SPE: D. Dayoan

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/20/07

TO SPE OF : ART UNIT 3612

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/963,727 Patent No.: 6953220

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

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

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

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

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

D. GLENN DAYOAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

SPE

3612
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

POSZ LAW GROUP, PLC
12040 SOUTH LAKES DRIVE
SUITE 101
RESTON, VA 20191

COPY MAILED

JAN 0 5 2009

OFFICE OF PETITIONS

In re Application of	:	
Kristopher G. Diefenderfer, et al.	:	
Application No. 10/963,766	:	DECISION ON PETITION
Filed: October 14, 2004	:	TO WITHDRAW
Attorney Docket No. 57T-008	:	FROM RECORD
	:	

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

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Posz Law Group, PLC has been revoked by the assignee of the patent application on November 4, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FUJITSU PATENT CENTER
C/O CPA GLOBAL
P.O. BOX 52050
MINNEAPOLIS MN 55402

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JUN 0 8 2009

OFFICE OF PETITIONS

In re Application of	:	
Itani, Noriko	:	
Application No. 10/963,785	:	ON PETITION
Filed: October 14, 2004	:	
Attorney Docket No. 03-52997	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 13, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and an Information Disclosure Statement (IDS), (2) the petition fee, and (3) a proper statement of unintentional delay.

35 U.S.C. 41(a)(7) and 151 each require payment of the issue fee as a condition of reviving an application abandoned for failure to pay the issue fee. Therefore, the filing of a continuing application without payment of the issue fee or any outstanding balance thereof is not an acceptable reply in an application abandoned for failure to pay the issue fee or any portion thereof. Accordingly, the $1510.00 issue fee and $300.00 publication fee will be charged to petitioner's deposit account as authorized by the IDS submitted with the instant petition.

Petitioner is advised that, once submitted, the issue fee 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 concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center AU 2437 for processing of the Request for Continued Examination (RCE) under 37 CFR 1.114 filed concurrently with the instant petition.

Liana Walsh
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).*

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

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MAR 06 2008

OFFICE OF PETITIONS

In re Application of
MIYAUCHI, et al.
Application No. 10/963,798
Filed: October 14, 2004
Attorney Docket No. MIYA3007/EM

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 March 3, 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 December 26, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1746 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

OIPE
AUG 1 4 2008
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	: Takashi MIYAUCHI et al.	Confirmation No: 1521
Appl. No.	: 10/963,798	
Filed	: October 14, 2004	
Title	: DISHWASHER	
TC/A.U.	: 1746	
Examiner	: F.L. Stinson	
Docket No.:	: MIYA3007/REF	
Customer No:	: 23364	

TRANSMITTAL OF ISSUE FEE

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

Sir:

This is in response to the Decision on Petition of March 6, 2008 in connection with the above-identified application. This decision granted the petition to withdraw the above-identified application from issue after payment of the issue fee. It further indicates that Petitioner is advised that the issue fee paid on December 26, 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. A copy of this decision is submitted herewith.

Petitioner most respectfully request that the issue fee paid on December 26, 2007 in the amount of $1,920.00 in the above-identified application be applied towards the issue fee in the amount of $1,440.00 required by the new Notice of Allowance in which due date is set to expire on August 18, 2008. However, if necessary, authorization is given to charge Deposit Account No. 02-0200. A duplicate copy of this paper is attached.

Also submitted herewith, if necessary, is a copy of the Issue Fee Transmittal Form and canceled check number 54879 in the amount of $1,740.00 previously submitted in this application.

In view of the decision on petition of March 6, 2008, the application is now in condition to proceed with the issuance of the above-identified application as a patent.

Respectfully submitted,
BACON & THOMAS, PLLC

By Richard E. Fichter
Richard E. Fichter
Registration No. 26,382

625 Slaters Lane - 4th Fl.
Alexandria, Virginia 22314
Phone: (703) 683-0500
Facsimile: (703) 683-1080

REF:cjw
Letter of Transmittal.wpd

August 14, 2008

OIPE IAP69
AUG 1 4 2008
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	: Takashi MIYAUCHI et al.	Confirmation No: 1521
Appl. No.	: 10/963,798	
Filed	: October 14, 2004	
Title	: DISHWASHER	
TC/A.U.	: 1746	
Examiner	: F.L. Stinson	
Docket No.:	: MIYA3007/REF	
Customer No:	: 23364	

TRANSMITTAL OF ISSUE FEE

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

Sir:

This is in response to the Decision on Petition of March 6, 2008 in connection with the above-identified application. This decision granted the petition to withdraw the above-identified application from issue after payment of the issue fee. It further indicates that Petitioner is advised that the issue fee paid on December 26, 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. A copy of this decision is submitted herewith.

Petitioner most respectfully request that the issue fee paid on December 26, 2007 in the amount of $1,920.00 in the above-identified application be applied towards the issue fee in the amount of $1,440.00 required by the new Notice of Allowance in which due date is set to expire on August 18, 2008. However, if necessary, authorization is given to charge Deposit Account No. 02-0200. A duplicate copy of this paper is attached.

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In view of the decision on petition of March 6, 2008, the application is now in condition to proceed with the issuance of the above-identified application as a patent.

Respectfully submitted,
BACON & THOMAS, PLLC

By Richard E. Fichter
Richard E. Fichter
Registration No. 26,382

625 Slaters Lane - 4th Fl.
Alexandria, Virginia 22314
Phone: (703) 683-0500
Facsimile: (703) 683-1080

REF:cjw
Letter of Transmittal.wpd

August 14, 2008

RGF

UNITED STATES PATENT AND TRADEMARK OFFICE

OIPE
AUG 1 4 2008
PATENT & TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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BACON & THOMAS, PLLC
625 SLATERS LANE, FOURTH FLOOR
ALEXANDRIA VA 22314

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MAR 0 6 2008

OFFICE OF PETITIONS

In re Application of	:	
MIYAUCHI, et al.	:	
Application No. 10/963,798	:	DECISION GRANTING PETITION
Filed: October 14, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. MIYA3007/EM	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 3, 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 December 26, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1746 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

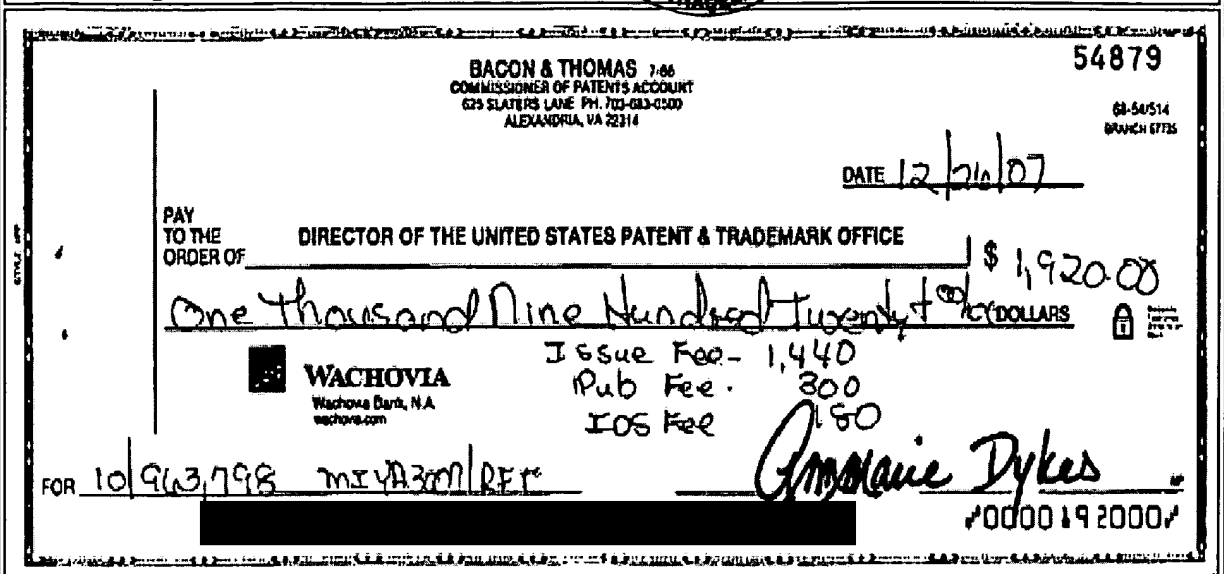
MAR 1 0 2008
Bacon & Thomas PLLC
No.

