ongoing ownership dispute. See id. ("When necessary, the Office will determine what effect a document has [on the title to an application, a patent, or a registration], including whether a party has the authority to take an action in a matter pending before the Office." (emphasis added))

The determination that Komipharm lacks the authority to take action in this application has been reconsidered and is maintained. Lee and Yang executed a purported assignment of their rights, title and interest in the above-identified application on August 11, 2005 and August 10, 2005 respectively, which document was recorded with the USPTO and is relied upon by Komipharm as the sole "dispositive evidence" by which it may act as assignee. See February 12, 2010 petition, at 6. The Office determines that the document does not have the "effect" of bestowing on Komipharm "the authority take an action in" the subject application. 37 C.F.R. 3.54.

Although this document was executed by Lee and Yang, the accuracy of the assignment of rights from Lee and Yang to Komipharm is not clear. As an initial matter, Komipharm's renewed petition asserts to the Office that petitioner "is the owner of the entire right, title, and interest" in

the application, see February 12, 2010 petition, at 7, and "is irrefutably the owner of all rights in the invention disclosed and claimed in the subject application," see November 17, 2008 petition (renewed by February 12, 2010 petition), at 5 (first emphasis added). But elsewhere in presently pending state court proceedings, Komipharm admits that the ownership rights are not clear and requires "a judicial determination" to settle the cloud on the ownership rights. See February 12, 2010 petition, Supp. Material, Komipharm Cross-Compl. at p. 11. In other words, it appears that petitioner has conceded, in a state judicial tribunal that is the only appropriate forum for settling such ownership disputes, see Jim Arnold Corp., 109 F.3d at 1572, that the Office's decision on the renewed petition is correct: The ownership rights in the application are under a cloud that can only be settled by a state judicial determination, rendering Komipharm without the right to prosecute the application. See 37 C.F.R. 3.54 & 3.71(b).

Komipharm has asserted that neither Lee nor Yang were inventors of the above-identified application. But see supra note 2. However, if they were not inventors, neither would have an interest in the above-identified application that could be assigned to Komipharm. See 35 U.S.C. 261 and 37 C.F.R. 3.1. Also, a petition was filed November 9, 2007 under 37 C.F.R. 1.47 to submit a declaration that Lee refused to sign in support of Komipharm's initial efforts to change the inventorship of the above-identified application under 37 C.F.R. 1.48. In that petition Komipharm indicated that neither Lee nor Yang understood the meaning of "inventorship." This suggests that neither Lee nor Yang would understand the rights that they were assigning to Komipharm even if they were inventors. Therefore, neither Lee nor Yang clearly and unambiguously assigned the interests of an inventor to Komipharm based on the recorded assignment document. Accordingly, other evidence pertaining to the assignment has appropriately been considered in connection with the question of whether Komipharm has the authority to take action in this application pursuant to 37 C.F.R. 3.54.

The record offers an agreement made between Komipharm, Yang and Lee on May 16, 2005 [Exhibit 3 of the November 17, 2008 petition] as evidence of the transfer of all of Lee's rights to Komipharm. This agreement shows, among other things, that Komipharm, Yang and Lee are co-owners of any intellectual property resulting from the subject invention (section 3 (1) and (2)) and that Yang and Lee only delegated to Komipharm the power to dispose of the products (e.g.: intellectual property) related to the invention, including the grant of a license to a third party (section 4 (2)). This agreement appears to establish a business relationship between Komipharm, Yang and Lee in which each of Yang and Lee had a one-third ownership interest in the invention. Also, since the delegation by Yang and Lee to Komipharm of the power to dispose of the products (e.g.: intellectual property) related to the invention is not a transfer of ownership, neither Yang nor Lee appear to delegated an ownership interest by this agreement.

The record additionally offers a letter of confirmation from Komipharm to Lee, signed August 11, 2005, [Exhibit 5 of the November 17, 2008 petition] as evidence that Lee bargained for and received consideration for the assignment of his ownership rights to Komipharm before signing the assignment of the instant application. However, this letter, as translated, expressly states that "On May 16, 2005, 'B' (Yang) and 'C' (Lee) entered into an agreement by which 'B' (Yang) and 'C' (Lee) gave to 'A' (Komipharm) the power to dispose of patent rights for Kominox. The contents of the assignment agreement currently requested for the U.S. Patent Office is in line with the above agreement. ... The old agreement continues to be valid and effective even after

'B' (Yang) and 'C' (Lee) assign the applicantship to 'A' (Komipharm) for the U.S. patent application." Rather than addressing consideration, this letter would appear to confirm that Lee retained his ownership interest, as previously agreed, and merely gave to Komipharm the power to dispose of patent rights for the invention recognized as Kominox.

In recounting these apparent deficiencies, the Office emphasizes that it is not determining whether any particular party maintains ownership rights in the application. Rather, the Office finds that none of the documents recorded in the USPTO for the instant application conclusively establish that Lee transferred his entire right, title, and interest in the instant application to Komipharm. Accordingly, the recorded documents do not show that Komipharm is the assignee of the entire right, title, and interest in the instant application. Instead, the documents clearly demonstrate that there is an ongoing ownership dispute over this application. As a result, the Office has determined, under 37 C.F.R. 3.54, that Komipharm lacks the authority to take action in this application. Komipharm cannot act as the assignee with the entire right, title, and interest in the instant application to revoke a power of attorney and appointment a new attorney under 37 C.F.R. 1.36 based on the current record.

The dispute over this application is now within the jurisdiction of the Superior Court of the State of California. As such, that is the tribunal before which Komipharm should properly raise its ownership arguments. As a result of that on-going litigation, action in this application remains suspended until further notice. A court decision that clearly addresses the validity of the assignment document should be promptly made of record in the above-identified application to permit the application's further prosecution.

DECISION

The Decision on Petition mailed October 27, 2009 is maintained as set forth above. The petition is granted to the extent that the decision of October 27, 2009 has been reviewed, but is denied with respect to making any change therein. The petition is **denied**. This decision is a final agency decision by USPTO.

Anthony Knight
Director, Office of Petitions

---

[1] This decision is without prejudice to petitioner. Prosecution of the instant application by petitioner may be conducted if a court determines that petitioner has ownership and assignment of the instant application.

[2] Petitioner presently challenges, the Office here addresses, the October 27, 2009 petition decision only insofar as the decision denies its request to find that petitioner has unequivocal ownership and prosecution rights in the subject application. Petitioner abandons all other challenges to the decision, and does not challenge the Office's non-acceptance of the change in inventorship in the October 27, 2009 petition decision. See February 12, 2010 petition, at 2 n.2 & 6 n.4.

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

John R. Benefiel
Suite 100 B
280 Daines Street
Birmingham MI 48009

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JUL 18 2007

OFFICE OF PETITIONS

In re Application of :
David M. Strange :
Application No. 10/962,366 : DECISION ON PETITION
Filed: October 8, 2004 :
Attorney Docket No. RBS-136 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 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 April 19, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed January 19, 2007. Accordingly, the date of abandonment of this application is April 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 and publication fee of $300.00, (2) the petition fee of $1500.00; 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

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AUG 10 2005

OFFICE OF PETITIONS

Docket Clerk
P.O. Box 802432
Dallas TX 75380

In re Application of
Tahir Rashid
Application No. 10/962,371
Filed: October 9, 2004
Attorney Docket No. STMI08-00014

REFUSAL OF STATUS UNDER
37 CFR 1.47(b)

This is in response to the petition under 37 CFR 1.47(b), filed June 17, 2005. Applicant obtained an extension of time for response within the fifth month. Accordingly, the petition is timely filed.

Applicant is given TWO (2) 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).

On October 9, 2004, applicant filed the above-identified application without an executed oath or declaration. On November 19, 2004, the Office mailed a Notice to File Missing Parts of Application to applicant, requiring, *inter alia*, an executed oath or declaration and a surcharge for its late filing. On June 17, 2005, applicant submitted the present petition, a request for an extension of time within the fifth month, and the requisite fees.

Applicant showed that applicant mailed a copy of the application papers (including drawings) and a copy of a declaration to Tahir Rashid, the non-signing inventor; however, no response was received. Applicant filed a declaration in compliance with 37 CFR 1.63 and 1.64 and demonstrated that such action is necessary to prevent irreparable damage. Additionally, applicant paid the petition fee.

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) as set forth above.

As to item (5), applicant failed to show that STMicroelectronics Limited has sufficient proprietary interest in the subject matter to justify the filing of the application. *See* MPEP 409.03(f). In the present petition, applicant stated: "This patent application claims priority to European Patent Application 03256354.6, which names STMicroelectronics Limited as the applicant." *Petition dated June 17, 2005, p. 2.* "This shows that STMicroelectronics Limited has a proprietary interest in this patent application." *Id.*

Section 408(f) of the Manual for Patent Examining Procedure states:

> If the application has been assigned, a copy of the assignment (in the English language) must be submitted. The assignment must clearly indicate that the invention described in the 37 CFR 1.47(b) application was assigned to the 37 CFR 1.47(b) applicant. A statement under 37 CFR 3.73(b) by the assignee must also be submitted (see MPEP § 324). An assignment of an application and any "reissue, division, or continuation of said application" does not itself establish an assignment of a continuation-in-part application. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956). An assignment to a 37 CFR 1.47(b) applicant for the sole purpose of obtaining a filing date for a 37 CFR1.47 (b) application is not considered an assignment within the meaning of 35 U.S.C. 118 and 37 CFR 1.47(b).
>
> When an inventor has agreed in writing to assign an invention described in an application deposited pursuant to 37 CFR 1.47(b), a copy of that agreement should be submitted. If an agreement to assign is dependent on certain specified conditions being met, it must be established by a statement of facts by someone with first hand knowledge of the circumstances in which those conditions have been met. A typical agreement to assign is an employment agreement where an employee (nonsigning inventor) agrees to assign to his or her employer (37 CFR 1.47(b) applicant) all inventions made during employment. When such an agreement is relied on, it must be established by a statement of a person having firsthand knowledge of the facts that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant.
>
> If the invention has not been assigned, or if there is no written agreement to assign, the 37 CFR 1.47(b) applicant must demonstrate that he or she otherwise has a sufficient proprietary interest in the matter. A proprietary interest obtained other than by assignment or agreement to assign 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. The facts in support of any conclusion that a court would award title to the 37 CFR 1.47(b) applicant should be made of record by way of an affidavit or declaration of the person having firsthand knowledge of same. The legal memorandum should be prepared and signed by an attorney at law familiar with the law of the jurisdiction involved. A copy (in the English language) of a statute (if other than the United States statute) or a court decision (if other than a reported decision of a federal court or a decision reported in the United States Patents Quarterly) relied on to demonstrate a proprietary interest should be made of record.

The Office records do not indicate that any assignment of the subject invention to STMicroelectronics Limited has been recorded in the USPTO. Moreover, applicant did not submit any agreement to assign the invention to STMicroelectronics Limited.

Accordingly, the petition is dismissed. Upon filing any request for reconsideration, applicant must establish that STMicroelectronics Limited has sufficient proprietary interest in the subject matter to justify the filing of the application.

Further correspondence with respect to this matter should be addressed as follows and **directed 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 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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Alexandria, VA 22313-1450
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Docket Clerk
P.O. Box 802432
Dallas TX 75380

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FEB 28 2006

OFFICE OF PETITIONS

In re Application of	:	
Tahir Rashid	:	DECISION ACCORDING STATUS
Application No. 10/962,371	:	UNDER 37 CFR 1.47(b)
Filed: October 9, 2004	:	
Attorney Docket No. STMI08-00014	:	

This is in response to the renewed petition under 37 CFR 1.47(b), filed February 14, 2006 (certificate of mailing dated February 10, 2006). Applicant obtained an extension of time for response within the fourth month. Therefore, the petition is filed timely.

Applicant showed that Tahir Rashid, the non-signing inventor, constructively refused to join in the application after applicant mailed the application papers to him. Applicant identified the inventor's last known address and indicated that such action was necessary to preserve the rights of the party. Applicant showed STMicrolectronics Limited has sufficient proprietary interest in the subject matter to justify the filing of the application through the submission of an appropriate legal memorandum, accompanied by a copy of the relevant statutes. Lastly, applicant submitted a proper declaration and paid the necessary fees.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This matter is being referred to Technology Center Art Unit 2816.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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Tahir Rashid
65 Great Hill Crescent
Maidenhead
Berkshire SL6 4RE
UNITED KINGDOM AIR MAIL

COPY MAILED

FEB 28 2006

OFFICE OF PETITIONS

In re Application of :
Tahir Rashid : LETTER
Application No. 10/962,371 :
Filed: October 9, 2004 :
Attorney Docket No. STMI08-00014 :

Dear Tahir Rashid:

You are named as a sole inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a sole 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).

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Docket Clerk
P.O. Box 802432
Dallas TX 75380

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MERCHANT & GOULD P.C.
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

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JUN 17 2005

OFFICE OF PETITIONS

In re Application of :
Peter Rehberg :
Application No. 10/962,379 : ON PETITION
Filed: October 8, 2004 :
Attorney Docket No. 08788.0042US1 :

In re Application of
Peter Rehberg
Application No. 11/005,577
Submitted: December 6, 2004
Attorney Docket No. 08788.0042US1
Title: PLATE-TYPE HEAT EXCHANGER
FOR DRYING A GASEOUS MEDIUM

This is a decision on the papers styled, "Response to 'Notice to File Missing Parts of nonprovisional Application,'" filed March 7, 2005, which has been treated as a petition under 37 CFR 1.182, to merge the above-identified application files.

Application No. 10/962,379 was deposited on October 8, 2004. However, Petitioner states:

> "On December 6, 2004 the Applicant submitted to the Office an English translation of the specification and claims for this application, including authorization to charge a deposit account to cover the filing fee, the surcharge for late submission of the declaration, and the surcharge for filing a non-English application. A certified copy of a priority document was included with that submission. The Applicant is submitting herewith a photocopy of the transmittal sheet that accompanied those documents. Those documents were submitted via Express Mail and identified the Application No. (10/962,379) of the present application.
>
> On December 29, 2004 the Applicant submitted an executed declaration and power of attorney. A copy of the transmittal accompanying that submission is also enclosed herewith.

> The undersigned believes that the Office, by mistake, misconstrued the Applicant's submission on December 6, 2004 as a new nonprovisional application, notwithstanding the transmittal identifying the application number and filing date of the present application. The postal reply card enclosed with that December 6, 2004 submission was returned by the Office bearing a new Application No. (11/005,577), instead of the customary Mail Room stamp. A copy of that as-returned postal reply card is enclosed herewith.
>
> Further, on January 28, 2005 the Office mailed a Notice of Incomplete Nonprovisional Application identifying Application No. "11/005,577" with a purported filing date of 12/06/2004. That notice states that a filing date was not accorded to the 11/005,577 application because the application was deposited without drawings. A copy of that Notice mailed January 28, 2005 is enclosed."

A review of the application files for Application Nos. 10/962,379 and 11/005,577 confirms petitioner's request.

Accordingly, the petition is GRANTED.

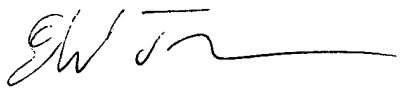
Both applications will be returned to the Office of Initial Patent Examination for merging the file of application No. 11/005,577 into the file of application No. 10/962,379, and for any correction of the Notices that have been sent therein. Thereafter, application No. 11/005,577 will no longer be an active serial number.

All future correspondence concerning this application should be directed to application No. 10/962,379.

The $395.00 filing fee, charged for application no. 11/005,577 will be transferred to application no. 10/962,379.

The petition fee has not been charged.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228.



Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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JUN 17 2005

OFFICE OF PETITIONS

In re Application of :
Peter Rehberg :
Application No. 10/962,379 : ON PETITION
Filed: October 8, 2004 :
Attorney Docket No. 08788.0042US1 :

In re Application of
Peter Rehberg
Application No. 11/005,577
Submitted: December 6, 2004
Attorney Docket No. 08788.0042US1
Title: PLATE-TYPE HEAT EXCHANGER
FOR DRYING A GASEOUS MEDIUM

This is a decision on the papers styled, "Response to 'Notice to File Missing Parts of nonprovisional Application,'" filed March 7, 2005, which has been treated as a petition under 37 CFR 1.182, to merge the above-identified application files.

Application No. 10/962,379 was deposited on October 8, 2004. However, Petitioner states:

> "On December 6, 2004 the Applicant submitted to the Office an English translation of the specification and claims for this application, including authorization to charge a deposit account to cover the filing fee, the surcharge for late submission of the declaration, and the surcharge for filing a non-English application. A certified copy of a priority document was included with that submission. The Applicant is submitting herewith a photocopy of the transmittal sheet that accompanied those documents. Those documents were submitted via Express Mail and identified the Application No. (10/962,379) of the present application.
>
> On December 29, 2004 the Applicant submitted an executed declaration and power of attorney. A copy of the transmittal accompanying that submission is also enclosed herewith.

Copied from 11005577 on 09/22/2005

> The undersigned believes that the Office, by mistake, misconstrued the Applicant's submission on December 6, 2004 as a new nonprovisional application, notwithstanding the transmittal identifying the application number and filing date of the present application. The postal reply card enclosed with that December 6, 2004 submission was returned by the Office bearing a new Application No. (11/005,577), instead of the customary Mail Room stamp. A copy of that as-returned postal reply card is enclosed herewith.
>
> Further, on January 28, 2005 the Office mailed a Notice of Incomplete Nonprovisional Application identifying Application No. "11/005,577" with a purported filing date of 12/06/2004. That notice states that a filing date was not accorded to the 11/005,577 application because the application was deposited without drawings. A copy of that Notice mailed January 28, 2005 is enclosed."

A review of the application files for Application Nos. 10/962,379 and 11/005,577 confirms petitioner's request.

Accordingly, the petition is GRANTED.

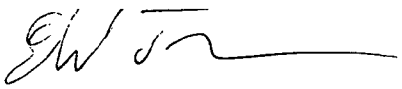
Both applications will be returned to the Office of Initial Patent Examination for merging the file of application No. 11/005,577 into the file of application No. 10/962,379, and for any correction of the Notices that have been sent therein. Thereafter, application No. 11/005,577 will no longer be an active serial number.

All future correspondence concerning this application should be directed to application No. 10/962,379.

The $395.00 filing fee, charged for application no. 11/005,577 will be transferred to application no. 10/962,379.

The petition fee has not been charged.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228.



Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

Copied from 11005577 on 09/22/2005

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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

In re Application of :
Yuji Kobayashi et al :
Application No. 10/962,398 : ON PETITION
Filed: October 13, 2004 :
Attorney Docket No. 00862.003045.2

This is a decision on the petition, filed February 17, 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 1, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2162 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD, SUITE 400
MCLEAN VA 22102

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AUG 27 2007

OFFICE OF PETITIONS

In re Application of :
LIU, Jianwei :
Application No. 10/962,405 :
Filed: October 13, 2004 :
Attorney Docket No. **146712010410** :

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 30, 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 Peter J. Davis on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed July 24, 2007 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **JIANWEI LIU**
40932 CANTO PLACE
FREMONT, CA 94539

cc: **DARBY & DARBY PC**
1500 K STREET NW, SUITE 250
WASHINGTON, DC 20005-1714

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JAGTIANI + GUTTAG
10363-A DEMOCRACY LANE
FAIRFAX, VA 22030

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SEP 02 2008

In re Application of :
SINGLE, Peter S. :
Application No. 10/962,441 : DECISION ON PETITION
Filed: October 13, 2004 : TO WITHDRAW
Attorney Docket No. **22409-00171-US** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 10, 2007.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Jagtiani + Guttag has been revoked by the applicant of the patent application on November 01, 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 Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **CONNOLLY BOVE LODGE & HUTZ LLP**
1875 EYE STREET, N.W.
SUITE 1100
WASHINGTON DC 20006

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HOWREY LLP
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DR., SUITE 200
FALLS CHURCH, VA 22042

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In re Application of :
Van den Berg et al. :
Application No. 10/962474 :
Filing or 371(c) Date: 10/13/2004 :
Attorney Docket Number: :
04132.0039.NPUS00 : ON PETITION

This is a decision on the Petition to Withdraw Holding of Abandonment, filed August 8, 2006, via facsimile, and re-filed August 9, 2006. The petition is properly treated under 37 CFR 1.181(a). The delay in treating this petition is regretted.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Office communication mailed November 15, 2005. The Office communication set a one (1) 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 December 16, 2005. A Notice of Abandonment was mailed June 9, 2006.

Applicant files the instant petition and asserts that the Office communication was never received. Applicant has filed the necessary statement(s) and documents that demonstrate non-receipt of the Office communication by a preponderance of the evidence.

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

No petition fee has been charged and none is due.

The application is being referred to Technology Center Art Unit 3644 for re-mailing of the Office communication.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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MAY 20 2009

OFFICE OF PETITIONS

In re Application of :
Choi, et al. :
Application No. 10/962,516 : DECISION ON PETITION
Filed: October 13, 2004 :
Attorney Docket No. 1793.1539 :

This is a decision on the petition, filed April 16, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the non-final Office action of June 6, 2008, which set a three (3) month shortened statutory period for reply. A reply was due on or before September 6, 2008.

Petitioners state 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 September 5, 2008 of, *inter alia,* an 11 page response/amendment. A copy of the previously submitted reply accompanies the petition.

The response/amendment acknowledged as having been received in the USPTO on September 5, 2008 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 response/amendment was timely received in the USPTO but lost after receipt thereof.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

The 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 September 5, 2008.

Telephone inquiries pertaining to this decision may be directed to the undersigned at (571) 272-3230.

This application is being referred to Technology Center AU 2626for appropriate action in the normal course of business on the reply re-submitted with petition.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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FEB 21 2006

OFFICE OF PETITIONS

In re Application of :
Jae-Hoon Kim et al. :
Application No. 10/962,518 : ON PETITION
Filed: October 13, 2004 :
Attorney Docket No.: 1349.1397 :

This is a decision on the petition under 37 CFR 1.182, filed January 25, 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. Jae-Hoon Kim

2. Youn-Hee Han

A corrected filing receipt reflecting the correct order of the names of the inventors is attached.

This matter is being referred to Technology Center 2664 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
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/962,518	10/13/2004	2664	970	1349.1397	5	30	3

CONFIRMATION NO. 3010
CORRECTED FILING RECEIPT
OC000000018086936
OC000000018086936

21171
STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

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)

Jae-hoon Kim, Seoul, KOREA, REPUBLIC OF;
Youn-hee Han, Guri-si, KOREA, REPUBLIC OF;

Assignment For Published Patent Application

Samsung Electronics Co., Ltd., Suwon-si, KOREA, REPUBLIC OF

Power of Attorney: The patent practitioners associated with Customer Number **21171**.

Domestic Priority data as claimed by applicant

Foreign Applications

REPUBLIC OF KOREA 2003-77700 11/04/2003

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 US10/962,518

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Method of electing a leader in an ad-hoc network

Preliminary Class

370

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

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FEB 0 3 2006

OFFICE OF PETITIONS

In re Application of :
David Morris Baines :
Application No. 10/962,533 :
Filed: October 13, 2004 :
Attorney Docket No. 02457.001100. :

DECISION ON PETITION
TO MAKE SPECIAL UNDER
37 CFR 1.102(d)

This is a decision on the petition under 37 CFR §1.102(d), filed December 29, 2005, to make the above-identified application special based on actual infringement as set forth in M.P.E.P. § 708.02, Section II.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR §1.102(d) and MPEP §708.02, Section II: Infringement, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and 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 Wan Laymon at 571-272-3220.

This matter is being referred to Technology Center Art Unit 3636 for action on the merits commensurate with this decision.

Denise Pothier
Petitions Examiner
Office of Petitions

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RANKIN, HILL, PORTER & CLARK
4080 ERIE STREET
WILLOUGHBY OH 44094-7836

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SEP 0 8 2006

OFFICE OF PETITIONS

In re Application of :
Kosuke Akasaka :
Application No. 10/962,554 : ON PETITION
Filed: October 12, 2004 :
Attorney Docket No. SHM-15732 :

This is a decision on the petition, filed September 7, 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 31, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 3612 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON, VA 20191

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DEC 0 8 2006
OFFICE OF PETITIONS

In re Application of :
Yukiko Gonda, et al. :
Application No. 10/962,557 : ON PETITION
Filed: October 13, 2004 :
Attorney Docket No.: P25582 :

This is a decision on the petition, filed December 6, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 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 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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C. IRVIN McCLELLAND
OBLON, SPIVAK, McCLELLAND
MAIER & NEUSTADT, PC
1940 DUKE STREET
ALEXANDRIA, VA 22314

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AUG 14 2006

OFFICE OF PETITIONS

In re Application of :
Martin Dieterle et al :
Application No. 10/962,570 : ON PETITION
Filed: October 13, 2004 :
Attorney Docket No. 260277USO :

This is a decision on the petition filed pursuant to the provisions of 37 CFR 1.313(c)(2) on March 9, 2006, and resubmitted under 37 CFR 1.181 on May 9, 2006, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED as moot**.

Unfortunately, the patent on this application issued prior to the deciding official's office reaching a decision on the petition to withdraw from issue. The Office sincerely apologizes for any inconvenience caused petitioner in this matter.

Petitioner's attention is directed to 37 CFR 1.313(d), which states:

> A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**.

Since this application has issued, the concurrently filed request for continued examination (RCE) is improper and will not be processed. In view thereof, the $790 filing fee submitted therefor, as well as the petition fee of $130, will be refunded in due course.

The Information Disclosure Statement has been made of record in the file of this application without further consideration. See 37 CFR 1.97(i).

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

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AUG 2 8 2006

OFFICE OF PETITIONS

In re Application of :
Bergmark et al. :
Application No. 10/962,579 : ON PETITION
Filed: October 13, 2004 :
Attorney Docket Number: 10400-000007/US/DVA

This is a decision on the petition under 37 CFR 1.137(b), filed July 7, 2006, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a reply to the non-final Office Action of August 25, 2005. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on November 26, 2005. A Notice of Abandonment was mailed on March 24, 2006.

This Petition is hereby **Granted**.

The office hereby acknowledges the receipt of the amendment submitted with the instant petition.