[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.*

Wachovia Bank Account No. WBVA 2065202824409

OIPE IAP59
AUG 14 2008
PATENT & TRADEMARK OFFICE

Front Image



BACON & THOMAS 7-86
COMMISSIONER OF PATENTS ACCOUNT
625 SLATERS LANE PH. 703-683-0500
ALEXANDRIA, VA 22314

54879

68-54/514
BRANCH 67735

DATE 12/26/07

PAY TO THE ORDER OF DIRECTOR OF THE UNITED STATES PATENT & TRADEMARK OFFICE $ 1,920.00

One thousand Nine Hundred Twenty + 00/100 DOLLARS

WACHOVIA
Wachovia Bank, N.A.
wachovia.com

Issue Fee - 1,440
Pub Fee - 300
IDS Fee 180

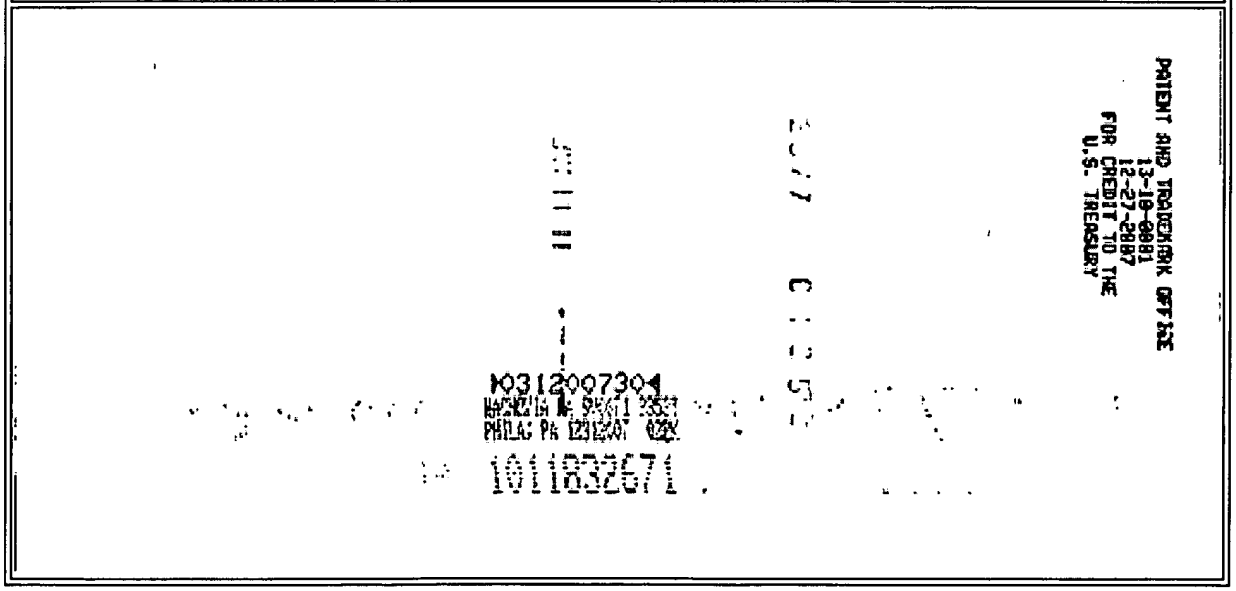
FOR 10/963,798 MIYA3007/RFT

Ammarie Dykes

[redacted]

⑈0000192000⑈

Back Image



PATENT AND TRADEMARK OFFICE
13-10-0001
12-27-2007
FOR CREDIT TO THE
U.S. TREASURY

⑆0312007304⑆
WACHOVIA NA 5 [illegible]
PHILA, PA 12312007 [illegible]
1011832671

View	Post Date	Amount	Serial No	Sequence No
1	12/31/2007	$1,920.00	54879	1011832671

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P.O. Box 1450
Alexandria, VA 22313-1450
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NAVAL SURFACE WARFARE CENTER DAHLGREN DIVISION
OFFICE OF COUNSEL, CODE XDC1
17632 DAHLGREN ROAD
SUITE 121
DAHLGREN VA 22448-5110

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JUN 1 8 2007

OFFICE OF PETITIONS

In re Application of	:	
SCHILLING, Amanda S. et al.	:	
Application No. 10/963,827	:	DECISION ON PETITION
Filed: October 06, 2004	:	TO WITHDRAW
Attorney Docket No. **95761**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 02, 2007.

The request is **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 Scott Boalick. The correspondence address of record remains unchanged.

There is an outstanding Office action mailed May 16, 2007 that requires a reply from the applicant.

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

Monica A. Graves
Petitions Examiner
Office of Petitions

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

MacLane C. Key
12329 Antietam Road
Lake Ridge, VA 22192

COPY MAILED
JUL 24 2006
OFFICE OF PETITIONS

In re Application of	:	
Cory Jones	:	
Application No. 10/963,831	:	DECISION ON PETITION
Filed: October 14, 2004	:	TO WITHDRAW
Attorney Docket No. 1000001.00003	:	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 8, 2005.

The request is **NOT APPROVED**.

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

The 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, **I have joined a new firm and no longer have the ability to select my clients. The firm.....**, do not meet any the conditions set forth in 37 CFR 10.40.

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

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

David Bucci
Petitions Examiner
Office of Petitions

cc: Erik Larsen
21 Cemer Court
Ladera Ranch, CA 92694

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

7/15/08

Patent No. :7354763
Inventor(s) :Gerecht-NIR et al.
Issued : 4/8/2008
Title : GENERATING VASCULAR SMOOTH MUSCLE CELLS IN VITRO PROM ES CELLS
Atty.doc./File No.

Request for Certificates of Correction

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

Inspection of the application for the patent reveals that item [63] is printed in accordance with the record. Therefore being no fault on the Patent and Trademark Office, It has no authority to issue a certificate of correction under the provision of 1.322.

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

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

Henry Randall
Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext. 108

MARTIN D. MOYNIHAN
PRTSI, INC.
P.O. Box 16446
ARLINGTON, VA 22215

HR/CBN

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/15/09

TO SPE OF : ART UNIT 1632 Paras Peter

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/963834 Patent No.: 7354763

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: _____

The request for correction does not contain the relationship between the present patent and that of now patent 7247477. The correction should state "continuation,""CIP" or "divisional" of. Applicant is referred to line 63 of the present patent as an example.

Peter Paras
SPE

1632
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JAN 19 2005

In re Application of	:	
CORKRAN et al.		:
Serial Number: 10/963,841	:	PETITION UNDER
Filed: October 12, 2004	:	M.P.E.P.708.02 V
For: VEGETABLE OIL BASED DIELECTRIC FLUID AND METHODS OF USING SAME	:	

This is in response to the petition filed October 12, 2004, requesting that the above-identified application be granted Special Status under Section 708.02 V of the MPEP and 37 CFR 1.102(c) (**no fee required**).

The request for Special Status considered under Section 708.02 V is granted because criteria under 37 CFR 1.102(c) has been met.

The petition is **GRANTED.**

R Crispino

Richard Crispino, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

Fish & Richardson, P.C.
3300 Dain Rauscher Plaza
60 South Sixth Street
Minneapolis, MN 55402

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

SHUMAKER & SIEFFERT, P. A.
1625 RADIO DRIVE
SUITE 300
WOODBURY, MN 55125

Mail Date: 07/02/2010

Applicant	: Jerry L. Corkran	: DECISION ON REQUEST FOR
Patent Number	: 7651641	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/963,841	: 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 **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

EATON CORPORATION
26201 NORTHWESTERN HWY
SOUTHFIELD, MI 48076

MAILED

SEP 11 2009

OFFICE OF PETITIONS

In re Application of	:	
Darwin C. Olson	:	
Application No. 10/963,891	:	DECISION ON PETITION
Filed: October 31, 2004	:	
Attorney Docket No. BWD 6519 CIP1	:	

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.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. However, if petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, December 24, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 25, 2009.