This application is being forwarded to Technology Center 2800 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

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OCT 23 2008

OFFICE OF PETITIONS

In re Application of :
BRUCKMANN, Theodor :
Application No. 10/962,614 : DECISION GRANTING PETITION
Filed: October 13, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. P25796 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 22, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is GRANTED.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 26, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

The petition is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.134, the signature of Mr. Nhat D. Phan appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. If Mr. Phan desires to receive future correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to petitioner herein. However, until otherwise instructed, all future correspondence regarding this application will be directed solely to the above-noted correspondence of record.

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 1796 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

Cc: PHAN LAW GROUP, PLLC
P.O. BOX 748
ALEXANDRIA, VA 22313-0748

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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DEERE & COMPANY
ONE JOHN DEERE PLACE
MOLINE, IL 61265

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JUN 14 2006

OFFICE OF PETITIONS

In re Application of :
Mark J. Cherney, et al. :
Application No. 10/962,627 : ON PETITION
Filed: October 11, 2004 :
Attorney Docket No.: 16327-US :

This is a decision on the petition, filed June 5, 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 March 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 3745 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

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Law Offices of Khalilian Sira, LLC
9100 Persimmon Tree Road
Potomac, MD 20854

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FEB 19 2008

OFFICE OF PETITIONS

In re Application of	:	
Mehrdad Esghipour	:	
Application No. 10/962,652	:	DECISION ON PETITION
Filed: October 13, 2004	:	TO WITHDRAW
Attorney Docket No. 21262-101	:	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 11, 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 Houri Khalilian 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 Mehrdad Esghipour at the address indicated below.

There is an outstanding Office action mailed September 18, 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: **Mehrdad Esghipour**
14043 Jump Drive
Germantown, MD 20874

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/962,652	10/13/2004	Mehrdad Esghipour	21262-101

CONFIRMATION NO. 8787

POWER OF ATTORNEY NOTICE

47234
LAW OFFICES OF KHALILIAN SIRA, LLC
9100 PERSIMMON TREE ROAD
POTOMAC, MD 20854

OC000000028344563

Date Mailed: 02/15/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/11/2007.

- 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:

DATE :

TO SPE OF : ART UNIT

SUBJECT : Request for Certificate of Correction on Patent No.:

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☐ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

SPE: Art Unit

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Paper No.

Finnegan, Henderson, Farabow,
Garrett & Dunner, L.L.P.
1300 I Street, N.W.
Washington DC 20005-3315

MAILED

JUN 29 2009

OFFICE OF PETITIONS

In re Patent No. 7,361,454	:	DECSIION ON PETITIONS
Kobayashi	:	under 37 CFR 1.183
Issue Date: April 22, 2008	:	and
Application No. 10/962,660	:	ON REQUEST FOR
Filed: October 13, 2004	:	RECONSIDERATION
Attorney Docket No. 02887.0299	:	OF PATENT TERM ADJUSTMENT

This is a decision on the 1) Petition under 37 C.F.R. 1.183, requesting that the Office suspend the rules and consider on the merits a Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d) filed more than two months from the date the above-referenced patent issued, and on the 2) Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d), each of which was filed on October 17, 2008.

The petition under 37 CFR 1.183 is **dismissed**.

The request for reconsideration of patent term adjustment under 37 CFR 1.705(d) is **dismissed as untimely filed**.

Any request for reconsideration, whether directed to the decision on petition under 37 CFR 1.183 or to the decision on application for patent term adjustment under 37 CFR 1.705(d), must be filed within two months of the mailing date of this decision. Extensions of time under 37 CFR 1.136 are not permitted. See § 1.181(f).

BACKGROUND

On April 22, 2008, the above-identified application matured into U.S. Patent No. 7,361,454, with a revised patent term adjustment

of 523 days. No request for reconsideration of the patent term adjustment indicated in the patent was filed within two months of the date the patent issued. Patentee now petitions under 37 C.F.R. § 1.183 to (i) suspend or waive the requirement of 37 C.F.R. § 1.705(d) that a Request for Reconsideration of Patent Term Adjustment be filed within two months of the date the patent issued; and (ii) consider the enclosed Request for Reconsideration of Patent Term Adjustment. Patentee makes this request, as this patent issued prior to the issuance of the decision in *Wyeth v. Dudas*, No. 07-1492 (D.D.C. Sept. 30, 2008).[1]

ON PETITION UNDER 37 CFR 1.183
TO WAIVE THE TWO-MONTH REQUIREMENT OF 37 CFR 1.705(d)

The above-referenced patent issued on April 22, 2008. A request for reconsideration of the patent term adjustment indicated in the patent was not filed until October 17, 2008. Petitioner requests that the Office suspend the rules and consider on the merits the Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d) even though it was untimely filed more than two months from the date the patent issued.

The relevant regulation, 37 CFR 1.705(d), provides that:

> If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates or should have indicated a revised patent term adjustment, *any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued* and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section. Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues. (*emphasis* added).

By the express provisions of 37 CFR 1.705(d), a request for reconsideration of patent term adjustment must be filed within two months of the date the patent issued. It is undisputed that no such request for reconsideration was filed by June 22, 2008,

---

[1] Petition pursuant to Rule 1.183, pages 1-2.

the date two months from the date this patent issued, April 22, 2008. Rather, on October 17, 2008, petitioner filed the instant request for waiver of the two-month requirement.

37 CFR 1.183 provides that:

> In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, sua sponte, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(f).

Preliminarily, it is recognized that the two-month requirement of 37 CFR 1.705(d) is a requirement of the regulations and not a statutory requirement. The statute, 35 U.S.C. 154, requires the Office to provide the applicant one opportunity to request reconsideration of any patent term adjustment determination made by the Director. But, the statute allows the Director to establish the procedures for requesting such reconsideration. Those procedures[2] include pursuant to 37 CFR 1.705(d) setting a two-month period for filing a request for reconsideration of the revised patent term adjustment indicated in the patent. As such, it is within the Director's authority to waive the two-month requirement.

---

[2] 35 U.S.C. § 154(b)(3) provides that the USPTO shall: (1) prescribe regulations establishing procedures for the application for and determination of patent term adjustments under 35 U.S.C. § 154(b); (2) make a determination of any patent term adjustment under 35 U.S.C. § 154(b) and transmit a notice of that determination with the notice of allowance under 35 U.S.C. § 151; and (3) provide the applicant one opportunity to request reconsideration of any patent term adjustment determination. Pursuant to the mandate and authority in 35 U.S.C. § 154(b)(3), the USPTO promulgated 37 C.F.R. § 1.705, which provides that: (1) the notice of allowance will include notification of any patent term adjustment under 35 U.S.C. § 154(b)(37 C.F.R. § 1.705(a)); (2) any request for reconsideration of the patent term adjustment indicated in the notice of allowance (except as provided in 37 C.F.R. § 1.705(d)) must be by way of an application for patent term adjustment filed no later than the payment of the issue fee and accompanied by (inter alia) the fee set forth in 37 C.F.R. § 1.18(e)(37 C.F.R. § 1.705(b)); and (3) if the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued.

Having considered petitioner's arguments, it is concluded that waiver of the two-month requirement is not warranted. The primary basis for requesting waiver set forth by petitioner is that the decision of *Wyeth v. Dudas*, No. 07-1492 (D.D.C. Sept. 30, 2008) occurred subsequent to the issuance of this patent.[3] Petitioner has not asserted, much less established, the existence of either an extraordinary situation such that justice requires the waiver of the Rule.

Assuming arguendo that Petitioner alleged the existence of an extraordinary situation such that justice requires the waiver of the Rule, Petitioner's argument is not convincing.

First, the issuance of the Wyeth Opinion is not an extraordinary situation. Wyeth followed the procedure set forth in 37 CFR 1.705 for requesting reconsideration of the patent term adjustment determination. Then, pursuant to 35 U.S.C. 154(b)(4)(A)[4], Wyeth timely filed a complaint in District Court seeking judicial review of the Office's decision. A Memorandum Opinion and Order, the Wyeth decision of September 30, 2008, directed to the parties involved was issued.

The fact that any relief ultimately granted in Wyeth would benefit patentee had they timely filed a request for reconsideration does not make the situation extraordinary. Petitioner chose not to challenge their revised patent term adjustment within the two-month period. It appears that Petitioner has implied that a Request for Reconsideration of Patent Term Adjustment could not have been filed within two months of the date the above-referenced patent issued, because the basis for the Request for Reconsideration of Patent Term Adjustment is the Wyeth decision, which was not issued until more than two months after the issuance of this patent. This argument is not compelling. Petitioner could have filed a Request for Reconsideration of Patent Term Adjustment as Wyeth did. It is acknowledged that petitioner may have chose not to

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[3] Petition, pages 1-2.

[4] 35 U.S.C. 154(b)(4)(A) APPEAL OF PATENT TERM ADJUSTMENT DETERMINATION. – (A) An applicant dissatisfied with a determination made by the Director under paragraph (3) shall have remedy by a civil action against the Director filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent. Chapter 7 of title 5 shall apply to such action. Any final judgment resulting in a change to the period of adjustment of the patent term shall be served on the Director, and the Director shall thereafter alter the term of the patent to reflect such change.

file a request for reconsideration based on a conclusion that the Office's interpretation of 35 U.S.C. § 154(b)(2)(A) was correct. Nonetheless, the fact that the District Court has now issued an Opinion contrary to the Office's interpretation does not make the situation extraordinary. This is not unlike any other situation where a patentee (or applicant) challenges a final agency decision and the decision upon judicial review could have had applicability to another patentee (or applicant) had they taken such action. In fact, many patentees may be in the same situation as petitioner with respect to the Wyeth decision.

Second, Petitioner, if not on notice by established principles of administrative law, was on notice by the Office's issuance of the above-cited Opinion that failure to file a request for reconsideration of patent term adjustment within the two-month period as required would likely foreclose their right to judicial relief. Yet they chose to not to file a request for reconsideration within the two-month period. This consequence of their failure does not render the failure an extraordinary situation warranting waiver of the two-month requirement. The key consideration, regardless of the time remaining to file a civil action, in determining whether waiver is warranted is whether the circumstance that led to petitioner failing to meet the two-month requirement was an extraordinary situation where justice requires waiver.

Petitioner simply fails to articulate how their failure to file a request for reconsideration of patent term adjustment within two months of the issue date of the patent was due to an extraordinary situation. Petitioner cannot rely on Wyeth's actions or the Wyeth decision to establish that their situation was extraordinary.

Third, justice does not require waiver of the two-month requirement. Justice requires that the Office continue to devote its resources to the adjudication of timely filed requests for reconsideration under 37 CFR 1.705(b) and (d). Further, upon ultimate resolution of the interpretation of 37 CFR 1.702, justice requires that the Office determine consistent with relevant law and practice, and appropriate Court or legislative guidance, the applicability of any changes as to all affected patentees who failed to timely seek administrative remedy, and thus, could not seek judicial review.

In view thereof, the petition under 37 CFR 1.183 for waiver of the two-month requirement of 37 CFR 1.705(d) is **dismissed**.

Accordingly, consideration now turns to the Request for Reconsideration of Patent Term Adjustment under 37 CFR 1.705(d).

ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)

This is a decision on the "DETERMINATION OF PATENT TERM ADJUSTMENT - POST GRANT," filed October 17, 2008. Therein, patentee requests correction of the patent term adjustment (PTA) indicated in the patent to seven hundred and fifteen (715) days.

On April 22, 2008, the above-identified application matured into U.S. Patent No. 7,361,454 with a revised patent term adjustment of 523 days. The instant request for reconsideration was filed almost six months after the issuance of the patent, on October 17, 2008.

No error in the printing of the patent has been shown. The patent term adjustment indicated on the patent reflects the Office's determination of patent term adjustment shown in the PAIR system for this application. 37 CFR 1.705(d) provides the sole avenue before the Office for requesting reconsideration of the Office's determination of patent term adjustment indicated in the patent. Moreover, § 1.705(d) states that "any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section." Since the request was not filed within two months of the issue date of the patent, the request is properly **dismissed as untimely filed**.

CONCLUSION

It is determined that waiver of the requirement pursuant to 37 CFR 1.183 is not warranted. Accordingly, the request for reconsideration of the patent term adjustment under 37 CFR 1.705(d) filed more than two months after the issue date of the patent is dismissed as untimely filed.

Telephone inquiries specific to this matter should be directed to Paul Shanoski, Senior Attorney, at (571) 272-3225.

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration

OIPE
OCT 17 2008
PATENT & TRADEMARK OFFICE

PATENT
Customer No. 22,852
Attorney Docket No. 02887.0299

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re U.S. Patent No. 7,361,454	
Issue Date: April 22, 2008	Group Art Unit: 1795
Inventor: Yuji KOBAYASHI	Examiner: Caleen O. SULLIVAN
Application No.: 10/962,660	Conf. No. 8819
Filed: October 13, 2004	
For: METHOD OF FORMING CONTACT HOLE AND METHOD OF MANUFACTURING SEMICONDUCTOR DEVICE	

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

PETITION UNDER 37 C.F.R. § 1.183 FOR WAIVER OF THE REQUIREMENT UNDER 37 C.F.R. § 1.705(d)

Pursuant to 37 C.F.R. § 1.183, Patentee petitions the Commissioner to waive the requirements of 37 C.F.R. § 1.705(d) that any request for reconsideration of the patent term adjustment indicated in an issued patent must be filed within two months of the date the patent issues. The required fee of $400.00 for the petition under 37 C.F.R. § 1.183 is enclosed.

The U.S. Patent Trademark Office (USPTO) issued the above-referenced U.S. Patent No. 7,361,454 (the '454 patent) on April 22, 2008, with a patent term adjustment (PTA) of 523 days. Subsequently, on September 30, 2008, U.S. District Court for the

04/30/2008 LDIFO1 00000005 060016 7361454
01 FC:1455 200.00 DA
10/20/2008 SZEWDIE1 00000012 10962660
01 FC:1462 400.00 OP

District of Columbia ruled in Wyeth v. Dudas that the USPTO had made an error in the manner it determined PTA. Specifically, the court's decision relates to situations in which separate time periods of PTA accrue due to PTO examination delay and those time periods do not overlap. The court ruled that in such situations, the PTA should be determined as the sum of the term adjustments of the respective separate time periods, rather than the greater one of the term adjustments, the latter practice being the PTO's manner of PTA determination used to date.

Patentee requests waiver of Rule 1.705(d) to permit filing and consideration of the accompanying Determination of Patent Term Adjustment - Post Grant, in which patentee requests a change in the PTA based on determination in a manner consistent with the court's decision referred to above.

This Petition is accompanied by the required petition fee of $400.00, as set forth in 37 C.F.R. § 1.17(f). If there are any other fees due in connection with the filing of this Petition, please charge such fees to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, L.L.P.

Dated: October 17, 2008

By: _____
Richard V. Burgujian
Reg. No. 31,744

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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FITZPATRICK CEELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

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FEB 28 2008

OFFICE OF PETITIONS

In re Application of :
Yusuke Yamada et al :
Application No. 10/962,675 : ON PETITION
Filed: October 13, 2004 :
Attorney Docket No. 00684.003330.3

This is a decision on the petition, filed February 26, 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 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 Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2852 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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FISH & RICHARDSON P.C.
225 FRANKLIN STREET
BOSTON, MA 02110-2804

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FEB 11 2005

OFFICE OF PETITIONS

In re Application of :
Yuh-Jiuan Lin et al :
Application No. 10/962,722 : NOTICE
Filed: October 12, 2004 :
Attorney Docket No. 17968-003001/ :
NP-1919-1 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED.**

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This matter is being referred to Technology Center AU 1646 for examination in due course.

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
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1122B
4417 LANCASTER PIKE
WILMINGTON, DE 19805

In re Application of :
Carmen Flosbach, et al. :
Application No. 10/962,733 : ON PETITION
Filed: October 12, 2004 :
Attorney Docket No. FA1228 US NA :

This is a decision on the petition, filed January 21, 2009, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, February 28, 2008, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on May 29, 2008. A Notice of Abandonment was mailed on October 14, 2008. On January 15, 2009 a petition under 37 CFR 1.137(b) was filed; however, the petition was dismissed by a decision mailed December 24, 2008. In response, on January 21, 2009, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,620[1]; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 1792 for appropriate action by the Examiner in the normal course of business on the response received January 21, 2009.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] It is noted that while a petition to revive under 37 CFR 1.137(b) was not filed with the untimely reply on October 14, 2008, applicant submitted the $1620 petition fee therefor. The present petition also includes payment of the $1,620 petition fee. Therefore, the $1,620 petition fee overpaid is being refunded to Counsel's deposit account.

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

Hamilton, Brook, Smith & Reynolds, P.C.
2 Militia Drive
Lexington, MA 02421-4799

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MAY 16 2008

OFFICE OF PETITIONS

In re Application of :
Ian Leslie Sayers, et. al. :
Application No. 10/962,790 : ON PETITION
Filed: October 12, 2004 :
Attorney Docket No. 2821.1003-005 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 15, 2007, to revive the above-identified application.

The application became abandoned for failure to respond to the non-final Office action mailed April 24, 2006. A Notice of Abandonment was mailed on November 27, 2006.

In order to accept the Revocation of Power of Attorney and Statement under 37 CFR 3.73(b) filed on October 12, 2004, petitioner needs to submit a complete Statement under 37 CFR 3.73(b), which itemizes the chain of title from the original owners to the current assignee (Cisco Technology, Inc.). However, in accordance with 37 CFR 1.34(a), the signature of David J. Thibodeau, Jr. appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of an amendment and terminal disclaimer under 37 CFR 1.321 with $130 fee; (2) the petition fee of $1,500; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 2617, for review of the amendment filed with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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GARLICK HARRISON & MARKISON
P.O. BOX 160727
AUSTIN TX 78716-0727

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JAN 05 2007

OFFICE OF PETITIONS

In re Application of :
Kolze, et al. :
Application No. 10/962,803 : ON PETITION
Filed: September 20, 2005 :
Attorney Docket No. 04-022 CIP :

This is a decision on the petition under 37 CFR 1.182, filed October 2, 2006, to change the order of the names of the inventors.

The petition is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is not a final agency decision.

In accordance with 37 CFR 1.33(b), amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii), filed in the application must be signed by: (1) a patent practitioner of record appointed in compliance with § 1.32(b); (2) a patent practitioner not of record who acts in a representative capacity under the provisions of § 1.34; (3) an assignee as provided for under § 3.71(b) of this chapter; or (4) all of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

The instant petition, consisting of one page, is unsigned, and is, therefore, subject to dismissal.

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

This application is being the Technology Center 2600 for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272- 3205.

ALESIA M. BROWN
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

GARLICK HARRISON & MARKISON
P.O. BOX 160727
AUSTIN TX 78716-0727

In re Application of :
Kolze, et al. :
Application No. 10/962,803 : ON PETITION
Filed: September 20, 2005 :
Attorney Docket No. 04-022 CIP :

This is a decision on the renewed petition under 37 CFR 1.182, filed January 22, 2007, to change the order of the names of the inventors.

The petition is **GRANTED**.

The current Office procedure for changing the order of inventors named in an application involves submitting a petition under 37 CFR 1.182 signed by either the attorney or agent of record or all of the applicants designating the desired changed[1].

The order of the names of the inventors will be changed as follows:

1. Kolze
2. Yousef
3. Min

This application is being the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272- 3205.

ALESIA M. BROWN
Petitions Attorney
Office of Petitions

[1] *See, also,* MPEP 605.04(f) wherein applicants are strongly encouraged to submit an application data sheet (ADS) showing the new order of inventor names to ensure appropriate printing of the inventor names in any patent to issue. If an application data sheet is not submitted, the patent may not reflect the correct order of inventorship.

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OFFICE OF PETITIONS

Jimmy DeWayne and Carolyn Marie Fulton
1331 Heather Lane
P.O. Box 4153
Brookings, OR 97415

In re Application of :
Fulton :
Application No. 10/962,807 : ON PETITION
Filed: October 12, 2004 :
For: CJ INSTA CART :

This is a decision in response to the paper filed December 6, 2005, under 37 CFR 1.181 to withdraw the holding of abandonment of 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 NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition To Withdraw the Holding of Abandonment."

The application was filed on October 12, 2004, along with a signed declaration and full payment of the filing fee.

The application was forwarded to an examiner for review.

The examiner mailed a non-final Office action on March 21, 2005.

The non-final Office action stated,

> A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTHS FROM THE MAILING DATE OF THIS COMMUNICATION.... Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED.

Petitioners mailed a reply on an unknown date. The reply was not received by the Office until Thursday, June 23, 2005. The application was abandoned as a matter of law as of midnight on June 21, 2005.

The reply should have been signed by both inventors. The reply/amendment was not signed by either inventor. Even if the reply had been timely, the lack of the signatures would have made the reply improper.

As the result of PTO error, an employee assumed the June 23, 2005 papers were being filed as a brand new application. The new "application" was accorded application no. 11/159,679. Since that time, the papers have all been moved to the correct application file - 10/962,807. All papers petitioners have received related to application no. 11/159,679, can in essence be ignored at this point in time. Application no. 11/159,679 has been close. All future papers filed by applicants should only refer to the instant application as application no. 10/962,807.

Since the facts indicate the instant application is in fact abandoned, the petition cannot be granted.

Petitioners may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply (already submitted), the required petition fee ($750 for a small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. A copy of a blank petition form is enclosed for petitioner's convenience.

As a courtesy, attached is part of the Manual of Patent Examination which discusses methods by which an applicant can ensure papers are considered to be timely filed with the Office. In the future, petitioners may wish to avail themselves of one of these methods.

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

Attached: PTO/SB/64
Attached: Section of MPEP discussing Rule 8 and Rule 10

PTO/SB/64 (10-05)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1.Petition fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

_____ _____
Signature Date

_____ _____
Typed or printed name Registration Number, if applicable

_____ _____
Address Telephone Number

_____
Address

Enclosures: ☐ Fee Payment
☐ Reply
☐ Terminal Disclaimer Form
☐ Additional sheets containing statements establishing unintentional delay
☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office as (571) 273-8300.

_____ _____
Date Signature

_____
Typed or printed name of person signing certificate

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

---SECTION---512 Certificate of Mailing or Transmission

37 CFR 1.8 Certificate of mailing or transmission.

(a) Except in the cases ... in paragraph (a)(2) of this section, correspondence ... will be considered as being timely filed if the procedure described in this section is followed. The actual date of receipt will be used for all other purposes.
  (1) Correspondence will be considered as being timely filed if:
    (i) The correspondence is mailed or transmitted prior to expiration of the set period of time by being:
      (A) Addressed as set out in Section 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail; or
      (B) Transmitted by facsimile to the Patent and Trademark Office in accordance with Section 1.6(d); and
    (ii) The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.
(2) The procedure described in paragraph (a)(1) of this section does not apply to, and no benefit will be given to a Certificate of Mailing or Transmission on, the following ...
  (A) The filing of a national patent application specification and drawing or other correspondence for the purpose of obtaining an application filing date, including a request for a continued prosecution application under Section 1.53(d); ...
  (B) The filing of correspondence in an interference which an examiner-in-chief orders to be filed by hand or "Express Mail";
  (C) The filing of agreements between parties to an interference under 35 U.S.C. 135(c);
  (D) The filing of an international application for patent;
  (E) The filing of correspondence in an international application before the U.S. Receiving Office, the U.S. International Searching Authority, or the U.S. International Preliminary Examining Authority;
  (F) The filing of a copy of the international application and the basic national fee necessary to enter the national stage, as specified in Section 1.494(b) or Section 1.495(b)....
(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 Patent and Trademark Office, and the application is held to be abandoned or 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 Commissioner 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.

A suggested format for a Certificate of Mailing and a Certificate of Transmission under 37 CFR 1.8 to be included with the correspondence is reproduced below.

Certificate of Mailing

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:

Commissioner for Patents
Washington, D.C. 20231

on _____.

(Date)

Typed or printed name of person signing this certificate

_____

Signature_____

Certificate of Transmission

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office (Fax No. (703)___-____)

on_____.

(Date)

Typed or printed name of person signing this certificate

_____

Signature_____

...

Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

...

Under 37 CFR 1.8, a person may state on certain papers directed to the Office (exceptions are stated in 37 CFR 1.8), the date on which the paper will be deposited in the United States Postal Service or transmitted by facsimile. If the date stated is within the period for reply, the reply in most instances will be considered to be timely. This is true even if the paper does not actually reach the Office until after the end of the period for reply. The Certificate of Mailing procedure

does not apply to papers mailed in a foreign country.

The Certificate of Transmission procedure, however, also applies to papers transmitted to the Office from a foreign country provided that the correspondence being transmitted is not prohibited from being transmitted by facsimile and is not otherwise precluded from receiving
the benefits under 37 CFR 1.8.

...

37 CFR 1.8(a)(2)(i)(A) specifically refers to a request for a continued prosecution application (CPA) filed under 37 CFR 1.53(d) as a correspondence filed for the purposes of obtaining an application filing date and the procedures and benefit set forth in 37 CFR 1.8(a)(1) are not applicable to a request for a CPA. The date on a certificate of mailing or transmission (37 CFR 1.8(a)) of a CPA is not controlling or even relevant. A CPA filed by facsimile transmission will not be accorded a filing date as of the date on the certificate of transmission unless Office records indicate, or applicant otherwise establishes pursuant to 37 CFR 1.6(f), receipt in the Office of the complete CPA on the date on the certificate of transmission and that date is not a Saturday, Sunday, or Federal holiday within the District of Columbia.

PROCEDURE BY APPLICANT

(A) The certification requires a signature. Specifically, if the certification appears on a paper that requires a signature, two signatures are required, one for the paper and one for the certification. Although not specifically required by 37 CFR 1.8, it is preferred that the certificate be signed by the applicant, assignee, or registered practitioner.

(B) When possible, the certification should appear on a portion of the paper being submitted. However, if there is insufficient space to make the certification on the same paper, the certification should be on a separate sheet securely attached to the paper.

(C) When the certification is presented on a separate sheet, that sheet must (1) be signed and (2) fully identify and be securely attached to the paper it accompanies. The required identification should include the serial number and filing date of the application as well as the type of paper being filed, e.g., reply to rejection or refusal, Notice of Appeal, etc. An unsigned certification will not be considered acceptable.

Moreover, without the proper identifying data, a certification presented on a separate sheet will not be considered acceptable if there is any question or doubt concerning the connection between the sheet and the paper filed.

If the sheet should become detached from the paper and thereafter not associated with the appropriate file, evidence that this sheet was received in the Office can be supported by submitting a copy of a postcard receipt specifically identifying this sheet and the paper and by submitting a copy of the sheet as originally mailed. Attention is directed to MPEP Section 503 relative to the use of postcards as receipts.

(D) In situations wherein the correspondence includes papers for more than one application (e.g., a single envelope containing separate papers responding to Office actions in different applications) or papers for various parts of the Office (e.g., a patent issue fee transmittal form PTOL-85B and an assignment), each paper must have its own certification as a part thereof or attached thereto.

Although Form PTOL-85B, Issue Fee Transmittal Form, may contain a Certificate of Mailing thereon, a separate Certificate of Mailing is required for all papers included with this form, including formal drawings, since papers are separated and flow to different areas of the Office. Checks submitted with the papers do not require a separate certification.

(E) In situations wherein the correspondence includes several papers directed to the same area of the Office for the same application (for example, a proposed reply under 37 CFR 1.116 and a Notice of Appeal), each paper should have its own certification as a part thereof or attached thereto.

(F) For the purposes of 37 CFR 1.8(a)(1)(i)(A), first class mail is interpreted as including "Express Mail" and "Priority Mail" deposited with the U.S. Postal Service.

Alternatively, the correspondence may be submitted with a cover or transmittal letter which itemizes the papers and on which is placed the certificate under 37 CFR 1.8.

USE OF STAMPED CERTIFICATION

Some practitioners place the certification language on the first page of a paper with an inked stamp. Such a practice is encouraged because the certification is not only readily visible but also forms an integral part of the paper.

OFFICE PROCEDURE

...

However, the benefits of 37 CFR 1.8 or 37 CFR 1.10 apply only to documents delivered to the Office by the U.S. Postal Service. A number of instances have been uncovered where individuals are certifying that documents were deposited with the U.S. Postal Service when, in fact, the documents were hand-carried or delivered to the Office via commercial couriers, e.g., "Federal Express," "DHL," "Purolator," "Air Borne," "UPS," etc. In those instances where documents include a Certificate of Mailing under 37 CFR 1.8 or "Express Mail" mailing label (commonly used to comply with 37 CFR 1.10) but were delivered to the Office by other than the U.S. Postal Service, Mail Center personnel are placing a notice indicating that fact on the correspondence involved to alert Office personnel that the benefits of 37 CFR 1.8 or 37 CFR 1.10 do not apply.

...

---SECTION---513 Deposit as Express Mail With U.S. Postal Service

...

37 CFR 1.10 Filing of correspondence by "Express Mail".

(a) Any correspondence received by the Patent and Trademark Office (Office) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed in the Office on the date of deposit with the USPS. The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the Office receipt date as the filing date. See Section 1.6(a).

(b) Correspondence should be deposited directly with an employee of the USPS to ensure that the person depositing the correspondence receives a legible copy of the "Express Mail" mailing label with the "date-in" clearly marked. Persons dealing indirectly with the employees of the USPS (such as by deposit in an "Express Mail" drop box) do so at the risk of not receiving a copy of the "Express Mail" mailing label with the desired "date-in" clearly marked. The paper(s) or fee(s) that constitute the correspondence should also include the "Express Mail" mailing label number thereon. See paragraphs (c), (d) and (e) of this section.

(c) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the

correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

(d) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and

(3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

(e) Any person mailing correspondence addressed as set out in Section 1.1(a) to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the USPS but not received by the Office, may petition the Commissioner to consider such correspondence filed in the Office on the USPS deposit date, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";

(3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and

(4) The petition includes a statement which establishes, to the satisfaction of the Commissioner, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned

postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

(f) The Office may require additional evidence to determine if the correspondence was deposited as "Express Mail" with the USPS on the date in question.

The statutory authority for the granting of a filing date based on the date of deposit for correspondence sent by "Express Mail" and received by the Office is found in section 21(a) of Title 35 of the United States Code.

The specific rule for obtaining a filing date as of the date of deposit in "Express Mail" (rather than the date of receipt at the Office) is 37 CFR 1.10, as revised, effective December 2, 1996.

EFFECTIVE DATE, WEEKENDS & HOLIDAYS

Effective December 2, 1996, 37 CFR 1.6(a)(2) provides that correspondence deposited as "Express Mail" in accordance with 37 CFR 1.10 will be stamped, and, therefore, considered as filed on the date of its deposit, regardless of whether that date is a Saturday, Sunday or Federal holiday within the District of Columbia. 37 CFR 1.10 provides a procedure for assigning the date on which any paper or fee is deposited as "Express Mail" with the United States Postal Service (USPS) as the filing date of the paper or fee in the Patent and Trademark Office (Office). The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation. This holds true for any day that the correspondence may be accepted as "Express Mail" by the USPS, even when the paper or fee is deposited and accepted on a Saturday, Sunday or Federal holiday within the District of Columbia. For example, if a person files a patent application by "Express Mail" with the USPS on a Saturday in compliance with 37 CFR 1.10, he or she will receive the benefit of the Saturday date, even though the Office is closed on Saturdays and, therefore, the person could not have filed the application by depositing it directly at the Office on that Saturday. See 37 CFR 1.6(a)(1). In those cases where the procedure of 37 CFR 1.10(a) has not been properly followed, e.g., the "date-in" is illegible, the filing date of the correspondence will be the date of actual receipt in the Office. An applicant may file a petition under the conditions specified in 37 CFR 1.10(c), (d) or (e) (discussed below) presenting whatever arguments and evidence that the paper or fee is entitled to a filing date other than the filing date accorded by the Office.

DATE-IN, DIRECT DEPOSIT, "EXPRESS MAIL" BOX RECEPTACLES & LOG BOOKS

The procedure in 37 CFR 1.10(a) requires the use of the "Express Mail Post Office to Addressee" service of the USPS. This service provides for the use of a mailing label on which the USPS clearly indicates the date on which it was deposited. Correspondence sent by the "Express Mail Post Office to Addressee" service is considered filed in the Office on the "date-in" entered by the USPS. The "date-in" on the "Express Mail" mailing label must be completed by the USPS, not by the applicant. For correspondence filed in accordance with 37 CFR 1.10, Office personnel will routinely look to the "Express Mail" mailing label, and stamp the "date-in" or other official USPS notation as the filing date of the correspondence. Accordingly, if the USPS enters the deposit date as its "date-in," the correspondence will receive the deposit date as its filing date. If the USPS deposit date cannot be determined, the correspondence will be accorded the date of receipt in the Office as the filing date. An applicant may file a petition under the conditions specified in 37 CFR 1.10(c), (d), or (e) (discussed below) presenting whatever arguments and evidence that the paper or fee is entitled to a filing date other than the filing date accorded by the Office.

37 CFR 1.10(b) further provides that correspondence should be deposited directly with an employee of the USPS to ensure that the person depositing the correspondence receives a legible copy of the "Express Mail" mailing label with the "date-in" clearly marked, and that persons dealing indirectly with the employees of the USPS (such as by depositing correspondence in an "Express Mail" drop box) do so at the risk of not receiving a copy of the "Express Mail" mailing label with the desired "date-in" clearly marked. On petition, the failure to obtain an "Express Mail" receipt with the "date-in" clearly marked may be considered an omission that could have been avoided by the exercise of due care, as discussed below. While the Office strongly urges direct deposit of "Express Mail" correspondence in order to obtain a legible copy of the "Express Mail" mailing label, parties are not precluded from using "Express Mail" drop boxes, but do so at their own risk.

A paper or fee placed in an "Express Mail" box receptacle after the box has been cleared for the last time on a given day will be considered to be deposited as of the date of receipt ("date-in") indicated on the "Express Mail" mailing label by the Postal Service "Express Mail" acceptance clerk. 37 CFR 1.10(d) permits the Office to correct a USPS "date-in" error when the correspondence is deposited in an "Express Mail" drop box prior to last scheduled pick up of the day, that is, the time clearly marked on the "Express Mail" drop box indicating when the box will be cleared for the last time on the date of deposit. 37 CFR 1.10(d) sets forth the procedures to be followed to be entitled to such a correction.

Parties who do use drop boxes can protect themselves from uncertainty due to illegible mailing labels by routinely maintaining a log of "Express Mail" deposits in which notations are entered by the person who deposited the correspondence as "Express Mail" within one business day after deposit with the USPS. Such evidence could be useful to later support a petition filed under 37 CFR 1.10(c), (d) or (e). Evidence that came into being after deposit and within one day after the deposit of the correspondence as "Express Mail" may be in the form of a log book which contains information such as the "Express Mail" number; the application number, attorney docket number or other such file identification number; the place, date and time of deposit; the time of the last scheduled pick-up for that date and place of deposit; the depositor's initials or signature; and the date and time of entry in the log.

"EXPRESS MAIL" MAILING LABEL NUMBER

Effective December 2, 1996, 37 CFR 1.10(b) no longer requires a certificate of mailing by "Express Mail" or that the "Express Mail" mailing label number be placed on the correspondence prior to mailing. Correspondence deposited with the USPS on or after December 2, 1996, and which is actually received by the Office will not be denied a filing date as of the "date-in" appearing on the "Express Mail" mailing label because the number of the "Express Mail" mailing label was not placed thereon prior to the original mailing. However, if the number of the mailing label did not appear on the correspondence as originally filed, relief will not be granted on petition under 37 CFR 1.10(c) through (e), even if the party who filed the correspondence satisfies the other requirements of 37 CFR 1.10(c), 1.10(d) or 1.10(e). To be effective, the number must be placed on each separate paper and each fee transmittal either directly on the document or by a separate paper firmly and securely attached thereto. In situations wherein the correspondence includes several papers directed to the same application (for example, the specification, drawings, and declaration for a new application), the correspondence may be submitted with a cover or transmittal letter which should itemize the papers. It is not necessary that the number be placed on each page of a particular paper or fee transmittal. Merely placing the number in one prominent location on each separate paper or fee transmittal (or cover sheet or transmittal letter which should itemize the separate papers and fees) will be sufficient.

Since the filing of correspondence under 37 CFR 1.10 without the number of the "Express Mail" mailing label thereon is an oversight that can be avoided by the exercise of reasonable care, requests for waiver of this requirement will not be granted on petition. A party's inadvertent failure to comply with the requirements of a rule is not deemed to be an extraordinary situation that would warrant waiver of a rule under 37 CFR 1.183, 2.146(a)(5) or 2.148, nor is such an inadvertent omission considered "unavoidable," within the meaning of 15 U.S.C. 1062(b), 35 U.S.C. 133, 37 CFR 1.137(a) or 37 CFR 2.66(a). See Honigsbaum v. Lehman, 903 F. Supp. 8, 37 USPQ2d 1799 (D.D.C. 1995) (Commissioner did not abuse his discretion in refusing to waive requirements of 37 CFR 1.10(c) in order to grant filing date to patent application, where applicant failed to produce "Express Mail" customer receipt or any other evidence that application was actually deposited with USPS as "Express Mail."), aff'd without opinion, 95 F.3d 1166 (Fed. Cir. 1996); Nitto Chemical Industry. Co., Ltd. v. Comer, 39 USPQ2d 1778, 1782 (D.D.C. 1994) (Commissioner's refusal to waive requirements of 37 CFR 1.10 in order to grant priority filing date to patent application not arbitrary and capricious, because failure to comply with the requirements of 37 CFR 1.10 is an "avoidable" oversight that could have been prevented by the exercise of ordinary care or diligence, and thus not an extraordinary situation under 37 CFR 1.183.); Vincent v. Mossinghoff, 230 USPQ 621 (D.D.C. 1985) (misunderstanding of 37 CFR 1.8 not unavoidable delay in responding to Office Action); Gustafson v. Strange, 227 USPQ 174 (Comm'r Pats. 1985) (counsel's unawareness of 37 CFR 1.8 not extraordinary situation warranting waiver of a rule); In re Chicago Historical Antique Automobile Museum, Inc., 197 USPQ 289 (Comm'r Pat. 1978) (since certificate of mailing procedure under 37 CFR 1.8 was available to petitioner, lateness due to mail delay not deemed to be extraordinary
situation).

PETITIONS

37 CFR 1.10(c) through 1.10(e) set forth procedures for petitioning the Commissioner to accord a filing date as of the date of deposit as "Express Mail." Briefly, 37 CFR 1.10(c) applies where there is a discrepancy between the filing date accorded by the Office and the "date-in" entered by the USPS on the "Express Mail" mailing label or other official USPS notation; 37 CFR 1.10(d) applies where the "date-in" is incorrectly entered by the USPS; and 37 CFR 1.10(e) applies where correspondence deposited with the USPS as "Express Mail" is not received by the Office.

PETITION TO CORRECT FILING DATE AND DATE-IN DISCREPANCY

37 CFR 1.10(c) sets forth procedures for filing a petition to the Commissioner for a filing date as of the date of deposit with the USPS, where there is a discrepancy between the filing date initially accorded by the Office and the "date-in" entered by the USPS or other official USPS notation. Such a petition should:

(A) be filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
(B) include a showing that the number of the "Express Mail" mailing label was placed on each piece of correspondence prior to the original mailing; and
(C) include a true copy of the "Express Mail" mailing label showing the "date-in" or other official notation by the USPS.

PETITION TO CORRECT INCORRECTLY ENTERED DATE-IN

37 CFR 1.10(d) sets forth procedures for filing a petition to the Commissioner to accord a filing date as of the actual date of deposit with the USPS, where the "date-in" or other official notation is incorrectly entered by the USPS. Such a petition should:
(A) be filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
(B) include a showing that the number of the "Express Mail" mailing label was placed on each piece of correspondence prior to the original mailing; and
(C) include a showing that the correspondence was deposited as "Express Mail" prior to the last scheduled pickup on the requested filing date. The showing under 37 CFR 1.10(d) must be corroborated by (1) evidence from the USPS, or (2) evidence that came into being after deposit and within one business day of the deposit of the correspondence as "Express Mail". Evidence from the USPS may be the "Express Mail" Corporate Account Mailing Statement. Evidence that came into being within one day after the deposit of the correspondence as "Express Mail" may be in the form of a log book which contains information such as the "Express Mail" number; the application number, attorney docket number or other such file identification number; the place, date and time of deposit; the time of the last scheduled pick-up for that date and place of deposit; the depositor's initials or signature; and the date and time of entry in the log.

The reason the Office considers correspondence to have been filed as of the date of deposit as "Express Mail" is that this date has been verified by a disinterested USPS employee, through the insertion of a "date-in," or other official USPS notation, on the "Express Mail" mailing label. Due to the questionable reliability of evidence from a party other than the USPS that did not come into being contemporaneously with the deposit of the correspondence with the USPS, 37 CFR 1.10(d) specifically requires that any petition under 37 CFR 1.10(d) be corroborated either by evidence from the USPS, or by evidence that came into being after deposit and within one business day after the deposit of the correspondence as "Express Mail."

A petition alleging that the USPS erred in entering the "date-in" will be denied if it is supported only by evidence (other than from the USPS) which was:

(A) created prior to the deposit of the correspondence as "Express Mail" with the USPS (e.g., an application transmittal cover letter, or a client letter prepared prior to the deposit of the correspondence); or

(B) created more than one business day after the deposit of the correspondence as "Express Mail" (e.g., an affidavit or declaration prepared more than one business day after the correspondence was deposited with the USPS as

"Express Mail"). On the other hand, a notation in a log book, entered after deposit by the person who deposited the correspondence as "Express Mail" within one business day of such deposit, setting forth the items indicated above, would be deemed on petition to be an adequate showing of the date of deposit under 37 CFR 1.10(d)(3).

37 CFR 1.10(d)(3) further provides that a party must show that correspondence was deposited as "Express Mail" before the last scheduled pickup on the requested filing date in order to obtain a filing date as of that date.

PETITION FOR CORRESPONDENCE NEVER RECEIVED

37 CFR 1.10(e) sets forth procedures for filing a petition to the Commissioner to accord a filing date as of the date of deposit with the USPS, where correspondence deposited as "Express Mail" is never received by the Office. Such a petition should:
(A) be filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;
(B) include a showing that the number of the "Express Mail" mailing label was placed on each piece of correspondence prior to the original mailing;
(C) include a true copy of the originally deposited correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in" or other official notation entered by the USPS; and
(D) include a statement, signed by the person who deposited the documents as "Express Mail" with the USPS, setting forth the date and time of deposit, and declaring that the copies of the correspondence, "Express Mail" mailing label, and returned postcard receipt accompanying the petition are true copies of the correspondence, mailing label and returned postcard receipt originally mailed or received.

37 CFR 1.10(e) provides for the filing of a petition to accord correspondence a filing date as of the date of deposit with the USPS as "Express Mail" only where the correspondence was mailed with sufficient postage and addressed as set out in 37 CFR 1.1(a). There is no corresponding provision that correspondence be properly addressed and mailed with sufficient postage in 37 CFR 1.10(a), (c) and (d), because these sections apply only to correspondence that is actually received by the Office. Correspondence mailed by "Express Mail" that is actually received by the Office will not be denied a filing date as of the date of deposit as "Express Mail" simply because the correspondence was not mailed with sufficient postage or not addressed as set out in 37 CFR 1.1(a). 37 CFR 1.10(e)(3) provides that if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label, the petition should include a showing under 37 CFR 1.10(d)(3), as discussed above, that the correspondence was deposited as "Express Mail" before the last scheduled pickup on the requested filing date in order to obtain a filing date as of that date. 37 CFR 1.10(e) applies only in those situations in which the correspondence at issue was lost in toto (i.e., the entire correspondence was not delivered to the Office). Where there is a dispute as to the contents of correspondence submitted to the Office (e.g., an applicant asserts that three sheets of drawings were submitted under 37 CFR 1.10 with an application, but the Office records indicate receipt of only two sheets of drawings with the application), an applicant may not rely upon the provisions of 37 CFR 1.10(e) to establish what document(s) and/or fee(s) were filed in the Office with such correspondence. Rather, where the records of the Office (e.g., the file of the application) contain any document(s) or fee(s) corresponding to the contents of the correspondence at issue, the Office will rely upon its official record of the contents of such correspondence in absence of convincing evidence (e.g., a postcard receipt under MPEP Section 503 containing specific itemization of the document(s) or fee(s) purported to have been filed with the correspondence at issue) that the Office received and misplaced any document(s) or fee(s) that is not among the official records of the Office.

ADDITIONAL EVIDENCE MAY BE REQUIRED

37 CFR 1.10(f) provides that the Office may require additional evidence to determine whether the correspondence was deposited as "Express Mail" with the USPS on the date in question.

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Jimmy DeWayne and Carolyn Marie Fulton
1331 Heather Lane
PO Box 4153
Brookings, OR 97415

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JUN 21 2006

OFFICE OF PETITIONS

In re Application of Fulton et al. :
Application No. 10/962,807 : Decision on Petition
Filing Date: October 12, 2004 :
For: CJ INSTA CART[1]

This is a decision on the petition under 37 CFR 1.137(a), filed April 20, 2006, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 21, 2005, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on June 22, 2005. A Notice of Abandonment was mailed on October 4, 2005.

The instant petition seeks revival of the application. Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(a). Therefore, the petition is granted.[2]

Technology Center Art Unit 3611 will be informed of the instant decision and will further examine the application 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] Upon the grant of a petition to revive the application, the application will be forwarded to the examiner who will consider the proposed changes including any requested changes to the title for the application.

[2] The fact the petition has been granted should not be interpreted as a determination by the Office that the amendment is fully responsive to the non-final Office action. Instead, the Office of Petitions has only determined the amendment is at least sufficient to constitute a bona fide reply to the non-final Office action.

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JUN 0 6 2007

OFFICE OF PETITIONS

JLB CONSULTING, INC.
c/o INTELLEVATE
P.O. BOX 52050
MINNEAPOLIS, MN 55402

In re Application of
Michael R. Loeb
Application No. 10/962,828
Filed: October 12, 2004
Attorney Docket No. J103U015US00

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed February 12, 2007, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on October 11, 2005. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. §122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/962,828	10/12/2004	Michael R. Loeb	J103U015US00

CONFIRMATION NO. 9715

33893
JLB CONSULTING, INC.
c/o INTELLEVATE
P.O. BOX 52050
MINNEAPOLIS, MN 55402

Date Mailed: 06/05/2007

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 09/13/2007.

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".

(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 September 13, 2007 accompanies this decision on petition.

There is no indication that a reply to the non-final Office action of December 28, 2006 has been filed. Accordingly, a shortened statutory period of three (3) months for reply to the Office action of December 28, 2006 is restarted with the mailing date of this decision. Extensions of time pursuant to the provisions of 37 CFR 1.136(a) are permitted. Failure to timely reply within the period restarted by this decision will result in the abandonment of this application.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204.

This application is being forwarded to Technology Center Art Unit 2624 to await a reply to the non-final Office action, the period of which is restarted to run from the mailing date of this decision on petition as noted above.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

cc: JEFFREY BRANDT
148 LIMESTONE ROAD
RIDGEFIELD, CT 06877

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ALEXANDRIA, VA 22313-1450
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WILLIAM W. SCHAAL
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
12400 WILSHIRE BOULEVARD, SEVENTH FLOOR
LOS ANGELES, CALIFORNIA 90025

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NOV 09 2005

OFFICE OF PETITIONS

In re Application of :
Brant L. Candelore :
Application No. 10/962,830 : DECISION ON PETITION
Filed: October 11, 2004 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 80398P558X2 :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed June 3, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

The amendment submitted concurrently with the 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 amendment is physically part of the instant petition and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority), must commence on a separate physical sheet. 37 CFR 1.4(c) states that each distinct subject must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

In view of the above, the amendment to add a priority claim to the first line of the specification, which is physically embedded in the instant petition, is not acceptable. No amendment, filed on a separate sheet, has been provided.

Before the petition can be granted, petitioner must submit a substitute amendment in compliance with the aforementioned rules, along with a renewed petition under 37 CFR 1.78(a)(3).[1]

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 concerning this decision may be directed to Frances Hicks at (571) 272-3218. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Frances Hicks
Petitions Examiner
Office of Petitions

[1] The claim for priority may also be made in an Application Data Sheet in compliance with 37 CFR 1.121 and 37 CFR 1.76(b)(5).

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WILLIAM W. SCHAAL
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
12400 WILSHIRE BOULEVARD, SEVENTH FLOOR
LOS ANGELES, CA 90025

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OFFICE OF PETITIONS

In re Application of	:	
Brant L. Candelore	:	
Application No. 10/962,830	:	DECISION ON PETITION
Filed: October 11, 2004	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 80398P558X2	:	

This is a decision on the petition, filed January 3, 2006, which is being treated as a renewed 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 prior-filed provisional Application No. 60/558,386, as 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.

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LOS ANGELES, CA 90025

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OFFICE OF PETITIONS

In re Application of	:	
Brant L. Candelore	:	
Application No. 10/962,830	:	DECISION ON PETITION
Filed: October 11, 2004	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 80398P558X2	:	

This is a decision on the petition, filed January 3, 2006, which is being treated as a renewed 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 prior-filed provisional Application No. 60/558,386, as 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 the undersigned at (571) 272-3218. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 2131 for examination in due course and 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.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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Albin J. Nelson
Schwegman, Lundberg, Woessner
& Kluth, P.A.
P.O. Box 2938
Minneapolis, MN 55402

In re Application of :
Giles H. Tapolsky et al. :
Application No. 10/962,833 : DECISION ON PETITION
Filed: October 12, 2004 : TO WITHDRAW
Attorney Docket No. 1195.335US3 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 19, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Albin J. Nelson and all attorneys/agents associated with customer number 21186 has been revoked by the assignee, QLT USA, Inc., of the patent application on April 3, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272- 4618.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Lahive & Cockfield, LLP
One Post Office Square
Boston, MA 02109-2127

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/962,833	10/12/2004	Gilles H. Tapolsky	1195.335US3

CONFIRMATION NO. 9723

21186
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

OC000000023543466

Date Mailed: 04/26/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/03/2007.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Kimberly Gabrinet

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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Leland K. Jordan
1235 Thunder Hill Road
Lincoln University, PA 19352

MAILED

MAY 26 2009

OFFICE OF PETITIONS

In re Application of :
Victor Paul Kearney et al. :
Application No. 10/962,836 : DECISION ON PETITION
Filed: October 12, 2004 : TO WITHDRAW
Attorney Docket No. LKJ-04-10 : 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 Leland K. Jordan and all attorneys/agents of record has been revoked by the assignee of the patent application on June 13, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: DLA Piper, LLP (US)
2000 University Avenue
East Palo Alto

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OFFICE OF PETITIONS

THOMAS KAYDEN HORSTEMEYER & RISLEY LLP
600 GALLERIA PARKWAY SE
STE 1500
ATLANTA GA 30339-5994

In re Application of :
Bhatavadekar, et al. :
Application No. 10/962,839 : ON PETITION
Filed: October 12, 2004 :
Attorney Docket No. 5853-398-1 :

This is in response to the petition under 37 CFR 1.182 to change the name of an inventor, filed May 16, 2009.

Applicants have requested to correct the name of inventor Nilkanth Bhalchandra Bhatavadekar to Neel Bhalchandra Bhatavadekar. In support thereof, applicants have included appropriate documentation.

Accordingly, the request is **GRANTED**.

Office records have been changed to reflect the change in the inventor's name.

The application is being forwarded to Group Art Unit 3731.