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

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

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 undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 3679 for appropriate action by the Examiner in the normal course of business on the reply received July 20, 2009.

April M. Wise
Petitions Examiner
Office of Petitions

cc: MERCHANT & GOULD, PC
PO BOX 2903
MINNEAPOLIS, MN 55402-0903

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.
10/963,918	10/12/2004	Koryo Tei	F-8427	1801

28107 7590 10/20/2006

JORDAN AND HAMBURG LLP
122 EAST 42ND STREET
SUITE 4000
NEW YORK, NY 10168

EXAMINER
NGUYEN, PATRICIA T

ART UNIT	PAPER NUMBER
2817	

DATE MAILED: 10/20/2006

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

UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10/963,918	10/12/2004	Koryo TEI, et al.	F-8427

EXAMINER
PATRICIA NGUYEN

ART UNIT	PAPER
2817	20060928

DATE MAILED:

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

Commissioner for Patents

The amended specification and abstract filed 5/31/2006 have been entered.

Patricia Nguyen

PATRICIA NGUYEN
PRIMARY EXAMINER

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 4/22/08

Paper No.: _____

TO SPE OF : **Technology Center** 2821

10/963927

SUBJECT : Request for Certificate of Correction on Patent No.: 7298329 B2

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

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

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

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

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

Thank You For Your Assistance

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

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

Note your decision on the appropriate box.

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

Comments:

References have not been considered

SPE

2821
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

JJGJR.: 03-05

Paper No: __

COHEN, PONTANI,
LIEBERMAN & PAVANE
551 FIFTH AVENUE
SUITE 1210
NEW YORK NY 10176

COPY MAILED

MAR 3 1 2005

OFFICE OF PETITIONS

In re Application of
Albert, et al. :
Application No. 10/963,936 : DECISION ON PETITION
Filing Date: 13 October, 2004 (Deposit) :
Attorney Docket No. 4452-657 :

This is a decision on the petition filed on 17 February, 2005, styled "Petition for Earlier Submission Date" and considered under 37 C.F.R. §1.53.

The petition under 37 C.F.R. §1.53 is **DISMISSED**.

BACKGROUND

This nonprovisional application was deposited on 13 October, 2004.

Petitioner says that he noted, before the Office mailed a Notice of Omitted Items in a Nonprovisional Application, that Figure 6 had been omitted from the 13 October deposit, and Petitioner submitted on 27 October, 2004, papers entitled (*in globo*) "Completion of Application." Petitioner made this submission, however, under an erroneous application number (i.e., 10/963,393) because, Petitioner avers, the bar code sticker attached to Petitioner's receipt card was smeared or otherwise damaged. The latter (smeared/damaged) condition Petitioner attributes to the Office, and the former condition (erroneous number) he blames on the latter.

On 28 January, 2005, the Office mailed a Notice of Omitted Items, and indicated that while a filing date had been granted, it appeared that Fig. 6 (as described in the specification) had been omitted when the application was deposited on 13 October, 2004.

The 28 January, 2005, Notice specified a reply period of two (2) months, and also informed Petitioner that he might (a) evidence that the drawing was submitted on the original deposit, or (b) supply the drawing and obtain the later filing date, or (c) not respond and accept the application as originally deposited.

On 17 February, 2005, Petitioner filed the instant petition, which–while styled as noted above "Petition for Earlier Submission Date"–states in contrast "applicants hereby earnestly solicit the assigning of October 27, 2004, as the date on which the application was completed."

Petitioner submitted the instant petition with:

- an entitlement /style that asks for one result–i.e., the earlier date, which is 13 October, 2004; and

- an express and conflicting statement within the body of the petition for "October 27, 2004"–the later date.

Thus, while Petitioner calls the petition one "For Earlier Submission Date"–which by definition is the date of deposit, 13 October, 2004–the body of Petitioner's paper expressly seeks the later date of 27 October, 2004.

The instant petition is **dismissed**, and Petitioner is instructed to specify his request within the terms and alternatives set forth in the Notice of Omitted Items. **Petitioner is given one month (and in no case less than 30 days) to specify his intentions as to the earlier filing date of 13 October, 2004, without Fig. 6, or the later filing date of 27 October, 2004, with Fig. 6.**

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

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

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

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

Telephone inquiries concerning this decision may be directed to the undersigned at (703)305-9199.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 09-05

Paper No: __

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SEP 1 9 2005

OFFICE OF PETITIONS

COHEN, PONTANI,
LIEBERMAN & PAVANE
551 FIFTH AVENUE
SUITE 1210
NEW YORK NY 10176

In re Application of	:	
Albert, et al.	:	
Application No. 10/963,936	:	DECISION ON PETITION
Filing Date: 13 October, 2004 (Deposit)	:	
Attorney Docket No. 4452-657	:	

This is a decision on the petition filed on 12 April, 2005, styled "Petition for Completion of Application" and considered under 37 C.F.R. §1.53.

The petition under 37 C.F.R. §1.53 is **GRANTED**.

BACKGROUND

This nonprovisional application was deposited on 13 October, 2004.

In the original petition, Petitioner indicated that he noted, before the Office mailed a Notice of Omitted Items in a Nonprovisional Application, that Figure 6 (this on sheet 5/5) had been omitted from the 13 October deposit, and Petitioner submitted on 27 October, 2004, papers entitled (*in globo*) "Completion of Application." Petitioner made this submission, however, under an erroneous application number (i.e., 10/963,393) because, Petitioner avers, the bar-code sticker attached to Petitioner's receipt card was smeared or otherwise damaged. The latter (smeared/damaged) condition Petitioner attributes to the Office, and the former condition (erroneous number) he blames on the smeared/damaged condition of the bar-code sticker. That

the postcard went through a mail system and into Petitioner's office mail and files, and may have been damaged in that process, appears not to occur to Petitioner in the blame-designating effort.

On 28 January, 2005, the Office mailed a Notice of Omitted Items, and indicated that while a filing date had been granted, it appeared that Fig. 6 (as described in the specification) had been omitted when the application was deposited on 13 October, 2004.

The 28 January, 2005, Notice specified a reply period of two (2) months, and also informed Petitioner that he might (a) evidence that the drawing was submitted on the original deposit, or (b) supply the drawing and obtain the later filing date, or (c) not respond and accept the application as originally deposited.

On 17 February, 2005, Petitioner filed the original petition, which–while styled as noted above "Petition for Earlier Submission Date"–stated in contrast "applicants hereby earnestly solicit the assigning of October 27, 2004, as the date on which the application was completed." Thus, Petitioner submitted that petition with an entitlement /style that asks for one result–i.e., the earlier date, which is 13 October, 2004; and an express and conflicting statement within the body of the petition for "October 27, 2004"–the later date. While Petitioner called the petition one "For Earlier Submission Date"–which by definition is the date of deposit, 13 October, 2004–the body of Petitioner's paper expressly seeks the later date of 27 October, 2004. And so the petition was dismissed on 31 March, 2005, pending clarification by Petitioner.

The renewed petition addresses the deficiency discussed above.

CONCLUSION

The petition is **granted**, however, the petition fee is not waived because the petition was not prompted by Office error–i.e., the omission of the drawing(s) in question.

This application is released to OIPE for further processing with a filing date of 27 October, 2004, for the entire application with pages 1 - 15 of the specification (description, claims and abstract) and 5 sheets of drawings, and in particular for Fig. 6 (on sheet 5/5), as described in the specification, using:

- **pages 1 - 15 of specification (description, claims and abstract) and four sheets of drawings Fig. 1 (sheet 1/5), Fig. 2 (sheet 2/5), Fig. 3 (sheet 3/5), Figs. 4 and 5 (sheet 4/5) deposited on 13 October, 2004; and**

- **and 1 sheet of drawings, Fig. 6 (sheet 5/5), as described in the specification deposited on 27 October, 2004; and further**

with direction to OIPE to correct Office records and provide to Petitioner a corrected filing receipt setting forth a filing date of 27 October, 2004, and reflecting therein that 15 pages of specification (description, claims and abstract) and 5 sheets of drawings were present on filing.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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
10/963,938	10/12/2004	3636	395	5539-002	15	18	3

CONFIRMATION NO. 2080

CORRECTED FILING RECEIPT

OC000000017378546

20575
MARGER JOHNSON & MCCOLLOM, P.C.
210 SW MORRISON STREET, SUITE 400
PORTLAND, OR 97204

Date Mailed: 11/03/2005

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)

Sandi LaFreniere, Portland, OR;

Power of Attorney: The patent practitioners associated with Customer Number **20575**.