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: corrected filing receipt (3 pages)

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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	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/962,839	10/12/2004	3731	716	5853-398-1	41	6

CONFIRMATION NO. 9741

CORRECTED FILING RECEIPT

24504
THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA, GA 30339-5994

Date Mailed: 12/08/2009

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)

Neel Bhalchandra Bhatavadekar, Chapel Hill, NC;
David W. Mozingo, Gainesville, FL;
Andrew Jordan Rapoff, Niskayuna, NY;

Assignment For Published Patent Application

UNIVERSITY OF FLORIDA RESEARCH FOUNDATION, INC., GAINESVILLE, FL

Power of Attorney: The patent practitioners associated with Customer Number 30448

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/517,996 11/06/2003

Foreign Applications

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 **US 10/962,839**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Devices and systems for separating and preparing skin

Preliminary Class

606

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 23313-1450
WWW.USPTO.GOV

Mailed: 4/25/05

CHK
Paper No. ____

In re Application of
ISHIZAKA et al.
Serial No.: 10/962851
Filed: October 13, 2004

DECISION ON PETITION UNDER *37 CFR 1.48(b)*

For: IMAGE FORMING METHOD

This is a decision on the request for CORRECTION OF INVENTORSIP UNDER 37 C.F.R. 1.48(b) (herein treated as PETITION TO DELETE CORRECTLY NAMED PERSON WHO IS NOT INVENTOR OF INVENTION NOW BEING CLAIMED) filed November 24, 2004 to correct inventorship under 37 CFR 1.48(b) by deleting the name of Atsushi Kato from the list of inventors of the instant application.

It is noted that the applicant has met the requirements of (1) a petition including a statement identifying each named inventor who is being deleted and acknowledging that the inventor's invention is no longer being claimed in the application; and (2) the fee set forth in 37 CFR 1.17(i).

The petition is **GRANTED**.

The application file is being forwarded to the appropriate section of the Patent and Trademark Office for correction of the record.

Cynthia H. Kelly
Supervisory Patent Examiner
Technology Center 1700

Bruce Kramer
Sughrue Mion, PLLC
2100 Pennsylvania Ave. NW
Suite 800
Washington, D.C. 20037

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

MORGAN, LEWIS & BOCKIUS LLP
1701 MARKET STREET
PHILADELPHIA PA 19103-2921

COPY MAILED

MAY 11 2005

OFFICE OF PETITIONS

In re Application of
Giannetti, et al.
Application No. 10/962,868
Filed: October 12, 2004
Attorney Docket No. 054756-5009-01
For: METHOD FOR AUTOLOGOUS TRANSPLANTATION

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.53(e), filed March 14, 2005 (certificate of mailing date March 11, 2005) and resubmitted on March 25, 2005, requesting, in effect, partial withdrawal of the February 9, 2005 Notice to File Corrected Application Papers (Notice) insofar as it alleges that Figure 16 described in the specification was omitted.

The application was filed on October 12, 2004. On February 9, 2005, the Office of Initial Patent Examination mailed a Notice informing petitioners, *inter alia*, that Figure 16 described in the specification appeared to have been omitted.

In response to the Notice, petitioners timely filed the present petition. Petitioners request that Figure 16 be accorded a filing date of October 12, 2004 on the basis that 20 sheets of drawing figures, including Figure 16, were received in the Patent and Trademark Office (PTO) on October 12, 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 October 12, 2004 as the date of receipt. The postcard lists, *inter alia*, that the filing included 20 sheets of drawings.

The return postcard constitutes *prima facie* evidence that 20 sheets of drawing figures were filed on October 12, 2004. MPEP 503. A review of the originally filed pages of drawings reveals that only 19 pages are present. Accordingly, the request is granted.

Pursuant to petitioners' authorization, the $400.00 petition fee will be credited to deposit account no. 50-0310.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **October 12, 2004**, using the copy of Figure 16 submitted on March 25, 2005. Office records will be corrected to show that 20 sheets of drawings were present on filing.

Any inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

OFFICE OF THE ASSOC. GEN. COUNSEL (IP & T)
9800 SAVAGE ROAD
SUITE 6542
FORT MEADE, MD 20755-6542

Mail Date: 04/21/2010

Applicant	: William Edward Vanderlinde	: DECISION ON REQUEST FOR
Patent Number	: 7005652	: RECALCULATION of PATENT
Issue Date	: 02/28/2006	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/962,872	: OF WYETH
Filed	: 10/04/2004	:
		:

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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SEYFARTH SHAW, LLP
131 S. DEARBORN ST. - SUITE 2400
CHICAGO, IL 60603-5803

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SEP 18 2007

OFFICE OF PETITIONS

In re Application of :
Song-Ping Luh, et. al. :
Application No. 10/962,885 : ON PETITION
Filed: October 12, 2004 :
Attorney Docket No. 37395-400300 :

This is a decision on the petition under 37 CFR 1.137(b) filed by facsimile transmission on September 5, 2006, to revive the above-identified application. The delay in responding is regretted.

The application became abandoned for failure to respond to the Restriction Requirement mailed on September 12, 2005. A Notice of Abandonment was mailed on May 15, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) an election; (2) the petition fee of $1,500; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 2829, 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/27/07

Paper No.: ____

TO SPE OF : ART UNIT 2863

SUBJECT : Request for Certificate of Correction on Patent No.: 7062395

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes do not apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

to correct minor typing error

John Barlow
Supervisory Patent Examiner
Technology Center 2800

2863
Art Unit

DOC Code: COCIN

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,062,395 B2

Page 1 of 8

APPLICATION NO. : 10/962,888

ISSUE DATE : Jun. 13, 2006

INVENTOR(S) : Tanimoto et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 5
Line 31, after "analyzing", remove [a]

Column 6
Line 60, after "analyzing", remove [a]

Column 17
Line 17, change "start" to --stars--

Column 19
Line 2, before "analysis", remove [I]

Column 21
Line 21, change "storing&" to --storing,--

MAILING ADDRESS OF SENDER (Please do not use customer number

Scott A. Woodbury, Esq., WORKMAN NYDEGGER
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111

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 the burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

NOV 2 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,062,395 B2

APPLICATION NO. : 10/962,888

ISSUE DATE : Jun. 13, 2006

INVENTOR(S) : Tanimoto et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Drawings

Sheet 13, replace figure 13 with the figure depicted herein below in which "scratch" has been changed to --scratches--

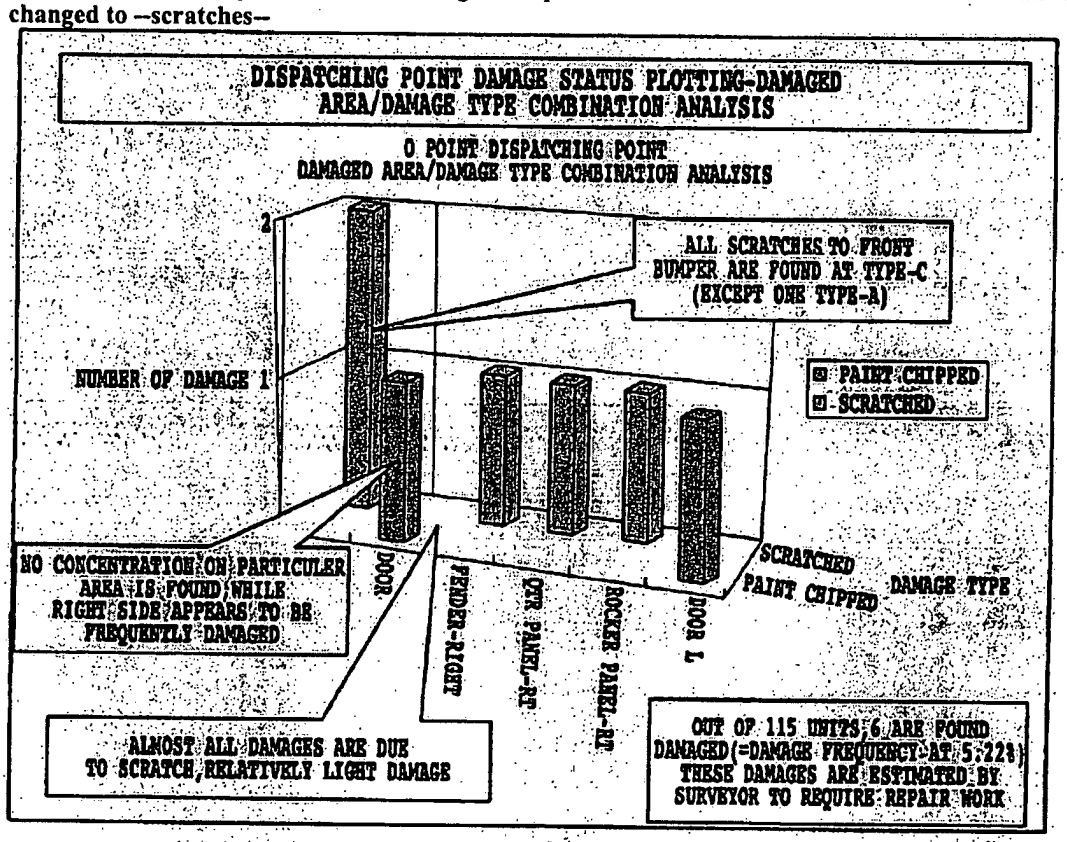

FIG.13

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Scott A. Woodbury, Esq., WORKMAN NYDEGGER
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111

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If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,062,395 B2

APPLICATION NO. : 10/962,888

ISSUE DATE : Jun. 13, 2006

INVENTOR(S) : Tanimoto et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Drawings

Sheet 21, replace figure 21 with the figure depicted herein below in which "berore" has been changed to --before--

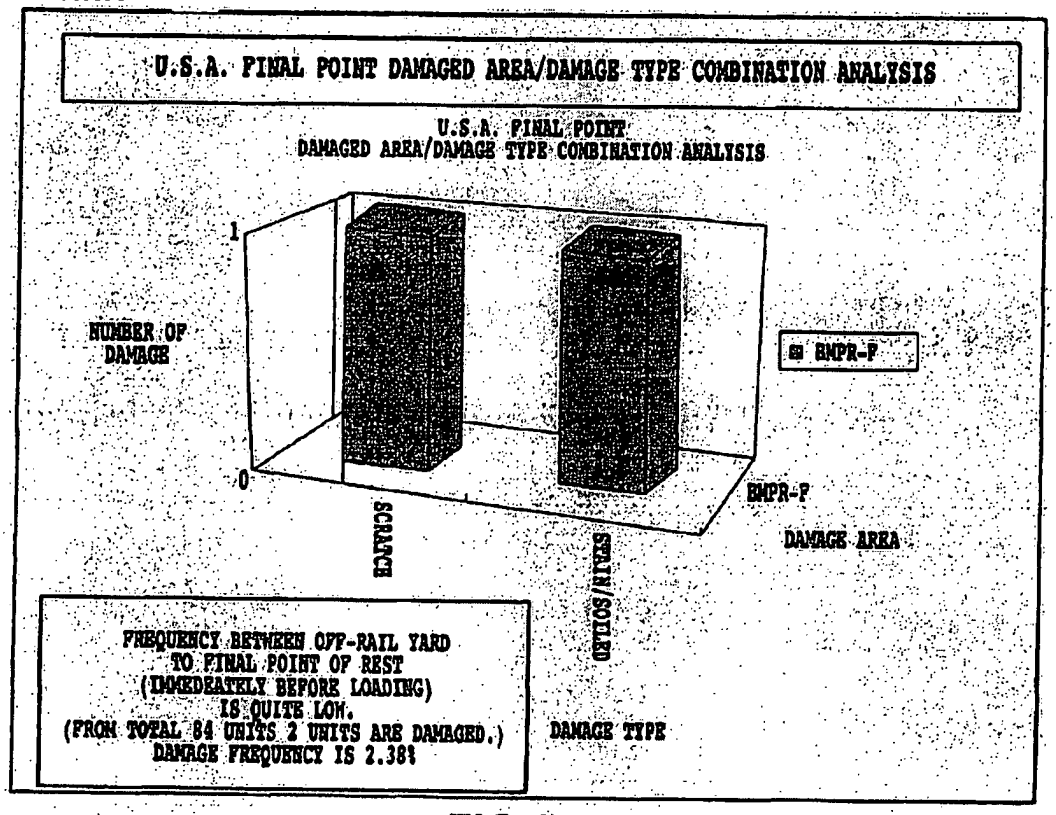

FIG.21

MAILING ADDRESS OF SENDER (Please do not use customer number

Scott A. Woodbury, Esq., WORKMAN NYDEGGER
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111

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If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

DOC Code: COCIN

PTO/SB/44 (04-05)
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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. : 7,062,395 B2

APPLICATION NO. : 10/962,888

ISSUE DATE : Jun. 13, 2006

INVENTOR(S) : Tanimoto et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Drawings

Sheet 23, replace figure 23 with the figure depicted herein below in which after "except missing" the word –key– has been inserted.

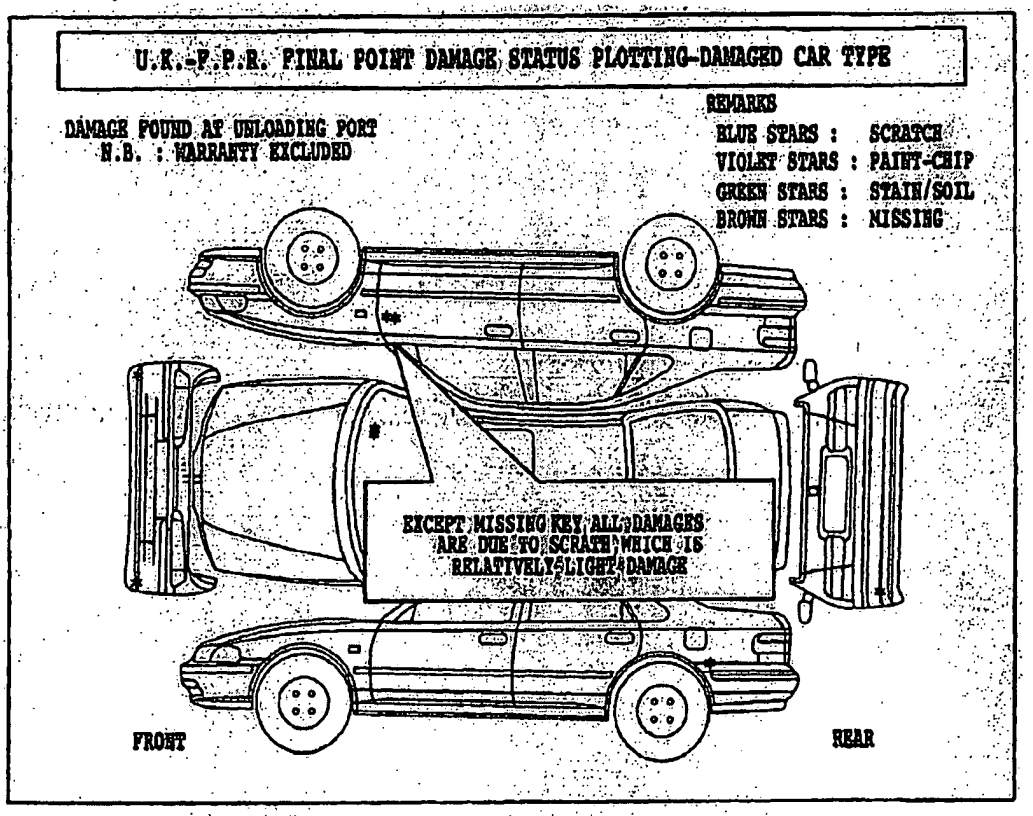

FIG.23

MAILING ADDRESS OF SENDER (Please do not use customer number

Scott A. Woodbury, Esq., WORKMAN NYDEGGER
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111

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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,062,385 B2

APPLICATION NO. : 10/962,888

ISSUE DATE : Jun. 13, 2006

INVENTOR(S) : Tanimoto et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Drawing

Sheet 24, replace figure 24 with the figure depicted herein below in which "damaded" has been changed to --damaged--

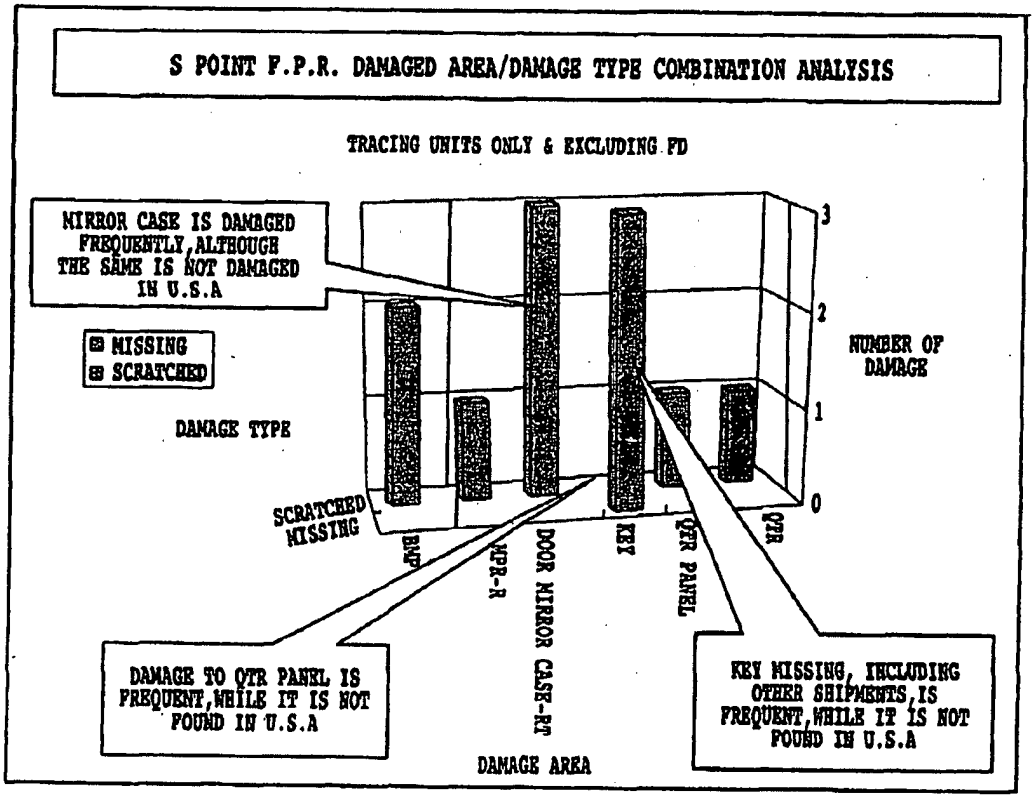

FIG.24

MAILING ADDRESS OF SENDER (Please do not use customer number

Scott A. Woodbury, Esq., WORKMAN NYDEGGER
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111

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If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

NOV 2 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,062,395 B2

APPLICATION NO. : 10/962,888

ISSUE DATE : Jun. 13, 2006

INVENTOR(S) : Tanimoto et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Drawings

Sheet 26, replace figure 26 with the figure depicted herein below in which "scratch, which is" has been changed to --scratches, which are-- and "trasportation" has been changed to --transportation--

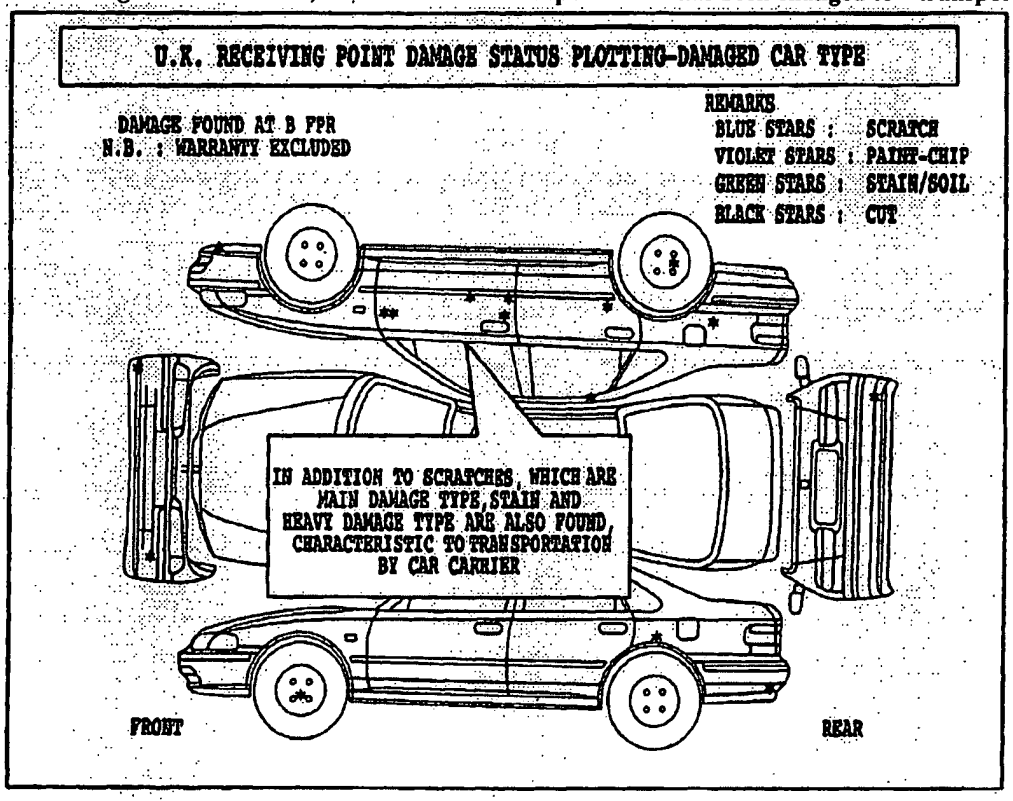

FIG.26

MAILING ADDRESS OF SENDER (Please do not use customer number

Scott A. Woodbury, Esq., WORKMAN NYDEGGER
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111

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 the burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,062,395 B2

APPLICATION NO. : 10/962,888

ISSUE DATE : Jun. 13, 2006

INVENTOR(S) : Tanimoto et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Drawings

Sheet 29, replace figure 29 with the figure depicted herein below in which "bumrers" has been changed to --bumpers-- and "ranels" has been changed to --panels--

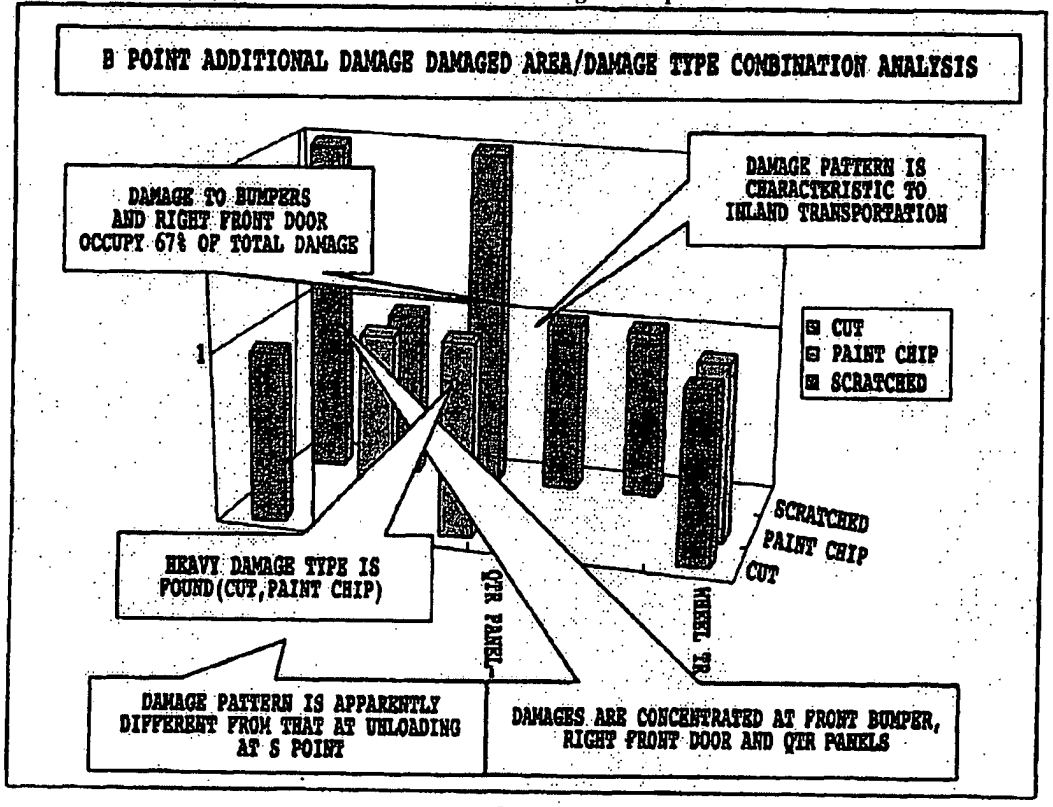

FIG.29

MAILING ADDRESS OF SENDER (Please do not use customer number

Scott A. Woodbury, Esq., WORKMAN NYDEGGER
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111

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 the 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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NOV 2 2007

DOC Code: COCIN

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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,062,395 B2

Page 8 of 8

APPLICATION NO. : 10/962,888

ISSUE DATE : Jun. 13, 2006

INVENTOR(S) : Tanimoto et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Drawings

Sheet 30, replace figure 30 with the figure depicted herein below in which "damage" has been changed to --damages--

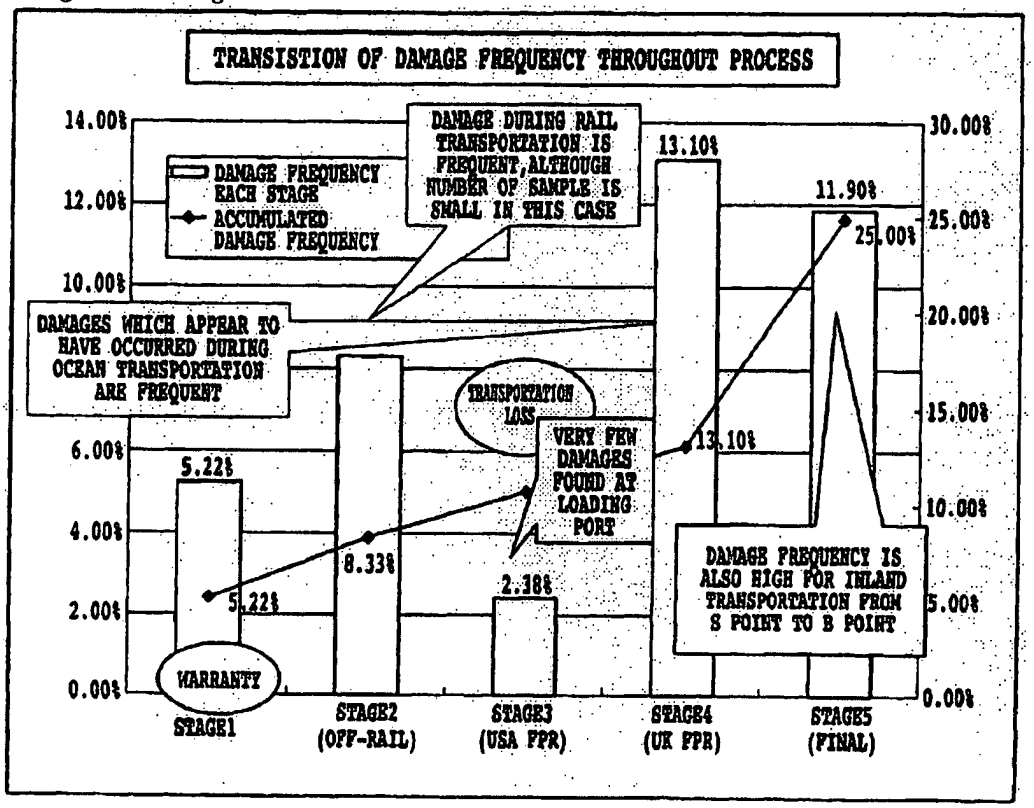

FIG.30

MAILING ADDRESS OF SENDER (Please do not use customer number

Scott A. Woodbury, Esq., WORKMAN NYDEGGER
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111

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 the burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

NOV 2 2007

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Sony Corporation of America
16530 VIA ESPRILLO, MZ 7190
SAN DIEGO, CA 92127

Mail Date: 04/21/2010

Applicant	: Jianyu Roy Zheng	: DECISION ON REQUEST FOR
Patent Number	: 7673066	: RECALCULATION of PATENT
Issue Date	: 03/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/962,892	: OF WYETH
Filed	: 10/12/2004	:
		:

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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ALEXANDRIA, VA 22313-1450
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DOCKETED

FEB 01 2005

DUE DATE
BY

Stephen H. Doctor
MCDONNELL BOEHNEN HULBET & BERGHOFF
300 South Wacker
Suite 3200
Chicago, IL 60606

In re Application of:
SIRNA THERAPEUTICS, INC.
PCT No.: PCT/US02/15876
International Filing Date: 17 May 2002
Priority Date: 18 May 2001
Attorney's Docket No.: 02-312-PCT;600.019
For: CONJUGATES AND COMPOSITIONS FOR CELLULAR DELIVERY

DECISION ON PETITION UNDER 37 CFR 1.10

This decision is issued in response to the "Petition To Accord Express Mail 'Date In' As Filing Date" filed 03 August 2004, treated herein under 37 CFR 1.10(c). The petition seeks to correct the international filing date to 17 May 2002. No petition fee is required.

BACKGROUND

Applicant initiated this international application by filing a Request (Form PCT/RO/101) and accompanying materials via "Express Mail" label number EL602855817US. The transmittal letter filed with the application materials lists this "Express Mail" label number, and identifies the date of deposit as 17 May 2002.

On 20 June 2002, the RO/US mailed a "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) identifying 20 May 2002 as the international filing date.

On 03 August 2004, applicant filed the petition considered herein. The petition seeks correction of the international filing date to 17 May 2002, the date on which applicant claims the application was deposited with the USPS. The submission includes, among other materials, a copy of the customer receipt for Express Mail label number EL602855817US, which bears a "date in" of 17 May 2002.

DISCUSSION

The present international application was accorded an international filing date of 20 May 2002. Applicant asserts that the proper international filing date is 17 May 2002, the date on which the Express Mail envelope containing the application materials was deposited with the USPS. As noted above, applicant has supplied a copy of the customer receipt for the Express

Mail envelope bearing a "date in" of 17 May 2002, and the Express Mail label number for this envelope was identified on the transmittal letter filed with the application papers. In addition, the USPTO Express Mail database identifies 17 May 2002 as the date on which this Express Mail envelope was accepted by the USPS.

Based on applicant's statements, the Express Mail database acceptance date of 17 May 2002, and the 17 May 2002 "date in" entered by the USPS on the Express Mail label, it is concluded that the present application was deposited as "Express Mail" with the USPS on 17 May 2002. Accordingly, pursuant to 37 CFR 1.10(c), the international filing date is appropriately corrected to 17 May 2002.

CONCLUSION

Applicant's petition for correction of the international filing date is **GRANTED**.

The international filing date is corrected to **17 May 2002**. The "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) mailed 20 June 2002, which identified 20 May 2002 as the international filing date, is hereby **VACATED**.

A corrected "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) which correctly identifies the international filing date as **17 May 2002** is issued herewith. Copies of this decision and the corrected Form PCT/RO/105 will be forwarded to the International Bureau.

This application is being forwarded to the RO/US for further processing in accordance with this decision.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

PATENT COOPERATION TREATY

From the RECEIVING OFFICE

To:
STEPHEN H. DOCTER
MCDONNELL BOEHNEN HULBERT & BERGHOFF
SUITE 3200
CHICAGO, ILLINOIS 60606

PCT

NOTIFICATION OF THE INTERNATIONAL APPLICATION NUMBER AND OF THE INTERNATIONAL FILING DATE

(PCT Rule 20.5(c))

Date of mailing *(day/month/year)*	27 JAN 2005
Applicant's or agent's file reference: 02-312-PCT;600.019	IMPORTANT NOTIFICATION

International application No.	International filing date *(day/month/year)*	Priority date *(day/month/year)*
PCT/US02/15876	17 May 2002	18 May 2001

Applicant: SIRNA THERAPEUTICS, INC.

Title of the invention: CONJUGATES AND COMPOSITIONS FOR CELLULAR DELVERY

1. The applicant is hereby notified that the international application has been accorded the international application number and the international filing date indicated above.

2. The applicant is further notified that the record copy of the international application:

[X] was transmitted to the International Bureau on 20 June 2002.

[ ] has not yet been transmitted to the International Bureau for the reason indicated below and a copy of this notification has been sent to the International Bureau*:

[ ] because the necessary national security clearance has not yet been obtained.

[ ] because *(reason to be specified)*:

* The International Bureau monitors the transmittal of the record copy by the receiving Office and will notify the applicant (with Form PCT/IB/301) of its receipt. Should the record copy not have been received by the expiration of 14 months from the priority date, the International Bureau will notify the applicant (Rule 22.1(c)).

3. FOREIGN TRANSMITTAL LICENSE INFORMATION Completed by: JM

[ ] Additional license for foreign transmittal not required. This subject matter is covered by a license already granted or the equivalent U.S. national application. Refer to that license for information concerning its scope.

[ ] License for foreign transmittal not required. 37 CFR 5.11(e)(1) or 37 CFR 5.11(e)(2). However, a license may be required for additional subject matter. See 37 CFR 5.15(b).

[X] Foreign transmittal license granted. 35 U.S.C. 184; 37 CFR 5.11 on 15 June 2002 (date):

[ ] 37 CFR 5.15(a) [X] 37 CFR 5.15(b)

Name and mailing address of the receiving Office	Authorized officer
Mail Stop PCT, Commissioner for Patents P.O. Box 1450, Alexandria, VA 22313-1450	Richard Ross RR
Facsimile No. 703-305-3230	Telephone No. 571-272-3296

Form PCT/RO/105 (July 1992)

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WILLIAM M HANLON, JR
YOUNG & BASILE, PC
3001 WEST BIG BEAVER ROAD
SUITE 624
TROY, MI 48084-3107

MAILED
FROM DIRECTORS OFFICE

MAR 16 2005

TECHNOLOGY CENTER 3600

In re application of
George Saxbo et al.
Application No. 10/962,902
Filed: October 11, 2004
For: LOW PROFILE FLUID QUICK CONNECTOR

DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)

This is a decision on the petition under 37 C.F.R § 1.102(d) filed February 10, 2005 to make the above-identified application special.

The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market or method in use; (B) that a rigid comparison of the alleged infringing device, product or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed February 10, 2005 meets all of the requirements above and, therefore, the petition is **GRANTED**.

With regards to element 2(C) above, an Information Disclosure Statement was filed on December 29, 2003.

The examiner is directed (1) to make an interference search for possible interfering applications; (2) to promptly examine this application out of turn; and (3) if any interfering application is discovered, to examine such application

simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference and appeal, if any, only if petitioner makes a prompt *bona fide* effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/slb: 02/17/05

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OFFICE OF PETITIONS

MARSHALL & MELHORN LLC
FOUR SEAGATE - EIGHTH FLOOR
TOLEDO OH 43604

In re Application of :
Zia, et al. :
Application No. 10/962,908 : ON PETITION
Filed: October 12, 2004 :
Attorney Docket No. 1-16785 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 20, 2008, to revive the above-identified application.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper response to the final Office action mailed April 16, 2008. This Office action set a shortened statutory period for reply of three months. No proper reply having been received, the application became abandoned on July 17, 2008. The Office mailed a Notice of Abandonment subsequent to the filing of the petition on October 23, 2008.

With the instant petition, petitioner paid the petition fee, filed a reply in the form of an amendment, and made the proper statement of unintentional delay.

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 $555.00 extension of time fee submitted with the petition on October 20, 2008 was subsequent to the maximum period obtainable for reply (October 16, 2000), this fee has been refunded to petitioner's Deposit Account 13-1816.

The matter is being forwarded to Group Art Unit 1797 for consideration of the amendment filed October 20, 2008.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

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MAY 12 2010

WINSTEAD PC
P.O. BOX 50784
DALLAS TX 75201

In re application of	:	**DECISION ON PETITION**
Benedetto BONGIORNO et al.	:	**TO REVIEW THE**
Application No. 10/962,919	:	**OFFICE ACTIONS**
Filed: October 12, 2004	:	**UNDER 37 CFR 1.181**
For: SYSTEM AND METHOD OF CONTINUOUS ASSURANCE	:	

This is a decision on applicant's petition under 37 CFR 1.181 filed on July 13, 2009 to request review of the official notice in the Office action mailed on May 30, 2008 and the final Office action mailed on November 4, 2008, and the examiner's holding of the applicants' traversal of the official notice as inadequate in the Office action mailed on May 13, 2009.

The petition is **DISMISSED AS MOOT**.

Applicants allege in the petition that the official notice made in the non-final Office action mailed on May 30, 2008, and the final Office action mailed November 4, 2008 were improper because the examiner failed to provide specific factual findings predicated on sound technical and scientific reasoning as set forth in MPEP § 2144.03 (B).

The record shows that a non-final Office action was mailed on May 30, 2008 in which the examiner took official notice that the method of downloading total population from/to client database, comparing total population to financial statements, determining a risk rating for each predetermined group and determining a materiality of anomalies recited in claims 1 and 19; and the method steps of accomplishing the task of identifying financial transactions recited in claims 8-18, and the computer system recited in claims 20-60 designed to support the methods of claims 1-19 are common, old and well known in the art. Applicants filed a response on September 2, 2008 traversing the official notice on the grounds that the examiner failed to provide specific factual findings predicated on sound technical and scientific reasoning as set forth in MPEP § 2144.03 (B) . A final Office action was mailed on November 4, 2008 in which the examiner maintained the official notice in the rejections of claims 1-19, 21-24, 26-33 and 35-60 and considered the features noted in the Office action of May 30, 2008 to be admitted prior art, and hold the applicant's arguments on the official notice to be moot and non-

persuasive for failing to provide an adequate traversal. Applicants filed a response to the final Office action on April 6, 2009 along with a request for continued examination, in which applicants argued that the traversal of the official notice in the response filed on September 2, 2008 was proper and the examiner's holding of prior art admission should be withdrawn. In the Office action mailed on May 13, 2009 the examiner again hold the traversal of the official notice as inadequate and maintained that the official notice statements are taken to be admitted as prior art.

MPEP § 2144 .3 (B) states that:

> In certain older cases, official notice has been taken of a fact that is asserted to be "common knowledge" without specific reliance on documentary evidence where the fact noticed was readily verifiable, such as when other references of record supported the noticed fact, or where there was nothing of record to contradict it. See In re Soli, 317 F.2d 941, 945-46, 137 USPQ 797, 800 (CCPA 1963) (accepting the examiner's assertion that the use of "a control is standard procedure throughout the entire field of bacteriology" because it was readily verifiable and disclosed in references of record not cited by the Office); In re Chevenard, 139 F.2d 711, 713, 60 USPQ 239, 241 (CCPA 1943) (accepting the examiner's finding that a brief heating at a higher temperature was the equivalent of a longer heating at a lower temperature where there was nothing in the record to indicate the contrary and where the applicant never demanded that the examiner produce evidence to support his statement). If such notice is taken, the basis for such reasoning must be set forth explicitly. The examiner must provide specific factual findings predicated on sound technical and scientific reasoning to support his or her conclusion of common knowledge. See Soli, 317 F.2d at 946, 37 USPQ at 801; Chevenard, 139 F.2d at 713, 60 USPQ at 241. The applicant should be presented with the explicit basis on which the examiner regards the matter as subject to official notice **>so as to adequately traverse the rejection< in the next reply after the Office action in which the common knowledge statement was made.

MPEP § 2144 .3 (C) states that:

> To adequately traverse such a finding, an applicant must specifically point out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well known in the art. See 37 CFR 1.111 (b). See also *Chevenard*, 139 F.2d at 713, 60 USPQ at 241 ([I]n the absence of any demand by appellant for the examiner to produce authority for his statement, we will not consider this contention."). A general allegation that the claims define a patentable invention without any reference to the examiner's assertion of official notice would be inadequate. If applicant adequately traverses the examiner's assertion of official notice, the examiner must provide documentary evidence in the next Office action if the rejection is to be maintained. See 37 CFR 1.104(c)(2). See also *Zurko*, 258 F.3d at 2386, 59.

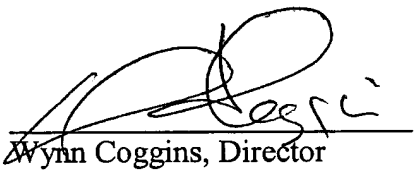
A close review of the non-final Office action mailed on May 30, 2008 shows that the examiner took the official notice in the rejection of claims 1-60 as a fact without any supported

documentary evidence. The rejections were made without specific factual findings predicated on sound technical and scientific reasoning to support his conclusion of common knowledge as set forth in MPEP § 2144.3 (B). Similarly, the official notice rationales in the final rejection dated November 4, 2008 were conclusions without specific factual findings predicated on sound technical and scientific reasoning. As the official notice were not taken properly, the examiner's action in taking the official notice statement to be admitted as prior art in the Office action dated November 4, 2008 was improper.

A review of applicant's responses filed on September 2, 2008 and April 6, 2009 reveal that applicants clearly challenge the invocation of the official notice by correctly pointing out that the examiner failed to provide specific factual findings predicated on sound technical and scientific reasoning to support his conclusion of common knowledge. However, applicant's argument that "The prior art of record does not disclose the claimed steps and does not suggest that the steps are well known" is an inadequate traversal because it fails to state *why* the noticed fact is not considered to be common knowledge or well known in the art.

In view of the fact that claims 1-60 had been cancelled and new claims 61-66 were added in the response filed on April 6, 2009, and the application has been allowed in the Notice of Allowance mailed on December 11, 2009, the issues of the official notice related to cancelled claims 1-60 are no longer pending. Therefore, the petition is dismissed as moot.

Any questions regarding this decision should be directed to Supervisory Patent Examiner Kambiz Abdi at (571) 272-6702.



Wynn Coggins, Director
Patent Technology Center 3600
(571) 272-5350

ka/lm: 5/2/2010

LM

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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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SEP 02 2008

Applicant: Grazulevisius, et al.
Appl. No.: 10/962,926
Filing Date: October 12, 2004
Title: ORGANOPHOTORECEPTORS WITH A CHARGE TRANSPORT MATERIAL HAVING MULTIPLE VINYL-CONTAINING HYDRAZONE GROUPS
Attorney Docket No.: 3216.82US01
Pub. No.: US 2006/0078351 A1
Pub. Date: April 13, 2006

This is a decision on the requests for a corrected patent application publication under 37 CFR 1.221(a) or 37 CFR 1.221(b), received on February 8, 2007 and September 4, 2007, for the above-identified application.

Applicant requests that the application be republished because the patent application publication contains material errors in specification and claims.

The request is DISMISSED.

37 CFR 1.221(a) requires "a copy of the application in compliance with the Office electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)". If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed **within two months** from the date of the patent application publication. **This period is not extendable**." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

The requests for corrected publication, received on February 8, 2007 and September 4, 2007, were not timely filed under 37 CFR 1.221(b).

The applicant did not supply a copy of the application in compliance with the Office electronic filing system, as required by 37 CFR 1.221(a).

Since the application has already issued as U.S. Patent No. 7,351,508 on April 8, 2008, the request is deemed moot.

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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Philip S. Yip
P.O. Box 2872
Santa Clara, CA 95055

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AUG 04 2008

OFFICE OF PETITIONS

In re Application of	:	
Ming-Kang Liu	:	
Application No. 10/962,932	:	DECISION ON PETITION
Filed: October 9, 2004	:	TO WITHDRAW
Attorney Docket No. LIU-01-001-P	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 17, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Philip S. Yip 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 Ming-Kang Liu at the address indicated below.

There is an outstanding Office action mailed May 29, 2008 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: **Ming-Kang Liu**
6535 Canterbury Court
San Jose, CA 95129

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/962,932	10/09/2004	Ming-Kang Liu	LIU-01-001-P

CONFIRMATION NO. 3052

POWER OF ATTORNEY NOTICE

41858
PHILIP S. YIP
P.O. BOX 2872
SANTA CLARA, CA 95055

OC000000031355548

Date Mailed: 08/04/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/17/2008.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tswilliams/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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XIN WEN
2800 BRIDGE PARKWAY
REDWOOD CITY CA 94065

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AUG 27 2007

OFFICE OF PETITIONS

In re Application of :
Baum, et al. :
Application No. 10/962,933 : DECISION ON PETITION
Filed: October 12, 2004 :
Attorney Docket No. SF020C1 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed August 16, 2007.

The petition is **GRANTED.**

The above-identified application was held abandoned for failure to timely file a full reply to the Notice to File Missing Parts of Nonprovisional Application, mailed November 23, 2004. This Notice gave applicant an extendable period of two (2) months to submit $44 for additional claims fees. Applicant submitted the $44 on December 17, 2004. However, the fee was increased on December 8, 2004 to $100. A Notice of Abandonment was mailed on July 20, 2007. The instant petition was promptly filed.

The Manual of Patent Examining Procedure, § 509 states:

> Where the Office has notified an applicant, in writing, that a fee is due and has specified a particular dollar amount for that fee, if the applicant timely submits the specified fee amount in response to the notice, the applicant should

be considered to have complied with the notice so as to avoid abandonment of the application. If the fee paid by the applicant is insufficient, either because the notice specified an incorrect dollar amount for the fee or because of a fee increase effective after the mailing of the notice and before payment of the fee by the applicant, the applicant should be notified in writing by the Office of the fee insufficiency and given a new time period in which to submit the remaining balance. The written notification of the fee insufficiency should set forth the reason (i.e., the fee amount indicated by the Office in the earlier notice was incorrect or the fees have increased since the earlier notice was mailed) why applicant is being required to submit an additional fee.

In the instant application, applicant timely submitted the fee as required by the November 23, 2004 Notice. Despite the increase in the fee, applicant was not notified or given a new time period to submit the remaining balance. This was in error.

In view thereof, **the holding of abandonment is withdrawn.**

The matter is being forwarded to the Office of Initial Patent Examination for the preparation of a Notice of Fee Increase, giving applicant a new time period in which to submit the remaining balance.

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

DO NOT ENTER: /J.S./

03/12/2009

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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(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,457,137

APPLICATION NO.: 10/962,938

ISSUE DATE : 11/25/2008

INVENTOR(S) : Donald V. Comiskey Jr.

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:

Sheets 3 of 6 and 4 of 6 of the drawings are replaced by the attached replacement sheets 3 of 6 and 4 of 6 of the drawings (pages 2 and 3 hereof), which include the following changes:

FIG. 2A, change ground symbols (inverted triangles) to heatsink symbols (upside-down flags).
FIG. 2A, add connection line tie dots to connection at element 66, to connection adjacent +VOUT node 10, and at lower terminal of resistor element 104.
FIG. 2A, reverse cathode and anode ends of diode in element 100.
FIG. 2B: add connection line tie dots between elements 26 & 28, at output of element 120, at upper terminal of middle capacitor at bottom of FIG. 2B, and at lower terminal of element 124.
FIG. 2B, connection lines added at top of element 28, at bottom of element 52, at top of amplifier element located below element 120.
FIG. 2B, delete numeral "1" from resistor above REF node and from middle resistor below element 124.
FIG. 2B, change arrow directions to change NPN transistors on left side of drawing to PNP transistors.

MAILING ADDRESS OF SENDER (Please do not use customer number below):

TEXAS INSTRUMENTS INCORPORATED
P.O. Box 655474, M/S 3999
Dallas, TX 75265

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

OK TO ENTER: /J.S./

03/12/2009

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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,457,137

APPLICATION NO.: 10/962,938

ISSUE DATE : 11/25/2008

INVENTOR(S) : Donald V. Comiskey Jr.

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:

Sheets 3 of 6 and 4 of 6 of the drawings are replaced by the attached replacement sheets 3 of 6 and 4 of 6 of the drawings (pages 2 and 3 hereof), which include the following changes:

FIG. 2A, change ground symbols (inverted triangles) to heatsink symbols (upside-down flags).
FIG. 2A, add connection line tie dots to connection at element 66, to connection adjacent +VOUT node 10, and at lower terminal of resistor element 104.
FIG. 2A, reverse cathode and anode ends of diode in element 100.
FIG. 2B: add connection line tie dots between elements 26 & 28, at output of element 120, at upper terminal of middle capacitor at bottom of FIG. 2B, and at lower terminal of element 124.
FIG. 2B, connection lines added at top of element 28, at bottom of element 52, at top of amplifier element located below element 120.
FIG. 2B, delete numeral "1" from resistor above REF node and from middle resistor below element 124.
FIG. 2B, change arrow directions to change PNP transistors on left side of drawing to NPN transistors.

MAILING ADDRESS OF SENDER (Please do not use customer number below):

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P.O. Box 655474, M/S 3999
Dallas, TX 75265

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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JUL 29 2005

TECHNOLOGY CENTER 3000

STROOCK & STROOCK &
LAVAN LLP
180 MAIDEN LANE
NEW YORK, NY 10038

In re application of : **DECISION ON PETITION**
George S. Gabriel, et al : **TO MAKE SPECIAL**
Application No. 10/962,940 : **(APPLICANT'S AGE)**
Filed: October 12, 2004 :
For: FLUID DELIVERY ADAPTER

This is a decision on the petition submitted on October 12, 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 photocopy of George S. Gabriel's birth certificate 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
Technology Center 3600
(571) 272-6619

RAR/dcg: 7/20/05

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KIRKPATRICK & LOCKHART PRESTON GATES ELLIS LLP
535 SMITHFIELD STREET
PITTSBURGH PA 15222

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JUL 0 2 2008

OFFICE OF PETITIONS

In re Application of :
James P. **KOHLER et al** :
Application No. 10/962,962 : ON PETITION
Filed: October 12, 2004 :
Attorney Docket No. ASP-5022 :

This is a decision on the petition, filed February 28, 2008, under 37 CFR 1.137(b) 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 15, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on June 16, 2007.

The petition satisfies the requirements for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment, (2) the petition fee of $ 1540 and (3) a proper statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of March 15, 2007 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Lori Baker Amerson at (571) 272-6052, or in her absence, the undersigned at (571) 272-7099.

This application is being referred to Technology Center AU 1744 for appropriate action on the concurrently filed amendment.

David Bucci
Petitions Examiner
Office of Petitions

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STEPHEN B. ACKERMAN
28 DAVIS AVENUE
POUGHKEEPSIE NY 12603

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JUL 18 2007

OFFICE OF PETITIONS

In re Application of :
Mouo-Shiung Lin et al :
Application No. 10/962,963 : DECISION ON PETITION
Filed: October 12, 2004 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. MEG04-015 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 2, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to prior-filed nonprovisional Application No. 10/685,872, filed October 15, 2003, as set forth in the concurrently filed amendment.

The petition is **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) and (iii) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for benefit of 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) 272-3218. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2822 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/962,963	10/12/2004	2822	1900	MEG04-015	149	4

CONFIRMATION NO. 2455

STEPHEN B. ACKERMAN
28 DAVIS AVENUE
POUGHKEEPSIE, NY 12603

CORRECTED FILING RECEIPT

OC000000024861082

Date Mailed: 07/17/2007

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)

Mou-Shiung Lin, Hsin-Chu City, TAIWAN;
Chiu-Ming Chou, Kao-Hsiung, TAIWAN;
Chien-Kang Chou, Shin-Hwa Town, TAIWAN;

Assignment For Published Patent Application

Megic Corporation

Power of Attorney:

George Saile Jr--19572
Stephen Ackerman--37761

Domestic Priority data as claimed by applicant

This application is a CIP of 10/685,872 10/15/2003 PAT 7,230,340

Foreign Applications

If Required, Foreign Filing License Granted: 11/24/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/962,963

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

POST PASSIVATION INTERCONNECTION SCHEMES ON TOP OF THE IC CHIPS

Preliminary Class

257

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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FEB 23 2005

Director's Office
Group 3700

Mr. A. S. Gill
4169 Bennion Rd.
Salt Lake City, UT 84119

In re application of
Ajit Singh Gill

Serial Number: 10/962968
Filed: October 12, 2004

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 CFR. 1.102(c)

For: **FREE FLOATING DIAPHRAYM FLOW CONTROL VALVE**

This is a decision on the petition filed on October12, 2004, under 37 CFR. 1.102(c) to make special the above identified application because of the age/health of the applicant. Since the requirements of the M.P.E.P Section 708.02 IV have been met, the petition will be GRANTED.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only is Petitioner makes a prompt bona-fide effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the Examiner to accomplish this purpose.

Summary: Decision on Petition **GRANTED**.