Domestic Priority data as claimed by applicant

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 US10/963,938

Projected Publication Date: 04/13/2006

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Lounge chair with adjustable arm rests

Preliminary Class

297

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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MICHAEL BUCHENHORNER, P.A.
8540 SW 83 STREET
SUITE 100
MIAMI FL 33143

COPY MAILED
MAR 19 2010

In re Application of	:	
Clifford Alan Pickover	:	
Application No. 10/963,941	:	DECISION ON PETITION
Filed: October 13, 2004	:	
Attorney Docket No. YOR920040462US1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 15, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal rejection mailed September 12, 2008, is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 3629 for appropriate action by the Examiner in the normal course of business on the reply received December 15, 2009.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DORSEY & WHITNEY LLP
INTELLECTUAL PROPERTY DEPARTMENT
370 SEVENTEENTH STREET
SUITE 4700
DENVER CO 80202-5647

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JUN 3 0 2005

OFFICE OF PETITIONS

In re Application of	:
Michael H. Anderson	: DECISION DISMISSING
Application No. 10/963,946	: PETITION UNDER
Filed: October 12, 2004	: 37 CFR 1.137(b)
Attorney Docket No. 33648/US/2	:

This is a decision on the petition, filed March 8, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See 37 CFR 1.137(f)*.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be filed within TWO MONTHS from the mail date of this decision. Extensions of time are available pursuant to the provisions of 37 CFR 1.136(a).

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

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

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

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

The petition fails to comply with items (1) and (3) above. Petitioner should provide the country and application number of the foreign filing and provide the required statement of unintentional delay.

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

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

By hand: Customer Window located at:

Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

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

Karen Creasy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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DORSEY & WHITNEY
INTELLECTUAL PROPERTY DEPARTMENT
370 SEVENTEENTH STREET
SUITE 4700
DENVER CO 80202-5647

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AUG 29 2005

OFFICE OF PETITIONS

In re Application of	:	
Michael H. Anderson et al	:	
Application No. 10/963,946	:	DECISION GRANTING PETITION
Filed: October 12, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 33648/US/2	:	

This is a corrected decision on the petition, filed March 8, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on January 20, 2005. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

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

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded.

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

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

Karen Creasy

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

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PTO/SB/64a (09-04)
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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED FOR FAILURE TO NOTIFY THE OFFICE OFA FOREIGN OR INTERNATIONAL FILING (37 CFR 1.137(f))	Docket Number (Optional) 33648/US/2

First named inventor: Michael H. Anderson

Application No.: 10/963,946 Art Unit: 2874

Filed: 10/12/2004 Examiner:

Title: LIQUID CRYSTAL WAVEGUIDE HAVING REFRACTIVE SHAPES FOR DYNAMICALLY CONTROLLING LIGHT

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (703) 872-9306

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9282.

The above-identified application became abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to timely notify the Office of the filing of an application in a foreign country or under a multinational international treaty that requires publication of applications eighteen months after filing. The date of abandonment is the day after the expiration date of the forty-five (45) day period set in 35 U.S.C. 122(b)(2)(B)(iii).

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

1. Petition fee

[X] Small entity-fee $ 750.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

[ ] Other than small entity – fee $ _____ (37 CFR 1.17(m))

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

Subsequent to the filing of the above-identified application, an application was filed in another country, or under a multinational international treaty (e.g., filed under the Patent Cooperation Treaty), that requires publication of applications eighteen months after the filing. The filing date of the subsequently filed foreign or international application is January 20, 2005.

08/29/2005 AKELLEY 00000014 041415 10963946

01 FC:2453 750.00 DA

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

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

BEST AVAILABLE COPY

PTO/SB/64a (09-04)
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.

STATEMENT: The entire delay in filing the required notice of a foreign or international filing from the due date for the required notice until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

Signature	3-8-2005 Date
James A. Pinto Typed or printed name	40,774 Registration Number, if applicable
USPTO Customer No. 20686 Address	303-629-3407 Telephone Number
370 17th Street, Suite 4700, Denver, CO 80202 Address	

Enclosures: [xxx] Fee Payment Please charge deposit account no. 04-1415 for the required fee of $750.00.
[ ] 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.

[x] Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 872-9306.

March 8, 2005 Date	Rita M. McAloon Signature
	Rita M. McAloon Typed or printed name of person signing certificate

PAGE 4/5 * RCVD AT 3/8/2005 5:33:58 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-1/5 * DNIS:8729306 * CSID:3036293450 * DURATION (mm-ss):01-50

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

BROWNSTEIN HYATT FARBER SCHRECK, LLP
410 SEVENTEENTH STREET, SUITE 2200
DENVER, CO 80202

MAILED

JUL 13 2009

OFFICE OF PETITIONS

In re Application of :
Michael H. Anderson et al :
Application No. 10/963,946 :
Filed: October 12, 2004 :
Attorney Docket No. 10454.0001/US/1

ON PETITION

This is a decision on the petition, filed July 13, 2009 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 8, 2009 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2871 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
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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BROWNSTEIN HYATT FARBER SCHRECK, LLP
410 SEVENTEENTH STREET, SUITE 2200
DENVER, CO 80202

MAILED

JUN 21 2010

OFFICE OF PETITIONS

In re Application of	:	
Michael H. ANDERSON, et *al.*	:	
Application No. 10/963,946	:	DECISION GRANTING PETITION
Filed: October 12, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **10454.0001/US/1**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 18, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 28, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Mr. James A. Pinto 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. Pinto desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted.

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

This application is being referred to Technology Center AU 2871 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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JUN 2 2005

Law Offices of John D. Gugliotta PE, Esq.
202 Delaware Building,
137 South Main Street
Akron, OH 44308

In re application of Steven Tsengas, et al Application No. 10/963,953 Filed: October 12, 2004 For: APPARATUS FOR SCOOPING AND SIFTING CAT LITTER	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)**

This is a decision on the petition submitted on December 8, 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 Steven Tsengas 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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JOHN D. GUGLIOTTA
430 WHITE POND DRIVE
SUITE 200
AKRON, OH 44320-1122

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APR 16 2008

OFFICE OF PETITIONS

In re Application of :
Steven Tsengas et al :
Application No. 10/963,953 : ON PETITION
Filed: October 12, 2004 :
Attorney Docket No. 1357 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 19, 2007 and resubmitted on November 21, 2007, to revive the above-identified application.

The petition is **DISMISSED.**

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

The above-identified application became abandoned for failure to reply in a timely manner to the Office action mailed January 19, 2007, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). Accordingly, the above-identified application became abandoned on February 20, 2007.

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

The Appeal Brief filed on April 3, 2006 is defective. Since the Office action mailed January 19, 2007 was returned as undelivered, this case became abandon and the $770 petition fee under 37 CFR 1.137(b) is required. A courtesy copy of the January 19, 2007 Office action is attached.

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

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

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: John D. Gugliotta
202 Delaware Building
137 South Main Street
Akron, OH 44308

Attachment: A courtesy copy of the January 19, 2007 Office action.

IFW

UNITED STATES PATENT AND TRADEMARK OFFICE

JAN 29 2007
PATENT & TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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APPLICATION NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/963,953	10/12/2004	Steven Tsengas	1357	3671

7590 01/19/2007

Law Offices of John D. Gugliotta, PE, Esq.
202 Delaware Building
137 South Main Street
Akron, OH 44308

EXAMINER

ART UNIT	PAPER NUMBER

DATE MAILED: 01/19/2007

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

Notification of Non-Compliant Appeal Brief (37 CFR 41.37)	Application No. 10/963,953	Applicant(s) TSENGAS ET AL.	
	Examiner Trinh T. Nguyen	Art Unit 3644	

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

The Appeal Brief filed on 03 April 2006 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file anamended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.