Richard A. Bertsch
Director
Technology Center 3700
(571) 272-3750

rt: 2/22/05

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AJIT SINGH GILL
4169 BENNION ROAD
SALT LAKE CITY UT 84119

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DEC 16 2009

OFFICE OF PETITIONS

In re Patent No. 6,926,251
Issue Date: August 9, 2005 :
Application No. 10/962,968 : DECISION ON PETITION
Filed: October 12, 2004 :
Title: Free-Floating Diaphragm Flow :
Control Valve

This is a decision on the "PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))", filed October 10, 2009.

The petition under 37 CFR 1.378(c) is **DISMISSED**.

The above-identified patent issued August 9, 2005. Accordingly, the first maintenance fee could have been paid during the period from August 9, 2008 through February 9, 2009 without surcharge, or with a surcharge of $65 during the period from February 10, 2009 through August 9, 2009. The patent expired on August 10, 2009.

37 CFR 1.378(c) provides that:

> Any petition to accept an unintentionally delayed payment of a maintenance fee must include:
>
> (1) The required maintenance fee set forth in 37 CFR 1.20(e) through (g) (currently $490);

(2) The surcharge set forth in 37 CFR 1.20(i)(1) (**currently $1640**); and

(3) A statement that the delay in payment of the maintenance fee was unintentional.

With the instant petition, petitioner has submitted $555. However, petitioner has not submitted the $1640 surcharge required for reinstating an expired patent due to 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. This is **not** a final agency decision within the meaning of 5 USC 704. A copy of form PTO/SB/66 is enclosed for petitioner's convenience.

Telephone inquiries specific to this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: PTO/SB/66 (3 pages)

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FEB 18 2010

OFFICE OF PETITIONS

In re Patent No. 6,926,251
Issue Date: August 9, 2005 :
Application No. 10/962,968 : DECISION ON PETITION
Filed: October 12, 2004 :
Title: Free-Floating Diaphragm Flow :
Control Valve

This is a decision on the renewed "PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))", filed December 29, 2009.

The petition under 37 CFR 1.378(c) is **GRANTED**.

The above-identified patent issued August 9, 2005. Accordingly, the first maintenance fee could have been paid during the period from August 9, 2008 through February 9, 2009 without surcharge, or with a surcharge of $65 during the period from February 10, 2009 through August 9, 2009. The patent expired on August 10, 2009.

Since the instant petition was filed within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c). The maintenance fee in this case is accepted and the above-identified patent is hereby reinstated as of the mail date of this decision.

Telephone inquiries specific to this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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IRVINE CA 92614

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JUL 18 2007

OFFICE OF PETITIONS

In re Application of :
Jannard et al. :
Application No. 10/962,970 : DECISION ON PETITION
Filed: October 12, 2004 :
Attorney Docket No. NOCODE2.005C1C1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 11, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before March 12, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed December 11, 2006. Accordingly, the date of abandonment of this application is March 13, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,400.00 and the publication fee of $300.00, (2) the petition fee of $1500.00; and (3) a proper statement of unintentional delay.

Also, it is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to Christopher Bottorff at (571) 272-6052 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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ONE LIBERTY PLACE
46TH FLOOR
PHILADELPHIA, PA 19103

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FEB 23 2005

OFFICE OF PETITIONS

In re Application of :
Paige Erin Mahaney et al :
Application No. 10/962,971 : ON PETITION
Filed: October 12, 2004 :
Attorney Docket No. AM101506US :
(WYNC-1078) :

This is a decision on the petition under 37 CFR 1.182, filed January 18, 2005, to correct the spelling of one of the named inventors from Lori Danielle Krim to Lori Krim Gavrin.

The petition is **DISMISSED as moot.**

MPEP 201.03 states that "[w]here the first-filed executed oath or declaration was filed on or after December 1, 1997, and sets forth an inventive entity which is different from the invention entity initially set forth at the time of filing of the application, the actual inventorship of the application will be taken from the executed oath or declaration. Also See 37 CFR 1.41(a)(1).

In reviewing the official file, it is noted that the corrected spelling has been changed as shown by its inclusion on the filing receipt.

Telephone inquiries concerning this matter may be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 1614 for examination in due course.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No : X

DATE : May 23, 2008

TO SPE OF : ART UNIT 1796

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/962975 Patent No.: 7235592 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 corrections/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: _____

_____

_____

_____

_____

_____

PAGE 2/3 * RCVD AT 5/28/2008 4:04:03 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/40 * DNIS:2709990 * CSID:7033051086 * DURATION (mm-ss):01-32

UNITED STATES PATENT AND TRADEMARK OFFICE

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INTELLECTUAL PROPERTY GROUP
FREDRIKSON & BYRON, P.A.
200 SOUTH SIXTH STREET, SUITE 4000
MINNEAPOLIS MN 55402

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APR 0 9 2009

OFFICE OF PETITIONS

In re Application of
Masters et al.
Application No. 10/962,984
Filed: October 12, 2004
Attorney Docket No. 45795.102.1

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed January 23, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is submitted after expiration of the period specified by 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to 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 matter is being referred to Technology Center Art Unit 1619 for appropriate action on the amendment filed January 23, 2009, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/962,984	10/12/2004	1619	2010	45795.102.1	66	7

CONFIRMATION NO. 1120

CORRECTED FILING RECEIPT

22859
INTELLECTUAL PROPERTY GROUP
FREDRIKSON & BYRON, P.A.
200 SOUTH SIXTH STREET, SUITE 4000
MINNEAPOLIS, MN 55402

Date Mailed: 04/06/2009

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)

David B. Masters, Minneapolis, MN;
Eric P. Berg, Plymouth, MN;

Power of Attorney: The patent practitioners associated with Customer Number 022859

Domestic Priority data as claimed by applicant

This application is a CIP of 09/796,170 02/28/2001
and is a CIP of 09/922,418 08/03/2001
and claims benefit of 60/509,823 10/09/2003

Foreign Applications

If Required, Foreign Filing License Granted: 04/06/2009

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/962,984**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Biocompatible protein particles, particle devices and methods thereof

Preliminary Class

424

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

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MAR 18 2005

OFFICE OF PETITIONS

In re Application of	
Everett, et al.	DECISION GRANTING STATUS
Application No. 10/963,019	UNDER 37 CFR 1.47(a)
Filed: October 12, 2004	
Dkt. No.: ISTASP 3.3-001 CONT	
For: METHODS FOR MASS SPECTROMETRY DETECTION AND QUANTIFICATION OF SPECIFIC TARGET PROTEINS IN COMPLEX BIOLOGICAL SAMPLES	

This decision is in response to the petition under 37 CFR 1.47(a), filed February 11, 2005.

The petition is **GRANTED**.

Petitioner has shown that inventor James K. Petell either cannot be reached or located to execute the declaration or has refused to sign the declaration after having been presented with the application papers.

Thus, the above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

James K. Petell
9203 W. Gage Boulevard
Kennewick, Washington 99336.

In re Application of :
Everett, et al. :
Application No. 10/963,019 : LETTER
Filed: October 12, 2004 :
Dkt. No.: ISTASP 3.3-001 CONT :
For: METHODS FOR MASS :
SPECTROMETRY DETECTION AND :
QUANTIFICATION OF SPECIFIC TARGET :
PROTEINS IN COMPLEX BIOLOGICAL :
SAMPLES :

COPY MAILED
MAR 18 2005
OFFICE OF PETITIONS

Dear Sir:

You are named as an inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3205. 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 matter should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PATENT COUNSEL
APPLIED MATERIALS, INC.
LEGAL AFFAIRS DEPARTMENT, M/S 2061
P.O. BOX 450A
SANTA CLARA, CA 95052

COPY MAILED

AUG 2 9 2008

In re Application of
Siqing Lu, et al.
Application No: 10/963,030
Filed: October 12, 2004
Attorney Docket No. A9368/T59100

ON PETITION

This is a decision in response to the petition, filed March 27, 2008, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed May 25, 2007. A Notice of Abandonment was mailed on December 12, 2007. On March 27, 2008, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment; (2) the petition fee of $770; and (3) an adequate statement of unintentional delay[1].

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

This application is being referred to Technology Center AU 1792 for appropriate action by the Examiner in the normal course of business on the reply received March 27, 2008.

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Although the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement will be construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: MATTHEW T. SARLES
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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JUN 2 2005

Craig C. Roddy
Halliburton Energy Services, Inc.
2600 South Second Street
Duncan, OK 03536-0440

In re application of : **DECISION ON PETITION**
Jiten Chatterji, et al : **TO MAKE SPECIAL**
Application No. 10/963,035 : **(APPLICANT'S AGE)**
Filed: October 11, 2004 :
For: SET RETARDER COMPOSITIONS, CEMENT COMPOSITIONS, AND ASSOCIATED METHODS

This is a decision on the petition submitted on December 17, 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**.

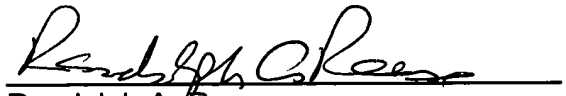
An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a declaration signed by Jiten Chatterji 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
Technology Center 3600
(703) 308-2121

RAR/dcg: 2/8/05

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MAILED
FROM DIRECTORS OFFICE

JUL 07 2005

TECHNOLOGY CENTER 3600

Craig C. Roddy
Halliburton Energy Services, Inc.
2600 South Second Street
Duncan, OK 03536-0440

In re application of : **DECISION ON PETITION**
B. Raghava Reddy et al : **TO MAKE SPECIAL**
Application No. 10/963,036 : **(APPLICANT'S AGE)**
Filed: October 11, 2004 :
For: METHODS OF CEMENTING IN SUBTERRANEAN FORMATIONS

This is a decision on the petition submitted on May 4, 2005 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a declaration signed by Dennis W. Gray 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
Technology Center 3600
(571) 272-6619

RAR/dcg: 6/17/05

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Knobbe, Martens, Olson & Bear LLP
2040 Main Street
14th Floor
Irvine, CA 92614

Mail Date: 04/21/2010

Applicant	: Michael A. Todd	: DECISION ON REQUEST FOR
Patent Number	: 7585752	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/963,043	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **53** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

DATE : 6/25/07 **Paper No.:** —

TO SPE OF : ART UNIT 2883

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/963045 Patent No: 7113679 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved**	All changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: Antecedent basis corrections.

Eric Wong

Frank G Font
SPE

2883
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MCAFEE & TAFT
TENTH FLOOR, TWO LEADERSHIP SQUARE
211 NORTH ROBINSON
OKLAHOMA CITY, OK 73102

COPY MAILED
SEP 0 5 2006
OFFICE OF PETITIONS

In re Application of :
Arnold, et al. :
Application No. 10/963,051 :
Application Filing Date: October 12, 2004 :
Attorney Docket No

DECISION ON PETITION UNDER
37 CFR 1.137(f)

This is a decision on the petition under 37 CFR 1.137(f), filed November 15, 2005, to revive the instant non-provisional application.

The petition under 37 CFR 1.137(f) is granted.

This application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B(iii) for failure to timely notify the Office of the filing of an application in a foreign country.

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[1]; (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 Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition is found in compliance with 37 CFR 1.137(f).

Accordingly, the failure to timely notify the Office of a foreign filing within 45 days as provided by 35 U.S.C. § 122(b)(2)(B)(iii) is accepted as having been unintentionally delayed.

The application file is being directed to Technology Center 3700, GAU 3749 for further processing.

Further inquiries regarding this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing

[1] The filing of a petition under this section will not relieve applicant of his obligation to reply to any outstanding Office action.

UNITED STATES PATENT AND TRADEMARK OFFICE

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MCKELLAR IP LAW, PLLC
784 SOUTH POSEYVILLE ROAD
MIDLAND, MI 48640

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APR 16 2007

OFFICE OF PETITIONS

In re Application of :
Nedeljko Vladimira Gvozdic :
Application No. 10/963,053 : ON PETITION
Filed: October 12, 2004 :
Attorney Docket No. MSH-326DIV :

This is a decision on the petition under 37 CFR 1.137(b), filed November 14, 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 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.

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 $225 extension of time submitted with the petition on November 14, 2006 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 Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1771 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. None

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APR 18 2005

OFFICE OF PETITIONS

WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE - 46TH FLOOR
PHILADELPHIA PA 19103

In re Application of	:	
Eugene John Trybulski, Paige Erin Mahaney, Lori	:	
Krim Gavrin, Joseph Peter Sabatucci, and Gary	:	DECISION ON PETITION
Paul Stack	:	UNDER 37 C.F.R. §1.182
Application No. 10/963,064	:	
Filed: October 12, 2004	:	
Attorney Docket No. AM101508US (WYNC-1096)	:	
Title: FUSED-ARYL AND HETEROARYL	:	
DERIVATIVES AND METHODS OF THEIR USE	:	

This is a decision on the petition under 37 C.F.R. §1.182, filed January 19, 2005, to change the name of one of the joint inventors. Petitioner has requested that the inventor formerly known as "Lori D. Krim" be listed as "Lori Krim Gavrin."

Petitioner has submitted the petition fee, an affidavit which has been signed with both names, and a copy of her marriage certificate.

The petition under 37 C.F.R. §1.182 is **GRANTED**. The inventor is now listed as:

Lori Krim Gavrin

A corrected filing receipt has been enclosed.

This application is being forwarded to Technology Center 1600 for further processing.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

Enclosure: Corrected Filing Receipt

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

CANTOR COLBURN
55 GRIFFIN ROAD SOUTH
BLOOMFIELD, CT 06002

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NOV 15 2005

OFFICE OF PETITIONS

In re Application of :
Ronald A. Guidotti et al :
Application No. 10/963,067 : ON PETITION
Filed: October 12, 2004 :
Attorney Docket No. 98-2069-D :

This is a decision on the petition under 37 CFR 1.137(b), filed October 5, 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 February 16, 2005, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 17, 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 election; (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 February 16, 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 1745.

Wan Laymon
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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HOWISON & ARNOTT LLP
P. O. BOX 741715
DALLAS, TX 75374-1715

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APR 19 2007

OFFICE OF PETITIONS

In re Patent No. 7,015,868
Issue Date: March 21, 2006
Application No. 10/963,080
Filed: October 12, 2004
Attorney Docket No. FRAC-27,266

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.78(a)(3) AND
: REQUEST FOR CERTIFICATE OF
: CORRECTION
:

This is a decision on the petition under 37 CFR 1.78(a)(3) seeking to add a claim for benefit of priority under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed international Application No. PCT/ES99/00296, filed September 20, 1999, 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 international 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 October 12, 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 international 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) 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.

As the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the above-noted, prior-filed international 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 international 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.**

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3218.

This application is being referred to the Certificates of Correction Branch for processing the request for a certificate of correction in accordance with this decision on the petition under 37 CFR 1.78(a)(3).

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
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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
11/102,390	04/08/2005	2821	3725	FRAC-27,116	117	8

CONFIRMATION NO. 5904

CORRECTED FILING RECEIPT

OC000000023463683

25883
HOWISON & ARNOTT, L.L.P
P.O. BOX 741715
DALLAS, TX 75374-1715

Date Mailed: 04/19/2007

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)

Carles Puente Baliarda, Barcelona, SPAIN;
Carman Borja Borau, Barcelona, SPAIN;
Jaume Anguera Pros, Vinaros, SPAIN;
Jordi Soler Castany, Mataro, SPAIN;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of 10/963,080 10/12/2004 PAT 7,015,868
which is a CON of 10/102,568 03/18/2002 ABN
which is a CON of PCT/ES99/00296 09/20/1999

Foreign Applications

If Required, Foreign Filing License Granted: 05/05/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/102,390

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

MULTILEVEL ANTENNAE

Preliminary Class

343

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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Mailed: 4/17/07

Re application of:
Hsieh, et al.
Serial No.: 10/963,088
Filed: October 12, 2004
For: TONER PROCESS AND
COMPOSITIONS THEREOF

DECISION ON
PETITION

This is a decision on the PETITION TO ACCEPT COLOR DRAWINGS (37 C.F.R. 1.84(a)(2)), filed January 22, 2007. The petition includes (1) the fee as required by 37 CFR 1.17(h), (2) three sets of the color photographs, (3) an amendment to the specification which includes the language set forth in 37 CFR 1.84(a)(2)(iii), and (4) an explanation stating why color photographs are necessary.

A review of the application record indicates that all of the requirements for acceptance of color photographs have been met.

The Petition is **GRANTED**.

Mark F. Huff
Supervisory Patent Examiner
Group Art Unit 1756

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEDMINSTER NJ 07921

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JUN 22 2009

OFFICE OF PETITIONS

In re Application of :
Thomas BREEN et al. :
Application No. 10/963,106 : DECISION ON PETITION
Filed: October 12, 2004 :
Attorney Docket No. :
60027.0382US01/BS040262

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 February 17, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed November 17, 2008. Accordingly, the date of abandonment of this application is February 18, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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 payment is accepted as having been unintentionally delayed.

The petition includes two different persons signing off on the unintentional delay statement. It is not apparent whether either 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.

While a courtesy copy of this decision is being mailed to Kin-Wah Tong, 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 Tredelle Jackson at (571) 272-2783.

This application is being referred to the Office of Data Management.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: **KIN-WAH TONG**
WALL & TONG, LLP
595 SHREWSBURY AVE.
SHREWSBURY NJ 07702

UNITED STATES PATENT AND TRADEMARK OFFICE

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R. Neil Sudol
714 Colorado Avenue
Bridgeport, CT 06605-1601

Mail Date: 04/21/2010

Applicant	: Renzo Soffiati	: DECISION ON REQUEST FOR
Patent Number	: 7601176	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/963,123	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **373** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JiNan Glasgow
Spore, Inc.
P.O. Box 28539
Raleigh, NC 27611-8539

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MAY 26 2009

OFFICE OF PETITIONS

In re Application of :
Guy R. Beretich, Jr. et al. :
Application No. 10/963,131 : DECISION ON PETITION
Filed: October 12, 2004 : TO WITHDRAW
Attorney Docket No. 7401-006 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 17, 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 Howard A. MacCord, Jr. and all attorneys/agents of record has been revoked by the assignee of the patent application on February 17, 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: Triangle Patents, P.L.L.C.
P.O. Box 28539
Raleigh, NC 27611-8539

UNITED STATES PATENT AND TRADEMARK OFFICE

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WORKMAN NYDEGGER
1000 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
SALT LAKE CITY, UT 84111

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In re Application of	:	
Joseph S. LATINO, et al	:	
Application No. 10/963,139	:	DECISION ON PETITION
Filed: October 11, 2004	:	TO WITHDRAW
Attorney Docket No. 4327.JLAT.PT	:	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 20, 2008.

The request is **NOT APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because there is no indication that all of the acts noted in the above-identified certifications have been performed. The request does not clearly indicate that items 1 and 3 above have been performed .

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: MORRISS OBRYANT COMPAGNI, P.C.
734 EAST 200 SOUTH
SALT LAKE CITY UT 84102

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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WELSH & KATZ, LTD.
ERIC D. COHEN
22ND FLOOR
120 SOUTH RIVERSIDE PLAZA
CHICAGO, IL 60606

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JAN 07 2008

OFFICE OF PETITIONS

In re Application of	:	
YANG, Ching-Ian et al.	:	
Application No. 10/963,178	:	DECISION ON PETITION
Filed: October 12, 2004	:	TO WITHDRAW
Attorney Docket No. **TAIW 877**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 20, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to WELSH & KATZ, LTD. has been revoked by the assignee of the patent application on December 05, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **RABIN & BERDO, PC**
1101 14TH STREET, NW
SUITE 500
WASHINGTON DC 20005

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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QUARLES & BRADY LLP
411 E. WISCONSIN AVENUE
SUITE 2040
MILWAUKEE, WI 53202-4497

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OCT 18 2005

OFFICE OF PETITIONS

In re Application of :
James A. Rodrian :
Application No. 10/963,197 : DECISION GRANTING PETITION
Filed: October 12, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 300062.00002 :

This is a decision on the petition, filed October 12, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 26, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2837 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment and Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b) (along with any balance due or the amount due at the time of payment), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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KSOPHT0101-Z2100
OVERLAND PARK, KS 66251-2100

Mail Date: 04/21/2010

Applicant	: Stephen R. Marah	: DECISION ON REQUEST FOR
Patent Number	: 7600674	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/963,199	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **300** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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WOOD, PHILLIPS, KATZ, CLARK & MORTIMER
500 W. MADISON STREET
SUITE 3800
CHICAGO, IL 60661

Mail Date: 04/21/2010

Applicant	: Jon Gohde	: DECISION ON REQUEST FOR
Patent Number	: 7584765	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/963,204	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/11/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1192** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 A. PARSONS
4000 N. CENTRAL AVENUE, SUITE 1220
PHOENIX, AZ 85012

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AUG 15 2007

OFFICE OF PETITIONS

In re Application of

D. Poole, et al. :

Application No. 10/963,220

: DECISION ON PETITION

Filed: October 12, 2004

:

Attorney Docket No. 339-A11I

This is a decision on the petition under 37 CFR 1.137(b) filed June 22, 2007.

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 August 11, 2006, 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 November 12, 2006. A Notice of Abandonment was mailed on April 5, 2007.

The amendment filed June 22, 2007.

The application is being forwarded to Technology Center 2600, GAU 2627 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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20 AUG 2008

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Anthony J. Janiuk
Waters Corporation
34 Maple Street
Milford, Massachusetts 01757

In re Application of	:
Prentice et al.	:
Serial No.: 10/963,276	: DECISION
PCT No.: PCT/US2003/011336	:
Int. Filing Date: 14 April 2003	: ON PETITION
Priority Date: 15 April 2002	:
Attorney's Docket No.: AE-287	: UNDER 37 CFR 1.78
For: AN HPLC COLUMN HOLDER APPARATUS	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed 06 September 2007, to accept an unintentionally delayed claim under 35 U.S.C. 120 and 365(c) and 119(e) for the benefit of the prior-filed international application set forth in the concurrently filed proposed amendment and Application Data Sheet (ADS). The petition 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 same proposed amendment and ADS.

The petitions are **DISMISSED**.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3) and 1.78(a)(6).

A petition for acceptance of a late claim for priority under 37 CFR 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. 120 and 119(e) and 37 CFR 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in 37 CFR 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The proposed amendment to the specification, even if it were to be approved for entry by the examiner, is unacceptable. Specifically, the proposed amendment and ADS improperly state that international application PCT/US03/11336 is a continuation of provisional application 60/372,904. However, MPEP 201.07 states in relevant part, "An application claiming the benefits of a provisional application under 35 U.S.C. 119(e) should not be called a 'continuation' of the provisional application since an application that claims benefit of a provisional application is a nonprovisional application of a provisional application, not a continuation, division, or continuation-in-part of the provisional application." Accordingly, an appropriate reference under 35 U.S.C. 119(e) and 37 CFR 1.78(a)(5)(i) has not been furnished.

Further correspondence with respect to this matter should be addressed as follows:

By mail:
Mail Stop PCT
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand:
Customer Service Window
Mail Stop PCT
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax:
(571) 273-0459
ATTN: PCT Legal Office

Any questions concerning this matter may be directed to Debra Brittingham at (571) 272-3280.

Debra Brittingham
PCT Special Programs Examiner
Office of PCT Legal Administration

Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration

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DICKE, BILLIG & CZAJA, P.L.L.C.
FIFTH STREET TOWERS
100 SOUTH FIFTH STREET, SUITE 2250
MINNEAPOLIS MN 55402

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OFFICE OF PETITIONS

In re Application of	:	
Abdul Hamid Karim	:	DECISION ON PETITION TO
Application No. 10/963,280	:	WITHDRAW HOLDING OF
Filed: 12 October, 2004	:	ABANDONMENT
Attorney Docket No.	:	
1431.117.101/FIN 538 US	:	

This is a decision on the papers filed on 28 April, 2006, which are treated as a petition to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to timely respond to the non-final Office action mailed on 30 September, 2005. Notice of Abandonment was mailed on 5 April, 2006.

Petitioner asserts that a response to the Office action was timely filed on 22 December, 2005. In support, petitioner has supplied a copy of an amendment and transmittal letter which contains a Certificate Under 37 CFR 1.8 dated 22 December, 2005, signed by registered patent attorney Steven E. Dicke. Petitioner has also supplied a copy of the USPTO's Auto-Reply Facsimile Transmission showing 15 pages, including the first page of the reply, were received at the USPTO on 22 December, 2005.

Any petition to withdraw the holding of abandonment based on a Certificate of Transmission by facsimile must include the following requirements:

(1) A copy of the original response bearing a signed Certificate of Transmission which includes the date of signing; and

(2) A statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of transmitting the ***original*** response on the date indicated on the Certificate of Transmission (*see* 37 CFR 1.8 and MPEP 512).

As the first page of the response filed with the present petition is signed by attorney Dicke and states that he certifies that the papers are being facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below, and the date is listed as 22 December, 2005, this paper will be construed as constituting the statement required by item (2) above.

As petitioner has provided convincing evidence that a reply to the Office communication requiring restriction or election was transmitted to the USPTO on 22 December, 2005, the showing of record is that a response was timely filed, and there is no abandonment in fact. Any inconvenience caused to applicant is regretted.

The application is being referred to Technology Center Art Unit 2818 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Fenwick & West LLP
Silicon Valle Center
801 California Street
Mountain View, CA 94041

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JUL 02 2007

OFFICE OF PETITIONS

In re Application of
Dave Olson
Application No. 10/963,287
Filed: October 11, 2004
Attorney Docket No. 23368-09046

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 12, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Fenwick & West LLP has been revoked by the assignee of the patent application on April 10, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Klein, O'Neill & Singh, LLP**
43 Corporate Park
Suite 204
Irvine, CA 92606

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Evelyn M. Sommer
570 Lexington Avenue
17th Floor
New York NY 10022

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OFFICE OF PETITIONS

In re Application of Friedman et al. :
Application No. 10/963,310 : Decision on Petition
Filing Date: October 12, 2004 :
For: Treatment of Bruxism :

This is a decision on the petition under 37 CFR 1.137(a), filed November 21, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

Facts:

On April 10, 2007, the Office mailed a Notice of Allowance.

On April 14, 2007, Attorney Sommer notified the Office of Enrollment and Discipline of a change in mailing address. The form used by Attorney Summer to submit the change of address stated, "This address change ... will not change the address of any applications."

On May 8, 2007, the Office mailed a Notice to File Corrected Application Papers. The May 8, 2007 Notice set a non-extendable time period for reply of 60 days.

On May 21, 2007, the USPS returned the May 8, 2007 Notice to the Office undelivered. The returned envelope indicated an unsuccessful attempt was made to deliver the mail and a forwarding address was unknown.

On July 9, 2007 (Certificate of Mailing date of July 6, 2007), Attorney Summer filed the issue fee, publication fee, and a request to change the address of record.

The last date a reply could have been timely filed in response to the Notice to File Corrected Application Papers was Monday, July 9, 2007. A reply was not received and the application became abandoned on July 10, 2007.

The instant petition, a reply to the Notice to File Corrected Application Papers, and a terminal disclaimer were filed November 21, 2007.

Discussion:

A grantable petition under 37 CFR 1.137(a) must be accompanied by:

(1) the reply required to the outstanding Office action or notice, unless previously filed,
(2) the petition fee,
(3) a showing 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 this paragraph was unavoidable, 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.

Petitioner has submitted the required reply to the outstanding notice.

The Notice to File Corrected Application Papers stated, if petitioner wished not to elect color drawings, petitioner must provide a statement to that effect and, if necessary, amend the specification to delete references to color drawings. Petitioner has filed a "Response to Office action dated 5/8/07." The response states color drawings are not elected and indicates the specification does not include any reference to color drawings.

Petitioner has submitted the required petition fee.

Petitioner has submitted the petition fee of $255.

Petitioner has not submitted 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 this paragraph was unavoidable.

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[1] In order for a party to prove unavoidable delay, the Office requires the party demonstrate the party exercised the "care or diligence tha[t] is generally used and observed by prudent and careful men in relation to their most important business."[2] A lack of knowledge of, or failure to understand, a PTO rule, the content of the MPEP, or an Official Gazette notice will not constitute unavoidable delay.[3]

---

[1] Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

[2] In re Mattulath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912). See also Ray v. Lehman, 55 F.3d 606, 34 U.S.P.Q.2d (BNA) 1786 (Fed. Cir. 1995) (citations omitted) ("[I]n determining whether a delay in paying a maintenance fee was unavoidable, one looks to whether the party responsible for payment of the maintenance fee exercised the due care of a reasonably prudent person.")

[3] See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D. D.C. 1978) for the proposition that counsel's nonawareness of PTO rules does not constitute "unavoidable" delay); Vincent v. Mossinghoff, 1985 U.S. Dist. LEXIS 23119, 13, 230 U.S.P.Q. (BNA) 621 (D. D.C. 1985) (Plaintiffs, through their counsel's actions, **or their own**, must be held responsible for having noted the MPEP section and Official Gazette notices expressly stating that the certified mailing procedures outlined in 37 CFR 1.8(a) do not apply to continuation applications.) (Emphasis added).

Petitioner failed to file a request to change the address of record in the instant application prior to May 8, 2007. As a result, the Notice mailed May 8, 2007, was not received by petitioner.

A reasonable and prudent person, with knowledge of the contents of the MPEP, would have complied notified the Office of the change in address pursuant to MPEP 601.03 which states,

> Where an attorney or agent of record (or applicant, if he or she is prosecuting the application pro se) changes his or her correspondence address, he or she is responsible for promptly notifying the . . . Office of the new correspondence address.

As stated in the MPEP, a delay caused by the failure on the part of petitioner, or petitioner's representative, to provide the Patent and Trademark Office with a current correspondence address does not constitute an unavoidable delay. MPEP 711.03(c)(III)(C)(2) states,

> 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.

The fact the USPS may have erred in not forwarding the Notice to the new address does not prove the delay was unavoidable. A reasonable and prudent person, treating the application the same as he would treat his or her most important business, would have filed a request to change the address of record prior to May 8, 2007, rather than incur risks associated with reliance upon a forwarding order. When mail is forwarded, the mail must go through additional steps before getting to petitioner and the chance mail could be lost, misplaced, or delayed increases during each additional step.

Petitioner has not shown petitioner was forced to rely on the forwarding procedures of the USPS due to any inability to change the address of record.

Petitioner has unnecessarily filed a terminal disclaimer and $65 fee.

A terminal disclaimer and fee is unnecessary. The instant application was not filed on or before June 8, 1995, and is not a design application.

The Office has scheduled a refund of the $65 fee.

Requesting reconsideration under 37 CFR 1.137(a):

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(a)."

Petitioner may wish to file a petition under 37 CFR 1.137(b):

If petitioner cannot provide the evidence necessary to establish unavoidable delay, or simply does not wish to, petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply (already submitted), the required petition fee ($770 for a small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

A copy of a blank petition under 37 CFR 1.137(b) form is enclosed for petitioner's convenience. A PDF "fillable" version of the 37 CFR 1.137(b) form can be found at: http://www.uspto.gov/web/forms/sb0064_fill.pdf.

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.

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Attached: Form for petition under 37 CFR 1.137(b)
Privacy Act Notice

PTO/SB/64 (01-08)
Approved for use through 05/31/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

_____ _____
Signature Date

_____ _____
Typed or printed name Registration Number, if applicable

_____ _____
Address Telephone Number

_____
Address

Enclosures: ☐ Fee Payment
☐ Reply
☐ Terminal Disclaimer Form
☐ Additional sheets containing statements establishing unintentional delay
☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

_____ _____
Date Signature

_____
Typed or printed name of person signing certificate

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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Evelyn M. Sommer
570 Lexington Avenue
17th Floor
New York NY 10022

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AUG 1 8 2008

In re Application of Friedman et al. :
Application No. 10/963,310 : Decision on Petition
Filing Date: October 12, 2004 :
For: Treatment of Bruxism :

This is a decision on the petition under 37 CFR 1.137(b), filed May 29, 2008, to revive the above-identified application.

The petition is **granted**.

On May 8, 2007, the Office mailed a Notice to File Corrected Application Papers. The May 8, 2007 Notice set a non-extendable time period for reply of 60 days. The last date a reply could have been timely filed in response to the Notice to File Corrected Application Papers was Monday, July 9, 2007. A reply was not received and the application became abandoned on July 10, 2007.

The instant petition requests revival of the application.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

(1) the reply required to the outstanding Office action or notice, unless previously filed,
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Petitioner has met the requirements listed above. Therefore, the petition is granted and the application is revived.

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

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

Mail Date: 04/21/2010

Applicant	: Brian B. Bagley	: DECISION ON REQUEST FOR
Patent Number	: 7613919	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/963,334	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **777** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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MCDONNELL, BOEHNEN, HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO, IL 60606

MAILED

JAN 22 2009

OFFICE OF PETITIONS

In re Application of	:	
Dean Hafeman, et al.	:	
Application No. 10/963,336	:	DECISION GRANTING PETITION
Filed: October 12, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 03—810-A	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 20, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 26, 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 2881 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.*

DATE 9/19/07

APPLICATION NUMBER 10/963,364

DOC CODE _____

DOC DATE _____

DELIVER THE ATTACHED FIFLE/DOCUMENT TO THE TC SCANNING CENTER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN **8** WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN **16** WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN ACCORDANCE WITH INSTRUCTIONS

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : July 10, 2007

TO SPE OF : ART UNIT 2833

SUBJECT : Request for Certificate of Correction for Appl. No. 10/963364 patent no.7040916

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: _____

P. AUSTIN BRADLEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

P. Bradley
SPE

2833
Art Unit

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BAKER & DANIELS LLP
300 NORTH MERIDIAN STREET
SUITE 2700
INDIANAPOLIS IN 46204

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AUG 22 2007

OFFICE OF PETITIONS

In re Patent No. 7,051,669	:	
Issue Date: May 30, 2006	:	
Application No. 10/963,366	:	NOTICE
Filed: October 12, 2004	:	
Attorney Docket No. BMI0002.02	:	

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 patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Liana Walsh
Petitions Examiner
Office of Petitions

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OFFICE OF THE DIRECTOR
TC 3600

BRIAN ROFFE, ESQ
11 Sunrise Plaza, Suite 303
Valley Stream, NY 11580-6170

In re application of : **DECISION ON PETITION**
David S. Breed et al : **TO MAKE SPECIAL**
Application No. 10/963,390 : **(APPLICANT'S AGE)**
Filed: October 12, 2004 :
For: SIDE IMPACT SENSOR SYSTEMS

This is a decision on the petition submitted on January 21, 2005, under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a copy of a passport for Mr. Breed indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

SNM/pav: 02/14/05

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PIONEER HI-BRED INTERNATIONAL, INC.
7250 N.W. 62ND AVENUE
P.O. BOX 552
JOHNSTON IA 50131-0552

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JUN 14 2006

OFFICE OF PETITIONS

Applicant: Aukerman
Appl. No.: 10/963,394
Filing Date: October 12, 2004
Title: GENE SILENCING
Attorney Docket No.: DD0016
Pub. No.: US 2005/03689 A1
Pub. Date: June 23, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on August 22, 2005, for the above-identified application.

Applicant requests that the application be republished because the patent application publication contains material errors, in the specification and claims, wherein "miRNA" is misprinted as "mRNA".

The request is granted.

At least one of the errors may have been due to the quality of the text in the application. Applicants have been advised to file applications having cleaner and larger text with sufficient clarity and contrast to permit reproduction, such as electronic reproduction by digital imaging and optical character recognition, which will avoid errors in the patent application publication process. See 37 CFR 1.52.

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

Inquiries relating to this matter may be directed to Mark O. Polutta at (571) 272-7709 (voice).

M. O. Polutta

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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FOLEY HOAG, LLP
PATENT GROUP, WORLD TRADE CENTER WEST
155 SEAPORT BLVD
BOSTON, MA 02110

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In re Application of :
SCHWARZ, Alexander et al. :
Application No. 10/963,410 : DECISION ON PETITION
Filed: October 12, 2004 : TO WITHDRAW
Attorney Docket No. **59296-3** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 16, 2008.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Borden Ladner Gervais LLP has been revoked by the assignee of the patent application on October 30, 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 Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **SEYFARTH SHAW LLP**
WORLD TRADE CENTER EAST
TWO SEAPORT LANE, SUITE 300
BOSTON MA 02210-2028

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P.O. BOX 828
BLOOMFIELD HILLS MI 48303

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MAR 0 7 2005

OFFICE OF PETITIONS

In re Application of
Mielke, et al.
Application No. 10/963,417
Filed: October 12, 2004
Attorney Docket No. 0275M-000983
For: SUSPENSION FOR ELONGATED OBJECTS, IN PARTICULAR CABLES

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.53(e), filed January 28, 2005, requesting that the above-identified application be accorded a filing date of October 12, 2004.

The application was deposited on October 12, 2004. On November 29, 2004, the Office of Initial Patent Examination mailed a Notice informing petitioners that no filing date had been accorded to the application papers deposited on October 12, 2004 because no drawings were present, as is required by 35 U.S.C. 113.

In response to the Notice, petitioners timely filed the present petition. Petitioner request that the above-identified application be accorded a filing date of October 12, 2004 on the basis that 3 pages of drawing figures were received in the Patent and Trademark Office (PTO) on October 12, 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 October 12, 2004 as the date of receipt. The postcard lists, *inter alia*, that the filing includes 3 pages of drawings.

The return postcard constitutes *prima facie* evidence that 3 pages of drawings were filed on October 12, 2004. MPEP 503. Accordingly, the request is granted.

Pursuant to petitioner's authorization, deposit account no. 02-2550 will be credited the $400 petition fee submitted on January 28, 2005.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **October 12, 2004**, using the copy of the 3 pages of drawings submitted with the instant petition. Office records will be corrected to show that 3 pages of drawings were present on filing.

Any inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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MARTIN CONNAUGHTON
ASHLAND INC
P.O. BOX 2219
COLUMBUS OH 43216

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JAN 0 3 2007

OFFICE OF PETITIONS

In re Application of :
Ananthachar et al. :
Application No. 10/963,420 : DECISION ON PETITION
Filed: 12 October, 2004 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 5882 :

This is a decision on the petition under 37 CFR § 1.78(a)(6), filed 25 July, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for benefit of priority to a prior-filed provisional application.

The petition is **DISMISSED AS MOOT.**

The petition is accompanied by a copy of the declaration filed on 18 January, 2005, which includes a reference to the prior-filed provisional application. While a reference to the prior-filed provisional application was not included in an Application Data Sheet (ADS) or in the first sentence of the specification following the title as required by the rules, a reference, nevertheless, was made in the transmittal 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 application set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR § 1.78(a)(6).[1]

It is noted that in the present application, applicant filed a benefit claim to an earlier provisional application within four months from the filing date of the present nonprovisional application,

[1] *Note* MPEP 201.11 (III)(D) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

which was filed on or after November 29, 2000. Applicants, however, submitted a benefit claim which included a relationship of the applications in the transmittal letter. A benefit claim that includes a relationship such as a "continuation-in-part" is considered a claim under 35 U.S.C. §§ 120, 121, or 365(c). As such, although the Office noted the claim for priority to the provisional application, the claim is improper under 37 CFR 1.78(a)(5), and applicants are not entitled to claim the benefit of the prior-filed provisional application in this manner.

Nevertheless, applicants may correct the benefit claim under 35 U.S.C. §§ 120, 121, or 365(c) to a benefit claim under 35 U.S.C. § 119(e), without need for a petition, by filing an amendment to the specification or an ADS which recites a proper claim of benefit under 35 U.S.C. § 119(e) to the prior-filed provisional application.

In view of the above, the $1,370.00 petition fee submitted is unnecessary and will be refunded to counsel's deposit account in due course.

Any questions concerning this decision on petition may be directed to Patent 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 referred to Technology Center AU 1711.

Christina Partera Donnell

Senior Petitions Attorney
Office of Petitions

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LAWRENCE I. WECHSLER
ONE WOOLEYS LANE
GREAT NECK, NY 11023

MAILED

JUN 16 2010

OFFICE OF PETITIONS

In re Application of :
Lawrence I. WECHSLER :
Application No. 10/963,443 : DECISION ON PETITION
Filed: October 12, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. **W1000-26** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 21, 2010, 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 July 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 (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 October 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 Notice of Appeal; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 1791 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Thurman K. Page
Petitions Examiner
Office of Petitions

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JAN 4 2007

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WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

In re Application of	:	
Maghsoud M. Dariani et al	:	
Serial No.: 10/963,460	:	PETITION DECISION
Filed: October 12, 2004	:	
Attorney Docket No.: CELG-0430	:	

This is a response to the petitions under 37 CFR 1.59(b), filed November 6, 2006, to expunge information from the above identified application. This application has been assigned for examination, but no action has been taken as of the date of mailing of this decision.

Petitioner requests that the documents submitted November 6, 2006, as part of an Information Disclosure Statement be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid.

This is an unexamined application. As such the information provided has not been reviewed by the examiner and the petition cannot be granted at this time. As stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application petition may be made for return of Proprietary Information Disclosure Statements. The material has been placed in an Artifact folder.

The petition is **DISMISSED**. Applicants may resubmit the petition subsequent to allowance or other action being mailed in the application which closes prosecution. No additional petition fee will be required at that time.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at general Office facsimile number, 571-273-8300.

Bruce M. Kisliuk
Director, Technology Center 1600

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John M. Guynn
WORKMAN NYDEGGER
1000 Eagle Gate Tower
60 East South Temple
Salt Lake UT 84111

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MAR 2 4 2008

OFFICE OF PETITIONS

In re Application of :
Latino et al. :
Application No. 10/963477 : ON PETITION
Filing or 371(c) Date: 10/11/2004 :
Title of Invention: OZONE DELIVERY :
SYSTEM INCLUDING GAS-FLUID :
CONTACTING DEVICES AND :
METHODS OF USE :

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), January 3, 2008.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely reply to the Office communication, mailed December 4, 2006. The Office communication set a three (3) 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 5, 2007. A Notice of Abandonment was mailed June 25, 2006.

Applicant files the present petition and response to the Office communication. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a response to the Restriction/Election Requirement; (2) the petition 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.

The Power of Attorney filed with the petition is executed by Steve Keyser, whose title provided is "Officer." The applicable rule, 37 CFR 3.73, Establishing right of assignee to take action, states:

> (b) (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. (Emphasis supplied).

The MPEP 324(V), Party who must Sign, provides:

> (A) The submission may be signed by a person in the organization having apparent authority to sign on behalf of the organization. 37 CFR 3.73(b)(2)(ii). An officer (chief executive officer, president, vice-president, secretary, or treasurer) is presumed to have authority to sign on behalf of the organization. The signature of the chairman of the board of directors is acceptable, but not the signature of an individual director. Modifications of these basic titles are accept -able, such as vice-president for sales, executive vice-president, assistant treasurer, vice-chairman of the board of directors. In foreign countries, a person who holds the title "Manager " or "Director " is normally an officer and is presumed to have the authority to sign on behalf of the organization. A person having a title (administrator, general counsel) that does not clearly set forth that person as an officer of the assignee is not presumed to have authority to sign the submission on behalf of the assignee. A power of attorney (37 CFR 1.32(b)(4)) to a patent practitioner to prosecute a patent application executed by the applicant or the assignee of the entire interest does not make that practitioner an official of an assignee or empower the practitioner to sign the submission on behalf of the assignee.
> (B) The submission may be signed by any person, if the submission sets forth that the person signing is authorized (or empowered) to act on behalf of the assignee, i.e., to sign the submission on behalf of the assignee. 37 CFR 3.73(b)(2)(i).
> (C) The submission may be signed by a person empowered by an organizational resolution (e.g., corporate resolution, partnership resolution) to sign the submission on behalf of the assignee, if a copy of the resolution is, or was previously, submitted in the record.
> Where a submission does not comply with (A), (B), or (C) above, evidence of the person's authority to sign will be required.

The Power of Attorney executed by Steve Keyser as "Officer," fails to comply with (A), (B) or (C) above. Evidence of Steve Keyser's authority to sign on behalf of the assignee, or that the person signing is authorized (or empowered) to act on behalf of the assignee. is required.

This application is being forwarded to Technology Center Art Unit 1724 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: JULIE K. MORRISS
734 EAST 200 SOUTH
SALT LAKE CITY, UT 84102

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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JOHN M. GUYNN
WORKMAN NYDEGGER
1000 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
SALT LAKE CITY, UT 84111

COPY MAILED
DEC 0 8 2008

In re Application of	:	
Joseph S. LATINO, et al	:	
Application No. 10/963,477	:	DECISION ON PETITION
Filed: October 11, 2004	:	TO WITHDRAW
Attorney Docket No. 16142.1.1.1	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 20, 2008.

The request is **NOT APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because there is no indication that all of the acts noted in the above-identified certifications have been performed. The request does not clearly indicate that items 1 and 3 above have been performed

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: MORRISS OBRYANT COMPAGNI, P.C.
734 EAST 200 SOUTH
SALT LAKE CITY UT 84102

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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DIW Feb-08

GARLICK HARRISON & MARKISON
P.O. BOX 160727
AUSTIN TX 78716-0727

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FEB 05 2008

OFFICE OF PETITIONS

In re Application of	:	
Shaheen et al.	:	
Application Number: 10/963478	:	ON PETITION
Filing Date: 10/12/2004	:	
Attorney Docket Number:	:	
RR2192C2	:	

This is a decision in on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed on October 26, 2007.

The petition is **DISMISSED**.

This application became abandoned on October 27, 2006, for failure to timely submit a proper reply to the Office action requiring restriction and/or election mailed on September 26, 2006, which set a one (1) month shortened statutory period for reply. Notice of Abandonment was mailed on August 7, 2007.

Petitioners' counsel states that during a telephone interview with the examiner on October 6, 2006, counsel made an election without traverse, and that the Examiner stated that he intended to prepare an mail an Examiner's Interview noting the restriction, but inadvertently failed to do so.

Petitioner's argument has been considered, but is not persuasive.

At the outset, 37 CFR 1.181(f) provides that, *inter alia*, except as otherwise provided, any petition not filed within 2 months from the action complained of may be dismissed as untimely. Therefore, any petition (under 37 CFR 1.181) to withdraw the holding of abandonment not filed within 2 months of the mail date of a notice of abandonment (the action complained of) may be

dismissed as untimely.[1] As the present petition was not filed within two (2) months of August 7, 2007, the date of mailing of the Notice of Abandonment, petitioners should explain why this petition should not be dismissed out of hand as untimely.

Furthermore, 37 CFR 1.135 states, in pertinent part.

> (a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
>
> (b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.

The Office action mailed on September 26, 2006, states that a shortened statutory period for reply is set to expire 1 month(s) … from the mailing date of this communication. Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

37 CFR 1.2 states that the action of the U.S. 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.

37 CFR 1.133(b) states

> In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. **An interview does not remove the necessity for reply to Office actions as specified in §§ 1.111 and 1.135.**
>
> (emphasis added)

---

[1] 37 CFR 1.181(f).

As such, petitioner was required to file a written reply to the Office action.

Abandonment takes place by operation of law for failure to timely submit a proper reply to an Office action.[2] Nowhere in the written record is it indicated that a response to the Office action mailed on September 26, 2006, was not required.

In summary, to the extent that petitioner's counsel believed that the examiner had agreed that no further action was needed to avoid abandonment of the application, there is no showing in the written record to support that allegation. As MPEP 711.03(c) states, a delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to: (A) the applicants' reliance upon oral advice from USPTO employees; or (B) the USPTO's failure to advise the applicants of any deficiency in sufficient time to permit the applicant to take corrective action.[3]

In this regard it is also noted that it is the responsibility of the applicant, not the Office, to prosecute the application and file a timely and proper response such as is necessary to avoid abandonment.

As such, while this is an unfortunate situation, the showing of record is that the abandonment resulted from the failure of petitioners to file a timely and proper response to the Office action requiring restriction, rather than an error on the part of the USPTO.

As such the application is properly held abandoned.

The petition is **DISMISSED.**

Petitioners may wish to consider filing a petition to revive under 37 C.F.R. 1.137(b).

Any request for reconsideration must be filed within **TWO (2) MONTHS** of the date of this decision. **This time period may not be extended.**[4]

---

[2] MPEP 711.03(c). See Lorenz v. Finkl, 333 F.2d 885, 889-90, 142 USPQ 26, 299-300 (CCPA 1964); Krahn v. Commissionerr, 15 USPQ2d 1823, 1824 (E.D. Va. 1990); In re Application of Fischer, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

[3] See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

[4] 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
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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GARLICK HARRISON & MARKISON
P.O. BOX 160727
AUSTIN TX 78716-0727

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APR 30 2008

OFFICE OF PETITIONS

In re Application of :
Shaheen et al. :
Application Number: 10/963478 : ON PETITION
Filing Date: 10/12/2004 :
Attorney Docket Number: :
RR2192C2 :

This is a decision on the petition under 37 CFR 1.137(b),[1] filed on April 3, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on October 27, 2006, for failure to timely submit a proper reply to the Office action

---

[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)).

requiring restriction and/or election mailed on September 26, 2006, which set a one (1) month shortened statutory period for reply. Notice of Abandonment was mailed on August 7, 2007. On October 26, 2007, a petition to withdraw the holding of abandonment was filed. On February 5, 2008, the petition was dismissed.

Petitioner has filed an election of claims as the required reply.

The address in the petition is different than the correspondence address. A courtesy copy of this decision is being mailed to the address in the petition. All future correspondence, however, will be mailed solely to the address of record. A change of correspondence address should be filed if the correspondence address needs to be updated.

The application is referred to Technology Center Art Unit 2617 for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Cc:

BRUCE E. GARLICK
2517 IMPROVER ROAD
SPICEWOOD TX 78669

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date : January 9, 2007

Patent No. : 7,131,285 B2
Inventor(s) : Lifson, et al.
Serial No. : 10/963484
Issued : November 7, 2006
Title : **REFRIEGERANT CYCLE WITH PLURAL CONDENSERS RECEIVING REFRIGERANT AT DIFFERENT PRESSURE**
Docket No. : 60246-370

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
401 Dulany Street
Alexandria, VA 22314

By fax: 571-273-8300
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Elisha Evans
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 or (703) 308-

CARLSON, GASKEY & OLDS, P.C.
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM MI 48009

CBN/eme

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ALFRED M. WALKER
225 OLD COUNTRY ROAD
MELVILLE, NY 11747-2712

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APR 13 2006

OFFICE OF PETITIONS

In re Application of :
Charles W. Darling III et al :
Application No. 10/963,493 : DECISION ON PETITION
Filed: October 12, 2004 : TO MAKE SPECIAL UNDER
Attorney Docket No. 230413 DARLING - DETOX : 37 CFR 1.102(d) AND 37 CFR
: 37 CFR 1.12(c)(2)

This is a decision on the petition under 37 CFR 1.102(d) and 37 CFR 1.102(c)(2)(iii), filed March 3, 2006, to make the above-identified application special based on prospective manufacture and materially contributing to countering terrorism as set forth in M.P.E.P. § 708.02, Sections I and XI.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(d) and MPEP § 708.02, Section I: Manufacture, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the Office alleging:

> (A) The possession by the prospective manufacturer of sufficient presently available capital (stating approximately the amount) and facilities (stating briefly the nature thereof) to manufacture the invention in quantity or that sufficient capital and facilities will be made available if a patent is granted;
>
> If the prospective manufacturer is an individual, there must be a corroborating statement from some responsible party, as for example, an officer of a bank, showing that said individual has the required available capital to manufacture;
>
> (B) That the prospective manufacturer will not manufacture, or will not increase present manufacture, unless certain that the patent will be granted;
>
> (C) That the prospective manufacturer obligates himself, herself, or itself, to manufacture the invention in the United States or its possessions, in quantity immediately upon the allowance of claims or issuance of a patent which will

> protect the investment of capital and facilities; and
>
> (D) That the applicant or assignee has made or caused to be made a careful and thorough search of the prior art, or has a good knowledge of the pertinent prior art.
>
> Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The instant petition does not comply with items (B) and (C). With regard to item (B), the statement "or a final action is forthcoming" is improper. With regard to item (C), the statement "be" is improper.

A grantable petition to make an application special under 37 CFR 1.102(c)(2)(iii) and MPEP § 708.02, Section XI: Inventions for Countering Terrorism, should state that special status is sought because the invention materially contributes to countering terrorism. International terrorism as defined in 18 U.S.C. 2331 includes:

> activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping...