2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).

3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).

4. ☒ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).

5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi))

6. ☒ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).

7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).

8. ☒ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).

9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).

10. ☐ Other (including any explanation in support of the above items):

Trinh T Nguyen
Primary Examiner
Art Unit: 3644

Organization TC3600 Bldg./Room KNOX

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SUITE 275
RICHFIELD, OH 44286

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JUN 11 2008

OFFICE OF PETITIONS

In re Application of	:	ON PETITION
Steven Tsengas et al	:	
Application No. 10/963,953	:	
Filed: October 12, 2004	:	
Attorney Docket No. 1357	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed May 15, 2008, to revive the above-identified application.

The petition is **DISMISSED.**

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

The $770 petition fee submitted by check with the petition on May 15, 2008 was returned due to the account being closed. This petition can not be revive until the $770 petition fee; $250 appeal brief; and the $50 bounce check fee is received.

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

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

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Steven Tsengas et al	:	
Application No. 10/963,953	:	ON PETITION
Filed: October 12, 2004	:	
Attorney Docket No. 1357	:	

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

The petition is **GRANTED**.

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

This matter is being referred to Technology Center AU 3644 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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PILLSBURY WINTHROP SHAW PITTMAN LLP
P.O BOX 10500
McLean VA 22102

MAILED

JUN 21 2010

OFFICE OF PETITIONS

In re Application of	:	
Thomas Perlmutter	:	
Application No. 10/963,963	:	DECISION ON PETITION
Filed: October 13, 2004	:	TO WITHDRAW
Attorney Docket No. 012623-0311894	:	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 17, 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. 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 Roger Wise 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 and is copied below.

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

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Thomas Perlmutter
3812 Waterford Way
Calabasas, CA 93103

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/963,963	10/13/2004	Thomas Perlmutter	012623-0311894

CONFIRMATION NO. 3664

POWER OF ATTORNEY NOTICE

27496
PILLSBURY WINTHROP SHAW PITTMAN LLP
P.O BOX 10500
McLean, VA 22102

OC000000042206054

Date Mailed: 06/21/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/17/2010.

- 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 13, 2009

TO SPE OF : ART UNIT 1796 - SPE James J. Seidleckl.

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/963,974 Patent No.: 7,344,672 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Antonio Johnson

Should the change at Column 19, line 20 be approved? (dependency)

Certificates of Correction Branch
(571)272-0483

Thank You For Your Assistance

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

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

Comments:

see "COCIN" under annotate tab in 10963974
completed 11/23/09

James Seidleck by Susan Berman 12/15/09

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Bozicevic, Field & Francis, LLP
1900 University Avenue
Suite 200
East Palo Alto, CA 94303

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OCT 0 3 2005

OFFICE OF PETITIONS

In re Application of	:	
Alexander Q. Tilson	:	
Application No. 10/963,978	:	DECISION GRANTING
Filed: October 12, 2004	:	PETITION
Attorney Docket No. CNVG-009CIP2	:	

This is a decision on the petition filed September 9, 2005, requesting that the above-identified application be accorded a filing date of October 12, 2004, rather than the presently accorded date of October 14, 2004. The petition is properly treated as a petition under 37 CFR 1.10(c).

The petition is **GRANTED**.

Petitioner requests the earlier filing date on the basis that the application was purportedly deposited with Express Mail Service on October 12, 2004 pursuant to 37 CFR 1.10. While the copy of the Express Mail label receipt no. EV519866144US bears a handwritten "date-in" of October 14, 2004, it also includes a USPS receipt date stamp of October 12, 2004. Petitioner is alleging that the date of mailing shown in the "date-in" is a U. S. Postal Service (USPS) error and the correct date of mailing pursuant to 37 CFR 1.10 is October 12, 2004.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "date-in" on the Express Mail label, MPEP 513. However, in view of the conflicting dates on the label, a search of the USPS' Express Mail Track and Confirm database was made and confirms that the package bearing Express Mail label No. EV519866144US was accepted on October 12, 2004.

This application file is being returned to the Office of Initial Patent Examination (OIPE) for **correction of the filing date to October 12, 2004 and issuance of a corrected filing receipt.**

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3223. Telephone inquiries related to OIPE processing should be directed to their hotline at (703) 308-1202.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions

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9442 N. Capital of Texas Hwy.
Arboretum Plaza One, Suite 500
AUSTIN, TX 78759

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OFFICE OF PETITIONS

In re Application of	:	
Dean Teffer, et. al.	:	
Application No. 10/963,988	:	ON PETITION
Filed: October 12, 2004	:	
Attorney Docket No. PRTF003US0	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 24, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

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

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

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the Final Rejection action of October 31, 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 (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). *See* MPEP 711.03(c)(III)(A)(2). Since the amendment submitted on December 24, 2008 does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b). A courtesy copy of the Advisory Action is enclosed.

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Michael Wallace, Jr. appearing on the petition shall constitute a representation to

the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted.

Additionally, 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. 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.

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 Denise Williams at (571) 272-8930.

Andrea Smith
Petitions Examiner
Office of Petitions

Enclosure: Examiner's Advisory Action

cc: Michael Wallace, Jr.
170 Wood Avenue South
Iselin, NJ 08831

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/963,988	Applicant(s) TEFFER ET AL.	
	Examiner JENNIFER MEHMOOD	Art Unit 2612	

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

THE REPLY FILED 24 December 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

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Alexandria, VA 22313-1450
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FORTKORT GRETHER & KELTON LLP
9442 N. CAPITAL OF TEXAS HWY.
ARBORETUM PLAZA ONE, SUITE 500
AUSTIN TX 78759

MAILED

APR 27 2009

OFFICE OF PETITIONS

In re Application of
Dean Teffer et al
Application No. 10/963,988
Filed: October 12, 2004
Attorney Docket No. PRTF003USO

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 17, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final rejection mailed February 9, 2007, is accepted as having been unintentionally delayed.

Petitioner was informed in the decision mailed February 2, 2009 that: "If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted."

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

This application is being referred to Technology Center AU 2612 for appropriate action by the Examiner in the normal course of business on the reply received March 17, 2009.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
cc:

MICHAEL WALLACE,JR.
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

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Robin M. Silva
Dorsey & Whitney LLP
Intellectual Property Department
555 California Street Suite 1000
San Francisco CA 94104-1513

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AUG 3 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Desjarlais, et al.	:	
Application No. 10/963,994	:	DECISION ON PETITION
Filed: October 12, 2004	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. A-68990-5	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed January 17, 2006 (certificate of mailing date January 13, 2006), to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional applications 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.

All 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 applications under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing dates of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C.

§119(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 dates.

A corrected Filing Receipt, previously mailed on January 20, 2006, which includes the priority claim to the prior-filed provisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Petitions Attorney Shirene Willis Brantley at (571) 272-3230. 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 1649 for appropriate action on the amendment submitted January 17, 2006 (certificate of mailing date January 13, 2006), including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application Nos. 60/509,960 and 60/186,427.

Frances Hicks
Lead Petitions Examiner
Office of Petitions

ATTACHMENT: copy of January 20, 2006 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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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/963,994	10/12/2004	1649	810	A-68990-5	33	34	2

CONFIRMATION NO. 2488

CORRECTED FILING RECEIPT

OC000000017878553

Robin M. Silva
Dorsey & Whitney LLP
Intellectual Property Department
555 California Street Suite 1000
San Francisco, CA 94104-1513

Date Mailed: 01/20/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

John R. Desjarlais, Pasadena, CA;
Anton Filikov, Woburn, MA;
Paul Michael Steed, Chapel Hill, NC;
Jonathan Zalevsky, Riverside, CA;
David Edmund Szymkowski, Monrovia, CA;

Assignment For Published Patent Application

Xencor, Inc.

Power of Attorney: The patent practitioners associated with Customer Number **32940**.

Domestic Priority data as claimed by applicant

This application is a CIP of 10/262,630 09/30/2002
and claims benefit of 60/509,960 10/09/2003
and claims benefit of 60/510,430 10/10/2003
and claims benefit of 60/553,908 03/17/2004
and is a CIP of 09/981,289 10/15/2001
which is a CIP of 09/945,150 08/31/2001 ABN
which is a CIP of 09/798,789 03/02/2001
which claims benefit of 60/186,427 03/02/2000

Foreign Applications

If Required, Foreign Filing License Granted: 02/24/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/963,994

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Protein based TNF-alpha variants for the treatment of TNF-alpha related disorders

Preliminary Class

424

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

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

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

NOT GRANTED

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

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Conley Rose
5700 Granite Parkway, Suite 330
Plano, TX 75204

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OFFICE OF PETITIONS

In re Application of	:	
Brian Davis	:	
Application No. 10/963,999	:	DECISION ON PETITION
Filed: September 8, 2004	:	TO WITHDRAW
Attorney Docket No. 4147-00201	:	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 3, 2005.

The request is **NOT APPROVED**.

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

The 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; **withdrawal is requested because it is unreasonably difficult for practitioner to carry out the employment effectively. Practitioner has given.....**, do not meet any the conditions set forth in 37 CFR 10.40.

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

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

David Bucci
Petitions Examiner
Office of Petitions

cc: Brian Davis
Cycle Cottage, Balt Lane
Kennington
Ashford, Kent TN25 4EB

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SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN NJ 08830

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Kanghua Chen et al.
Application No. 10/964,000
Filed: October 12, 2004
Attorney Docket No. **130209.523**

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

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

This application became abandoned June 18, 2007 for failure to timely pay the issue fee on or before June 15, 2007. Accordingly, a Notice of Abandonment was mailed July 11, 2007.

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

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

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

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

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

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

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THE INVENTORS NETWORK, INC.
332 ACADEMY STREET
CARNEGIE PA 15106

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OFFICE OF PETITIONS

In re Application of :
Luke :
Application No. 10/964,020 :
Filed: November 14, 2004 :
Attorney Docket No. N/A :
For: LIFT SYSTEM FOR RAISING THE REAR OF A TRUCK

ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed January 14, 2008 (certificate of mailing date January 10, 2008), to withdraw 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."

Per the Notice of Abandonment, mailed July 24, 2007, the Office contended that the above-identified application became abandoned for failure to timely submit the issue fee and publication fee in response to the March 30, 2007 Notice of Allowance and Fee(s) Due, which set a three month non-extendable period for reply. The application became abandoned on July 1, 2007.

Petitioner request withdrawal of the holding of abandonment based on the assertion that a PTOL-85b and an enclosed check for $1,000.00 was mailed on certificate of mailing date April 16, 2007 to the Office. The Office received two copies of the PTOL-85b on April 19, 2007 and April 26, 2007, respectively. However, the Office did not receive the $1,000.00 money order.

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 PTOL-85b bears a proper certificate of mailing, dated April 16, 2007, in compliance with the requirements of 37 C.F.R. § 1.8(a)(1) as set forth above. It is unclear as to whether or not the person signing the certificate, Stephanie L. Skobel, had reasonable basis to expect that the correspondence would be mailed on April 16, 2007. Ms. Skobel has not provided a statement.

Even if Ms. Skobel provides a statement attesting to her role in the mailing of the PTOL-85b and $1,000.00 check, the application would still be abandoned. **Even if the Office were to accept the assertion that a $1,000.00 money order was mailed on certificate of mailing date April 16, 2007, the application would still be abandoned because applicant has not filed corrected formal drawings, as was required by the March 30, 2007 Notice of Allowability.**

Petitioner is encouraged to file corrected drawings with a petition to revive under the unintentional delay standard of 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
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 may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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THE INVENTORS NETWORK, INC.
332 ACADEMY STREET
CARNEGIE PA 15106

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SEP 23 2008

OFFICE OF PETITIONS
ON PETITION

In re Application of :
Luke :
Application No. 10/964,020 :
Filed: November 14, 2004 :
Attorney Docket No. N/A :
For: LIFT SYSTEM FOR RAISING THE REAR OF A TRUCK

This is a decision on the petition under 37 CFR 1.137(b), filed July 22, 2008 and supplemented on July 28, 2008 to revive the above-identified application.

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

This application became abandoned for failure to timely submit corrected drawings within three (3) months of the mailing of the Notice of Allowability, mailed on March 30, 2007. Accordingly, this application became abandoned on July 1, 2007.

Applicant has submitted a proper reply in the form of corrected drawings, an acceptable statement of the unintentional nature of the delay in responding to the March 30, 2007 Notice of Allowability, and the petition fee. Therefore, the petition is **granted**.

Applicant has paid two petition fees. As only one is required, $770.00 will be refunded to petitioner's credit card in due course.

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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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DOUGLAS S. FOOTE
NCR CORPORATION
3097 Satellite Blvd., 2nd Floor
Duluth, GA 30096

Mail Date: 05/21/2010

Applicant	: Mary Ann Wehr	: DECISION ON REQUEST FOR
Patent Number	: 7645719	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/964,047	: 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 **358** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Oct. 13, 2005

TO SPE OF : ART UNIT 3637 (*Exr. is Jose Chen*)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,915,748

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.

Please see the spec & claim changes. Your denial or approval decision is needed below.

sp S Tran

Thank You For Your Assistance

Certificates of Correction Branch

Tel. No. 703-308-9390 x120

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:

_____

_____

_____

_____

_____

Lama Mai — **SPE**

3637 — **Art Unit**

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SAN DIEGO CA 92121

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SEP 12 2007

OFFICE OF PETITIONS

In re Application of	:	
Pattabiraman, et al.	:	
Application No. 10/964,104	:	ON PETITION
Filed: October 12, 2004	:	
Attorney Docket No. 010353C1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 31, 2007, to revive the above-identified application.

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

The above-identified application became abandoned for failure to timely file a response to the final Office action mailed February 16, 2006. This Office action set a shortened statutory period for reply of three months. No extensions of time under 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 17, 2006. A Notice of Abandonment was mailed on November 15, 2006.

With the instant petition, petitioner paid the petition fee, filed a reply in the form of an amendment, and made the proper statement of unintentional delay.

The application file is being forwarded to Group Art Unit 2618 for consideration of the amendment filed May 31, 2007.

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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Linda Martin
1926 - 83rd Avenue
Oakland, CA 94621

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AUG 15 2008

In re Application of Martin :
Application No. 10/964,112 : Decision on Petition
Filing Date: October 12, 2004 :
For: Versatile Sorting Cart :

This is a decision on the petition filed May 9, 2008, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **granted.**

Facts:

As of October 1, 2004, the filing fee for a utility application increased from $385 to $395.

The application was filed October 12, 2004, with the correct filing fee of $395.

The application, as filed, included 17 independent claims. As of October 12, 2004, the fee for each independent claim in excess of 3 was $44.

On November 19, 2004, the Office mailed a Notice to File Correct Application Papers which required the submission of $616 for 14 excess independent claims.

On December 8, 2004, the President signed and enacted into law the H.R. 4818, the Consolidated Appropriations Act, 2005. The Act immediately changed certain patent application and maintenance fees. The Act immediately increased the fee required for each independent claim in excess of 3 from $44 to $100.

On December 27, 2004, the Office received $616 from petitioner.

On January 14, 2005, the Office mailed a Notice of Incomplete Reply. The Notice stated the time period set forth in the original notice continued to run. The Notice required the submission of $1400 for 14 excess independent claims. However, since petitioner has already submitted $616, only $784 more was required.

Petitioner filed a reply and payment for a one-month extension of time on January 18, 2005.

The reply filed January 18, 2005, includes an amendment to the claims. Many of the new claims include a "refer to" phrased used in the same manner as in the claim quoted below.

Claim 15 as amended:	A base first shelf sized to securely hold the number of bins in the presented model, refer to Claim 14;

The Office mailed a Notice of Abandonment on April 30, 2008.

Discussion:

The Notice mailed November 19, 2004, required the submission of $616.

The fee required for each excess independent claim increased on December 8, 2004.

Petitioner timely submitted $616 on December 27, 2004.

MPEP 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 $616 reply was sufficient to prevent the abandonment of the application.