If the disclosure it not clear on its face that the claimed invention is materially directed to countering terrorism, the petition must be accompanied by a statement by the applicant, assignee or a registered attorney/agent explaining how the materiality standard is met. The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems. No fee is required.

The USPTO's final rule amending 37 CFR 1.102(c)(2) states:

> The materially standard does not permit an applicant to speculate as to how a hypothetical end-user might specially apply the invention in a manner that could counter terrorism. Nor does such standard permit an applicant to enjoy the benefit of advance examination merely because some minor aspect of the claimed invention may be directed to countering terrorism...[Response to Comment 65] applicants should not expect to have their petitions granted without a clear demonstration that the claimed invention is materially related

to countering terrorism. 69 Fed. Reg. 56511 (Sept. 21, 2004)

The instant petition fails to meet the criteria set out with respect to countering terrorism in MPEP § 708.02 (XI). The claims as originally filed provide no indication of an intention to counter terrorism by providing a personal device for rapid decontamination. The claimed invention is directed to and can be used for general cleaning. Therefore, the invention is not materially directed to countering terrorism. Additionally, further steps would be required to actually offset or nullify terrorism. As a result, no advancement in the technology of countering terrorism has been persuasively shown.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to Wan Laymon at 571-272-3220.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 3752 for action in its regular turn.

Amelia Au
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/963,522	10/14/2004	Jean-Francois Gonthier	P26124	3405

7055 7590 06/05/2008

GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON, VA 20191

EXAMINER	
RESTIFO, JEFFREY J	

ART UNIT	PAPER NUMBER
3618	

NOTIFICATION DATE	DELIVERY MODE
06/05/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

gbpatent@gbpatent.com
pto@gbpatent.com

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FROM DIRECTOR'S OFFICE
JUN 04 2008
TECHNOLOGY CENTER 3600

Greeenblum & Bernstein, P.L.C.
1950 Roland Clarke Place
Reston, VA 20191

In re Application of:
Jean-Francois Gonthier
Application No. 10/963,522
Filed: October 14, 2004
For: Device for Retaining A Boot On A Gliding, Rolling, Or Walking Board Adapted To A Sporting Activity, And The Boot Therefor

DECISION ON PETITION REGARDING REQUEST TO WITHDRAW FINALITY UNDER 37 CFR 1.181

This is in response to the petition filed on July 11, 2006 under 37 CFR 1.181 requesting the withdrawal of the finality of the Office action mailed May 19, 2006 as being premature.

The petition is **DISMISSED as moot.**

Applicant alleges that the Final rejection mailed May 19, 2006 was premature in accordance with the guidelines of MPEP 706.07(a) in that the applicant's amendment received February 18, 2006 did not "necessitate the new grounds of rejection" as made by the Examiner.

A review of the record reveals that since the filing of the petition, a request for consideration was filed on October 19, 2006. As a result, further consideration was given and a Notice of Allowance was mailed on March 7, 2007.

Therefore since the Examiner and Applicant agreed on allowable subject matter in the case, Applicant's arguments as to the premature finality are considered moot.

Telephone inquiries should be directed to Chris Ellis, Supervisory Patent Examiner, at (571) 272-6914

Katherine Matecki

Katherine Matecki, Director
Patent Technology Center 3600
(571) 272-5250

TR

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ALEXANDRIA, VA 22313-1450
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James C. Wray
Suite 300
1493 Chain Bridge Road
McLean, VA 22101

MAIL

FEB 02 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
William W. Wu. :
Application No. 10/963,527 : DECISION ON PETITION
Filed: October 14, 2004 : TO MAKE SPECIAL
For: BLOCKAGE MITIGATION TECHNIQUES :
FOR INFORMATION TRANSMISSION :

This is a decision on the petition under 37 C.F.R. §1.102 to make special filed November 8, 2004 which is considered as pursuant to MPEP §708.02 (IV), applicant's age.

A petition to make special under MPEP §708.02, IV, must show that petitioner is 65 years of age, or more. Acceptable evidence includes a birth certificate, copy of a driver's license, or simply a statement by the applicant. No fee is required.

The petition includes a statement by William W. Wu indicating that he is over 65 years of age.

Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

The application is being forwarded to the examiner for expedited prosecution.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

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

SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN 2041 AU AUSTRALIA

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NOV 29 2005

OFFICE OF PETITIONS

In re Application of :
Kia SILVERBROOK :
Application No. 10/963,542 : DECISION ON PETITION
Filed: October 14, 2004 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. DOT10US :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 14, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed March 16, 2005.

The petition is **DISMISSED.**

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(s), unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The petition does not satisfy item (1) above.

The reference to add the above-noted, prior-filed applications on page one following the first sentence of the specification is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. *See* In re deSeversky, *supra*. *Note also* MPEP 201.06(c).

Before the petition under 37 CFR §§ 1.78(a)(3) can be granted, a renewed petition and a substitute amendment or an Application Data Sheet (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

Further correspondence with respect to this matter should be addressed as follows:

By mail:
Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand:
Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax:
(571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to David Bucci at (571) 272-7099.

Brian Hearn
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN NSW 2-041 AU AUSTRALIA

COPY MAILED

JAN 27 2006

OFFICE OF PETITIONS

In re Application of :
Kia SILVERBROOK :
Application No. 10/963,542 : DECISION ON PETITION
Filed: October 14, 2002 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. DOT10US :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed January 9, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

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 applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-

filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to David Bucci at (571) 272-7099. 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 2876 for appropriate action on the amendment filed January 9, 2006, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Brian Hearn
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20060328

DATE : March 28, 2006

TO SPE OF : ART UNIT 2853

SUBJECT : Request for Certificate of Correction on Patent No.: 6,997,537

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

The correction does not enter new matter, nor change the scope of the claims.

STEPHEN MEIER
SUPERVISORY PATENT EXAMINER

SPE: Stephen Meier **Art Unit** 2853

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2100 PENNSYLVANIA AVENUE NW
SUITE 800
WASHINGTON, DC 20037

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MAR 30 2007

OFFICE OF PETITIONS

In re Application of :
Syougo Matsuoka :
Application No. 10/963,560 : DECISION GRANTING PETITION
Filed: October 14, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. Q84074 :

This is a decision on the petition, filed March 28, 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 5, 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 2834 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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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

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DEC 18 2009

OFFICE OF PETITIONS

In re Application of
Gian Franco Bernabei
Patent Number: 7,532,926
Issue Date: 05/12/2009
Application No. 10/963565
Filing or 371(c) Date: 10/14/2004
Attorney Docket Number: 080004-0187

: ON REQUEST FOR
: RECONSIDERATION OF
: PATENT TERM ADJUSTMENT

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705, filed July 13, 2009. Patentee request that the patent term adjustment be increased from 672 days to 1245 days. Patentee requests this correction on the sole basis that the Office took in excess of three years to issue the above-identified patent. This matter is properly treated under 37 CFR 1.705(d).

Patentees also request that a decision on this request for reconsideration of patent term adjustment be deferred or delayed until after a final decision has been rendered in Wyeth v. Dudas. There is no specific regulatory provision for requesting that a petition under 37 CFR 1.705(d) be held in abeyance. Accordingly, the request to hold in abeyance a decision on the merits of the instant application for patent term adjustment is **DISMISSED**.

The Request for Reconsideration of Patent Term Adjustment ("PTA") under 37 CFR 1.705(d), is hereby **DISMISSED**.

On May 12, 2009, the above-identified application matured into U.S. Patent No. 7,532,926, with a patent term adjustment of 672 days. This application for patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

Patentee references the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008), and have included a sheet detailing patentee's calculation of adjustment. Patentee asserts that the patent is entitled to an adjustment of 1245 days, deemed by patentee to be the total of non-overlapping PTO delay under § 154(b)(1)(A) & (B).

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to

conclude prosecution pursuant to 37 CFR 1.704. In other words, patentees are entitled to the period of Office delay reduced by the period of applicant delay.

The Office asserts that at the time of filing of the request for continued examination (RCE) on November 3, 2008, the application was pending before the Office three years and 385 days (from October 15, 2007 to November 2, 2008). The Office agrees that certain action was not taken within the specified time frame, and thus, the entry of a period of adjustment of 672 days 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, as well as 672 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the period of 385 days of delay in issuance of the patent overlaps with the period of examination delay of 672 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

---

[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).

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, October 14, 2004, and ending November 2, 2008, the day before the date that the RCE was filed on November 3, 2008. Prior to the issuance of the patent, 672 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 385 days of Office delay in issuing the patent overlap with the 672 days Office examination delay. During that time, the issuance of the patent was delayed by 385 days, not 385 days and 672 days. The Office took 14 months and 672 days to issue a first Office action. Otherwise, the Office took all actions set forth in 37 CFR 1.702(a) within the prescribed timeframes. Nonetheless, given the initial 672 days of Office delay and the time allowed within the time frames for processing and examination, the application issued three years and 385 days after its filing date. However, the Office did not delay 385 days and also delay an additional 672 days. Accordingly, 672 days of patent term adjustment was properly entered because the period of delay of 385 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 672 days attributable to grounds specified in § 1.702(a). Entry of both periods is not warranted.

In view thereof, no adjustment to the patent term will be made.

The Office acknowledges receipt of the required $200.00 patent term adjustment application fee set forth in 37 CFR 1.18(e). As submission of the fee is a prerequisite prior to review on the merits of any application for patent term adjustment, the fee is not subject to refund.

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods, at (571) 272-3232.

/ALESIA M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

Mail Date: 04/30/2010

Applicant	: Gian Franco Bernabei	: DECISION ON REQUEST FOR
Patent Number	: 7532926	: RECALCULATION of PATENT
Issue Date	: 05/12/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/963,565	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/14/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1054** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

COPY MAILED
DEC 05 2008

In re Patent No. 7,189,590 :
Youn et al. :
Issue Date: March 13, 2007 : LETTER
Application No. 10/963,617 :
Filed: October 13, 2004 :
Attorney Docket No. 12576-4150 :

This is in response to the "REQUEST FOR CERTIFICATE OF CORRECTION," filed June 8, 2007, to correct the patent term adjustment indicated on the patent from 284 days to 303 days.

The request is **DISMISSED**.

On March 13, 2007, Application No. 10/963,617 matured into Patent No. 7,189,590 with a patent term adjustment of 284 days. The Patent Term Adjustment of 284 days indicated on the patent is correct. At the time of the mailing of the notice of allowance, the patent term adjustment under 35 U.S.C. 154(b) was 303 days. The PALM record shows that after the mailing of the notice of allowance, a period of reduction of 19 days was entered for applicant delay for the submission of an amendment under 37 CFR 1.312.[1] Thus, the correct patent term adjustment

[1] Pursuant to 37 CFR 1.704(c) states in pertinent part:

> Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:
>
> (10) Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:

was reduced to 284 days, as shown in the PAIR system and on the Issue Notification. Accordingly, issuance of a certificate of correction pursuant to 35 U.S.C. 254 and 37 CFR 1.322 is inappropriate.

Moreover, consideration under 37 CFR 1.705(d) is inappropriate. As stated in MPEP 2730, § 1.703(d) provides that:

> If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section. Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues.

Accordingly, any dispute regarding the period of reduction of 19 days for the filing of an amendment under § 1.312 after the mailing of the notice of allowance should have been timely raised in a request for reconsideration of the patent term under 37 CFR 1.705(d).

No fee is required and none has been charged.

Telephone inquiries specific to this matter should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

(i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper; or

(ii) Four months[.]

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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	: Sam Ziqun Zhao	: DECISION ON REQUEST FOR
Patent Number	: 7629681	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/963,620	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/14/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **404** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

Mail Date: 05/18/2010

Applicant : Sam Ziqun Zhao
Patent Number : 7629681
Issue Date : 12/08/2009
Application No: 10/963,620
Filed : 10/14/2004

: 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 **437** 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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H.C. PARK & ASSOCIATES, PLC
8500 LEESBURG PIKE
SUITE 7500
VIENNA, VA 22182

Mail Date: 04/20/2010

Applicant	: Joon-Koo Kim	: DECISION ON REQUEST FOR
Patent Number	: 7580010	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/963,635	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/14/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1049** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

Mail Date: 04/21/2010

Applicant	: Timothy Hellman	: DECISION ON REQUEST FOR
Patent Number	: 7613351	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/963,677	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1390** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Michael W. Ferrell, Esq.
Ferrells, PLLC
P.O. Box 312
Clifton, VA 20124-1706

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MAY 31 2006
OFFICE OF PETITIONS

In re Application of :
Littlejohn et al. :
Application No. 10/963,686 :
Filed: October 13, 2004 : ON PETITION
Attorney Docket Number: :
2522 (GP-03-18) :

This is a decision on the Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.181(a), filed August 31, 2005. The delay in treating this petition is regretted.

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 December 3, 2004. The Notice set a two (2) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned on February 4, 2004. A Notice of Abandonment was mailed on August 19, 2005.

Applicant's Assertion

Applicant asserts that a timely reply to the Notice was filed on or about December 20, 2004. In support of this assertion, Applicant provides, *inter alia*, copies of a Transmittal Letter for Missing Parts of Application, Assignment; Declaration and Power of Attorney, and a copy of a return receipt postcard acknowledging receipt by this Office of the aforementioned documents and a Certificate of Mailing. Applicant avers that the Transmittal Documents transposed the serial numbers, but that the documents included other sufficient identifiers such that the response should have been matched with the correct application file. A review of the return-receipt postcard and Transmittal Documents reveal that applicant filed the response

using application serial number 10/963,868, instead of the presently assigned application serial number of 10/963,686.

A review of Application serial number 10/963,868, reveals that the Transmittal Letter for Missing Parts of Application and Declaration and Power of Attorney were received in the Office and placed in that application on December 22, 2004. The same Transmittal Letter for Missing Parts of Application and Declaration and Power of Attorney have been filed in this petition. A further review of the Transmittal Letter for Missing Parts of Application reveals that it included the correct inventor, filing date, attorney docket number and Group Art Unit (for application serial number 10/308,314). A further review of the Declaration and Power of Attorney Apparently reveals that it included the correct serial number, but was inadvertently placed in application serial number 10/963,868. It is apparent that the response to the Notice was filed in this Office on December 22, 2004, and due to errors on the part of applicant and this Office, was inadvertently placed in application serial number 10/963,868. Accordingly, the petition is granted.

In view of the foregoing, the holding of abandonment is hereby withdrawn. The Transmittal Letter for Missing Parts of Application and Declaration and Power of Attorney have been removed from application serial number 10/963,868, and placed in application serial number 10/963,686

Office records further reveal that an assignment was received in this Office on June 27, 2005. Applicant should consider verifying the assignment data is correct.

No petition fee has been charged and none is due.

The application file is being referred to the Office of Initial Patent examination for continued processing in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3232.

Derek L. Woods
Attorney
Office of Petitions

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UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

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FEB - 7 2005

OFFICE OF THE DIRECTOR
TC 3600

STEVENS DAVIS MILLER MOSHER LLP
P.O. Box 34387
Washington, DC 20036

In re application of : **DECISION ON PETITION**
Nadir Benouali : **TO MAKE SPECIAL**
Application No. 10/963,688 : **(MANUFACTURE)**
Filed: October 13, 2004
For: UNIT DOSE COMPLIANCE MONITORING & REPORTING DEVICE & SYSTEM

This is a decision on the petition under 37 C.F.R §1.102 filed October 13, 2004 to make the above-identified application special. The petition requests that the above-identified application be made special under the procedure set forth in MPEP 708.02, item I: Prospective Manufacture.

The petition is **DISMISSED**.

MPEP 708.02 states that a Petition to Make Special based on Prospective Manufacture must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) the possession by the prospective manufacturer of sufficiently available capital (stating approximately the amount) and facilities (stating briefly the nature thereof) or that sufficiently available capital and facilities will be made available upon grant of a patent, with the proviso that if the prospective manufacturer is an individual a corroborating statement from a responsible party is required; (B) that the prospective manufacturer will not begin or increase production unless certain that the patent will be granted; (C) that the prospective manufacturer obligates themselves to manufacture the invention in the U.S. in quantity immediately upon the allowance of claims or issuance of a patent which will protect the investment of capital and facilities; and (D) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed October 13, 2004 does not meet conditions 2(A) and 2(C). With regard to condition 2(A) the petition does not set forth a description of the available capital (i.e., approximate amount) and facilities (i.e., brief nature thereof). In regard to condition 2(C) the petition does not include a statement that the prospective manufacturer will manufacture the invention in the U.S. or its possessions in quantity immediately upon the allowance of claims or issuance of a patent which will protect the investment of capital and facilities.

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Should petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving the information as outlined above. Petitioner should promptly submit such a renewed petition to the Commissioner of 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.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/jwk: 1/31/05

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JUL 09 2007

TECHNOLOGY CENTER 3600

Martin MOYNIHAN
c/o ANTHONY CASTORINA
2001 JEFFERSON DAVIS HIGHWAY, SUITE 207
ARLINGTON VA 22202

In re Application of
Ezekiel Golan
Appl. No. 10/963,689
Filed: October 14, 2004
Docket: 28506
For: METHOD AND A KIT FOR SHAPING A PORTION OF A WOODY PLANT INTO A DESIRED FORM

ON PETITION TO ACCEPT COLOR PHOTOGRAPHS

This is a decision on Applicant's Petition under 37 CFR 1.84(a)(2) filed on June 25, 2007 to accept color photographs.

The Petition is **GRANTED.**

For the acceptance of color drawings in accordance with 37 CFR 1.84(a)(2), a petition is required which fullfills the following requirements: (i) the appropriate fee set forth in 1.17(h); (ii) three (3) sets of color drawings; and (iii) amending the specification to contain the following language as the first paragraph in that portion of the specification relating to the brief description of the drawing: "*The file of this patent contains at least one drawing executed in color: Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee.*"

Having met the requirements of 37 CFR 1.84(a)(2), the petition is GRANTED.

Any questions regarding this decision should be directed to Michael Carone at 571-272-6873

Michael J. Carone
Supervisory Patent Examiner
Technology Center 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA GA 30339-5994

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JUN 0 2 2008

OFFICE OF PETITIONS

In re Application of :
Charles A. Fust :
Application No. 10/963,700 : ON PETITION
Filed: October 13, 2004 :
Attorney Docket No.: **081307-1050** :

This is a decision on the petition filed April 21, 2008 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed August 10, 2007. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned November 14, 2007. Accordingly, a Notice of Abandonment was mailed February 20, 2008.

This matter is being referred to Technology Center 1616 for appropriate action on the amendment filed April 21, 2008.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[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)).

Tech Center Routing Sheet

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Application # 10/565,277 Doc Code Date JUN 02 2008

Date of Request 6/2/08 Doc Code OFFICE OF PETITIONS (if not listed)

☐ 136A Blanket Authorization to charge fee	☐ CRFE CRF Entered	☐ NPL Non Patent Literature
☐ A.. Amendment	☐ CTMS Misc. Office Action	☐ NRES Letter restarting period of repsonse
☐ AMSB Amendment Submitted with CPA/RCE	☐ DISQ Terminal Disclaimer Approval Form	☐ NTC.A.NONCPL Notice of Non-Compliant Amendment
☐ ANE.I Amendment After Final, Initialed by Examiner	☐ EXIN Examiner Interview	☒ PET.DEC.TC Petition Decision Routed to TC
☐ APDEC Board of Appeals Decision	☐ FOR Foreign Reference	☐ SA Supplemental Response or Amendment
☐ APEA Examiner's Answer to Appeal Brief	☐ IIFW File Wrapper Issue Information	☐ SRFW File Wrapper Search Information
☐ BIB Bibiliographic Data Sheet	☐ N271 Response to Amendment under 312	☐ SRNT Examiner Search Notes
☐ CLM Claims	☐ N570 Accepted Change to Power of Attorney	☐ WCLM Claim Worksheet
☐ CLMPTO USPTO Prepared Claim Set	☐ NFDR Formal Drawings Required	☐ WFEE Fee Worksheet
☐ CRFD CRF Defective	☐ NOA Notice of Allowability or Allowance	☐ XRUSH Response to a Printer Query

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OFFICE OF PETITIONS

HARNESS, DICKEY & PIERCE, PLC
P.O. BOX 8910
RESTON, VA 20195

In re Application of
Adam Karlsson
Application No. 10/565,277
Filed: July 17, 2006
Attorney Docket Number: **10400-000205/US**

ON PETITION

This is a decision on the Renewed Petition under 37 CFR 1.182 filed November 6, 2007, to Correct the Name of the Inventor due to marriage.

The petition is **GRANTED**.

A petition filed April 9, 2007 wherein petitioner requested that the inventor formerly known as Adam Karlsson be listed as Adam Morrell as the name change was effected by marriage. The petition was dismissed in a decision mailed September 17, 2007 because while the name on the Oath or Declaration was signed as Adam Morrell, the typed name on the Oath or Declaration was Adam Karlsson. Petitioner was advised that either a substitute oath or declaration or an ADS identifying the inventor as Adam Morrell was required to be in compliance with 37 CFR 1.182.

The petition fee was paid with the original petition filed April 9, 2007. An Declaration identifying the inventor as Adam Morrell and of how the change was effected, marriage, has been submitted in compliance with 37 CFR 1.182.

In view of the instant request, the inventor name data will be changed to Adam Morrell.

This matter is being referred to Technology Center 2624 for further examination in due course.

Telephone inquiries concerning this matter should be directed to the undesigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/565,277	07/17/2006	2624	515	10400-000205/US	8	3

CONFIRMATION NO. 7965

CORRECTED FILING RECEIPT

30593
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

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)

Adam Morrell, Lund, SWEDEN;

Power of Attorney: The patent practitioners associated with Customer Number 30593

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/SE04/01147 07/21/2004

Foreign Applications

SWEDEN 0302114-4 07/21/2003

If Required, Foreign Filing License Granted: 08/28/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/565,277**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

** **SMALL ENTITY** **

Title

Method and arrangement for determining an object contour

Preliminary Class

382

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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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Paper No. 050605

MAY 16 2005

GIBBSON, DEL DEO, DOLAN,
GRIFFINGER & VECCHIONE
1 RIVERFRONT PLAZA
NEWARK, NJ 07102-5497

In re Application of:
MATTHEW R. MARTIN et al.
Application No. 10/963,702
Filed: October 13, 2004
Attorney Docket No. 103203-49124-CIP

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102, filed February 15, 2005, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.), Section 708.02, Item II. INFRINGEMENT

Subject to a requirement for a further showing as may be necessitated by the facts of a particular case, an application may be made special because of actual infringement (but not for prospective infringement) upon payment of the fee under 37 CFR 1.17(h) and the filing of a petition accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office alleging:

(A) That there is an infringing device or product actually on the market or method in use;

(B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and

(C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.

(D) 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 contains the petition fee and a statement in accordance with M.P.E.P., Section 708.02, Item II.

For the above stated reasons, the petition is GRANTED.

The application is being forwarded to the examiner for expedited prosecution.

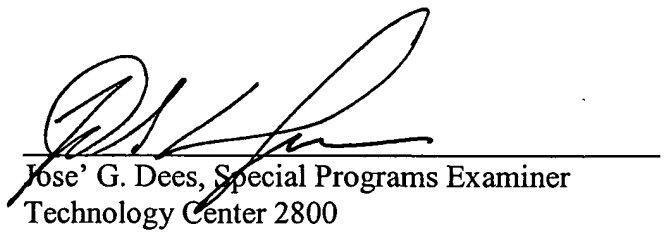
If the examiner can make this application special without prejudice to any possible interfering applications, and he/she should make a rigid search for such, he/she is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

If the examiner finds any interfering application for the same subject matter, he/she should consider such application simultaneously with this application and should state in the official letter of such application that she/he is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application becomes involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. Section 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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OFFICE OF PETITIONS

In re Application of
Tsuchiya, et al. :
Application No. 10/963,704 : DECISION ON
Filed: October 13, 2004 : PETITION
Attorney Docket No. JP920010306US6 :

This is in response to the petition, filed October 7, 2005, to revive an unintentionally abandoned application under 37 CFR 1.137(b).

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely pay the issue fee as required by the Notice of Allowance mailed on June 2, 2005. This notice set a statutory period for reply of three months. No issue fee having been received, the above-identified application became abandoned on September 3, 2005. The mailing of this decision precedes the mailing of a Notice of Abandonment.

With the instant petition, petitioner paid the petition fee together with the issue fee, and made a statement of unintentional delay.

The application is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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JUL 2 2 2008

In re Patent No. 7,193,249 :
Issue Date: March 20, 2007 :
Application No. 10/963,725 : ON PETITION
Filed: October 14, 2004 :
Attorney Docket No. 030681-725 :

This is a decision on the petition filed April 25, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to add the name of an assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **DISMISSED**.

37 CFR 3.81(b), effective June 25, 2004, reads:

> After payment of the issue fee: Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a)) and the processing fee set forth in § 1.17(i) of this chapter.

The instant petition did not include the required processing fee set forth in § 1.17(i). The petition did include a fee authorization for any fees under § 1.20(a), however, this does not include fees under §1.17.

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

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8-15-08

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Patent No. :7,193,249
Ser. No. : 10/963,725
Inventor(s) : Tae-yeon Seong, et. al.
Issued : March 20, 2007
Title : NITRIDE-BASES LIGHT EMITTING DEVICE AND METHOD OF MANUFACTURIN THE SAME
Docket No. : 030681-725

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 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.

See attached paper.

In view of the foregoing, your request is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Eva James
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext. 124** or 105

Charles F. Wieland III
P.O. Box 1404
Alexandria, VA 22313-1404

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In re Patent No. 7,193,249 :
Issue Date: March 20, 2007 :
Application No. 10/963,725 : ON PETITION
Filed: October 14, 2004 :
Attorney Docket No. 030681-725 :

This is a decision on the petition filed October 10, 2008, which is being treated as a renewed request under 37 CFR 3.81(b)[1] to correct the name of an assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

The petition filed April 25, 2007 was dismissed in a decision mailed July 22, 2008 for failure to provide the processing fee required under 37 CFR 1.17(i). This fee has been provided in the instant renewed petition.

Telephone inquiries concerning this decision may be directed to Carl Friedman at (571) 272-6842. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Carl Friedman
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.