After receipt of the $616, the Office should have mailed a Notice setting forth a new time period for reply and indicating an additional $684 was due. Instead, the Office mailed a Notice that did not set forth a new time period for reply and that incorrectly indicated an additional $1,400 was due.

Based on the facts and discussion above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

MPEP 607.03(III) states,

> For purposes of determining the fee due the U.S. Patent and Trademark Office, a claim will be treated as dependent if it contains reference to one or more other claims in the application. A claim determined to be dependent by this test will be entered if the fee paid reflects this determination.

The Office notes 14 of the 17 claims, as amended, include a reference to other claims. Therefore, the claims have been treated as dependent for fee calculation purposes and no additional fee is due for excess independent claims.

MPEP 607.03(III) states,

> Any claim which is in dependent form but which is so worded that it, in fact, is not a proper dependent claim, as for example it does not include every limitation of the claim on which it depends, will be required to be canceled as not being a proper dependent claim; and cancellation of any further claim depending on such a dependent claim will be similarly required. The applicant may thereupon amend the claims to place them in proper dependent form, or may redraft them as independent claims, upon payment of any necessary additional fee.

Although the 14 claims will be treated as dependent when calculating fees owed, the dependent claims are not proper dependent claims. Therefore, as discussed in the quoted language above, petitioner should be aware the Office will eventually require the cancellation of the claims.

The Office of Patent Application Processing will be informed of the instant decision and the application will be prepared 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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OFFICE OF PETITIONS

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

In re Application of	:	
Andrew T. Tomerlin et al	:	
Application No. 10/964,114	:	ON PETITION
Filed: October 13, 2004	:	
Attorney Docket No. CML01354J	:	

This is a decision on the petition, filed September 23, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on July 25, 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 2634 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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APR 23 2008

OFFICE OF PETITIONS

In re Application of
SAHOTA, Gurkanwal S.
Application No. 10/964,118
Filed: October 12, 2004
Attorney Docket No. **000065D1**

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 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 19, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 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 an amendment, (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 file is being referred to Technology Center Art Unit 2618 for consideration of the amendment filed April 17, 2007.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
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GRAYBEAL, JACKSON, HALEY LLP
155 - 108TH AVENUE NE
SUITE 350
BELLEVUE, WA 98004-5901

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OFFICE OF PETITIONS

In re Application of	:	
McCLURE	:	
Application No.: 10/964,119	:	DECISION ON PETITION
Filing Date: October 12, 2004	:	UNDER 37 CFR 1.137(B)
Attorney Docket No.: 1681-003-03	:	

A review of the application file reveals that applicant's petition under 37 CFR 1.137(b), filed October 12, 2004, was never treated. Subsequently, the application again became abandoned, and applicant filed a second petition under 37 CFR 1.137(b) on September 6, 2006.

International application number PCT/US03/02925 became abandoned as to the United States for failure to timely pay the basic national fee. By operation of law, the above-identified application became abandoned on August 16, 2004.

The petition filed October 12, 2004 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 application filed under 35 U.S.C. 111(a) claiming priority to international application number PCT/US03/02925; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the 35 U.S.C. 111(a) application papers are accepted as having been unintentionally delayed.

The above-identified application later became abandoned for failure to reply in a timely manner to the final Office action mailed February 1, 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, by operation of law, the above-identified application became abandoned on May 2, 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 a Request for Continued Examination (RCE) and amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action mailed February 1, 2006 is accepted as having been unintentionally delayed.

The petitions under 37 CFR 1.137(b) are **GRANTED**.

Applicant is advised that 37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. See MPEP Section 201.11, Rev. 5, August 2006, Reference to Prior Application.

Although applicant filed an amendment on April 11, 2005, adding the relationship between the present application to the prior-filed application, such amendment was filed after the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, a petition under 37 CFR 1.78(a)(3) is required to correct the priority claim.

Applicant is further advised that the April 11, 2005 amendment to the first sentence of the specification is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (see 35 U.S.C. 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. See *Dart Industries v. Banner*, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). Note MPEP 201.06(c) and 608.04(b).

This application is being referred to Technology Center AU 3677 for appropriate action on the reply in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3303.

BryanLin

Bryan Lin
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

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GRAYBEAL JACKSON LLP
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155-108th Avenue N.E.
Bellevue WA 98004-5973

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OFFICE OF PETITIONS

In re Application of
MCCLURE, TRAVIS D.
Application No. 10/964,119
Filed: 10/12/2004
Attorney Docket No. 1681-003-03

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 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 on February 27, 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 May 28, 2007. A Notice of Abandonment was mailed on September 11, 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, and (3) a proper statement of unintentional delay.

This application is being referred to Technology Center AU 3677 for appropriate action by the Examiner in the normal course of business on the reply received on December 17, 2007.

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

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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

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OFFICE OF PETITIONS

In re Application of	:	
Mark A. Church, et al.	:	
Application No. 10/964,123	:	NOTICE
Filed: October 12, 2004	:	
Attorney Docket No. HIT1P004/SJO920020070US2	:	

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

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

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

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3201.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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February 26, 2007

J. Charles Dougherty
WRIGHT, LINDSEY, & JENNINGS LLP
200 West Capitol Avenue
Suite 2300
Little Rock, AR 72201-3699

Patent No.: 7,126,067 B2
Application No.: 10/964125
Inventor(s): Carl F. Culicchia, Jr.
Issued: October 24, 2006
Title: **SWITCH BLOCKING APPARATUS**

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

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

vt

DATE 9/24/07 APPLICATION NUMBER 10/964125

DOC CODE PET. DEC. COCIN 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

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COMMISSIONER FOR PATENTS
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J. CHARLES DOUGHERTY
WRIGHT, LINDSEY & JENNINGS LLP
SUITE 2300
200 WEST CAPITOL AVENUE
LITTLE ROCK, AR 72201

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SEP 26 2007

OFFICE OF PETITIONS

In re Patent No. 7,126,067	:	
Issue Date: October 24, 2006	:	
Application No. 10/964,125	:	ON PETITION
Filed: October 13, 2004	:	
Attorney Docket No. 13452-39483-A	:	

This is a decision on the petition filed April 12, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

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

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

ATTORNEY DOCKET NUMBER: 200402626-1

IN RE APPLICATION OF: U.S. Patent No. 7,145,778

USPTO CONFIRMATION CODE: 4824

APPLICATION NO.: 10/964,171

FILED: Oct. 13, 2004

EXAMINER: Hung Van Duong

GROUP ART UNIT: 2835

FOR: SYSTEM AND METHOD FOR MOUNTING A COMPONENT IN A COMPUTER SYSTEM

37 CFR 1.322 & 37 CFR 1.323 REQUEST FOR CERTIFICATE OF CORRECTION

HONORABLE COMMISSIONER OF PATENTS & TRADEMARKS

Sir:

The following is a request for a certificate of correction in Serial Number 10/964,171, now Patent Number 7,145,778.

A certificate of correction under 35 USC 254 is respectfully requested in the above-identified patent.

☐ All errors were the fault of the USPTO, no fee required. In the event that a further fee is required, please charge the amount to Deposit Account No. 082025.

☐ All errors were the fault of the applicant and, accordingly, please charge **$100.00** to our Deposit Account No. 082025. In the event that a further fee is required, please charge the amount to the same Deposit Account.

☒ The errors were the fault of both the applicant and USPTO and, accordingly, please charge **$100.00** to our Deposit Account No. 082025. In the event that a further fee is required, please charge the amount to the same Deposit Account.

The exact locations where the errors appear in the patent and patent application are as follows:

In column 5, line 4, in Claim 1, delete "wit" and insert - - with - -, therefor.
(Amendment to claims filed on Jul. 10, 2006, page 2, in Claim 1, line 8)

In column 5, line 37, in Claim 7, delete "a least" and insert - - at least - -, therefor.
(Amendment to claims filed on Jul. 10, 2006, page 3, in Claim 9, line 3)

In column 6, line 26, in Claim 18, delete "wit" and insert - - with - -, therefor.
(Amendment to claims filed on Jul. 10, 2006, page 4, in Claim 18, line 5)

In column 6, line 37, in Claim 18, after "through" insert - - the - -.
(Amendment to claims filed on Jul. 10, 2006, page 4, in Claim 18, line 13)

The requested corrections are attached on Form PTO 1050.

Respectfully Submitted

Dec 8, 2008
DATE

Name: William P. O'Meara
Registration No.: 29,962

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, Colorado 80527-2400

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
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(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,145,778

APPLICATION NO. : 10/964,171

ISSUE DATE : Dec. 05, 2006

INVENTOR(S) : Ronald E. DeLuga, 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:

In column 5, line 4, in Claim 1, delete "wit" and insert - - with - -, therefor.

In column 5, line 37, in Claim 7, delete "a least" and insert - - at least - -, therefor.

In column 6, line 26, in Claim 18, delete "wit" and insert - - with - -, therefor.

In column 6, line 37, in Claim 18, after "through" insert - - the - -.

MAILING ADDRESS OF SENDER (Please do not use customer number below):

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P. O. Box 272400
Fort Collins, Colorado 80527-2400

This collection of information is required by 37 CFR 1.322, and 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 Patent, 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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 01/02/09

TO SPE OF : ART UNIT 2835

SUBJECT : Request for Certificate of Correction for Appl. No.: 10964171 Patent No.: 7145778 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

_____
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: _____

/Hung V. Duong/ Jan 05, 2009

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ExxonMobil Chemical Company
Law Technology
P.O. Box 2149
Baytown TX 77522-2149

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AUG 27 2007

OFFICE OF PETITIONS

In re Application of	:	
Mertens et al.	:	
Application No. 10/964,172	:	DECISION GRANTING
Filed: October 12, 2004	:	PETITION
Attorney Docket No. 2004B121	:	

This is a decision on the petition filed March 14, 2007 requesting that the above-identified application be accorded a filing date of October 13, 2004 rather than the presently accorded date of October 12, 2004. The petition is properly treated as a petition under 37 CFR 1.10(c).

Petitioner requests the later filing date on the basis that the application was purportedly deposited with Express Mail Service on October 13, 2004 pursuant to 37 CFR 1.10. While the copy of the Express Mail label receipt No. EV366446984US bears a handwritten "date-in" of October 12, 2004 it also includes a USPS receipt date stamp of October 13, 2004. Petitioner is alleging that the date of mailing shown in the "date-in" is a U. S. Postal Service (USPS) error and the correct date of mailing pursuant to 37 CFR 1.10 is October 13, 2004. The same Express Mail label number also appears on the original application transmittal letter of record in the file.

The evidence presented is convincing that the Express Mail package was entrusted to the USPS on October 13, 2004, as shown by the USPS stamped receipt date. Accordingly, this application is entitled to a filing date of October 13, 2004, and has been so accorded.

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

There is no indication that the person signing the present petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If appropriate a power of attorney should be provided.

This application file is being referred to the Office of Initial Patent Examination (OIPE) for **correction of the filing date to October 13, 2004 and for issuance of a corrected filing receipt**.

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3215. Telephone inquiries related to OIPE processing should be directed to their hotline at (571) 272-4100.

Charlema R Grant

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BRACEWELL & Giuliani, LLP
P.O. BOX 61389
HOUSTON, TX 77208-1389

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OFFICE OF PETITIONS

In re Application of	:	
Tatsumi Tsuchiya, et. al.	:	
Application No. 10/964,188	:	ON PETITION
Filed: October 13, 2004	:	
Attorney Docket No. JP920010306US7	:	

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 application became abandoned for failure to timely submit the issue fee and publication fee.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $1,400 for payment of the issue fee and $300 for payment of the publication fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

The Office also acknowledges receipt of $6 for two (2) advance order soft copies.

The application file is being referred to the Publishing Division 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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United States Patent and Trademark Office
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Paper No.

JONES DAY
555 SOUTH FLOWER STREET
FIFTIETH FLOOR
LOS ANGELES, CA 90071

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OFFICE OF PETITIONS

In re Application of	:	
Kohr et al.	:	DECISION ON PETITION
Application No. 10/964,208	:	
Filed: October 12, 2004	:	
Atty Docket No. 330440-100040	:	

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed May 19, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a timely and proper reply to the non-final Office action mailed June 30, 2005. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply timely filed and no extension of time obtained, the application became abandoned effective October 1, 2005. A courtesy Notice of Abandonment was mailed on March 15, 2006.

The petition includes the required reply, the required statement of unintentional delay and payment of the petition fee set forth in 37 CFR § 1.17(m). No terminal disclaimer is required.

Technology Center AU 1742 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the reply submitted on petition filed May 19, 2006.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

PATENTS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF:

DOUGLAS J. HOHLBEIN

SERIAL NO.: tbd 10/964211

FILED: OCTOBER 14, 2004

FOR: TOOTHBRUSH

ATTY DKT NO.: 006427.00150

1744
Chin

PETITION TO MAKE SPECIAL

U.S. Patent and Trademark Office
220 20th Street S.
Customer Window
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

Dear Sir:

Request

Applicant hereby petitions the Commissioner to make the above-identified application special under 37 CFR § 1.102(d) and under the guidelines of MPEP § 708.02(VIII). Please charge the petition fee of $130.00 in accordance with 37 CFR §1.17(h) and any other fees that may be required for this Petition to Deposit Account No. 19-0733.

)/19/2004 FFANAEIA 00000073 190733 10964211
1 FC:1460 130.00 DA

PETITION GRANTED

Richard Crispino
Special Program Examiner
Technology Center 1700

MAY 25 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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AUG 06 2009

OFFICE OF PETITIONS

THE ECLIPSE GROUP LLP
10605 BALBOA BLVD., SUITE 300
GRANADA HILLS, CA 91344

In re Application of

Allan O. Devantier et al
Application No. 10/964,229
Filed: October 12, 2004
Attorney Docket No. P03059USP

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed June 15, 2009.

The request is **APPROVED**.

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

There is an outstanding Office action mailed June 9, 2009 that requires a reply from the applicant.

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Robert P. Hart
Harman International Industries, Incorporated
8500 Balboa Boulevard
Northridge, CA 91329

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GREGORY J. LAVORGNA, ESQUIRE
DRINKER BIDDLE & REATH LLP
ONE LOGAN SQUARE
18TH & CHERRY STREET
PHILADELPHIA PA 19103-6996

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AUG 26 2008

In re Application of	:	
Majid Anwar et al	:	
Application No. 10/964,231	:	DECISION GRANTING PETITION
Filed: October 12, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 198165 (45584-5)	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 25, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 28, 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 2191 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

VERTEX PHARMACEUTICALS INC.
130 WAVERLY STREET
CAMBRIDGE MA 02139-4242

In re Application of	:	
Ene Ette et al	:	
Application No. 10/964,243	:	DECISION GRANTING PETITION
Filed: October 12, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. VPI/03-167 US	:	

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

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Restriction Requirement of August 15, 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 1648

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
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MOORE & VAN ALLEN PLLC
P.O. BOX 13706
Research Triangle Park, NC 27709

Mail Date: 04/21/2010

Applicant	: Robert J. Peterson	: DECISION ON REQUEST FOR
Patent Number	: 7621417	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/964,261	: 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 **944** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

GRD/ALB 1a
39766-0100

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 2023
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OIPE JC163
JUN 0 7 2005
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Paper No. 6

HELLER EHRMAN WHITE & MCAULIFFE LLP
275 MIDDLEFIELD ROAD
MENLO PARK, CA 94025-3506

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HELLER EHRMAN

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In re Application of
Avi Ashkenazi et al
Application No. 10/265,542
Filed: October 3, 2002
For: USE OF A33 ANTIGENS AND JAM-IT

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

This is in response to the petition under 37 CFR 1.47(a), filed February 19, 2003.

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries regarding this decision should be directed to Irvin Dingle at (703) 306-5684.

This application is being forwarded to the Initial Patent Examination Unit.

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

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OIPE JC169
JUN 0 7 2005
PATENT & TRADEMARK OFFICE

Daniel Tumas
3 Rae Avenue
Orinda, CA 94563

In re Application of
Avi Ashkenazi; Sherman Fong; Audrey Goddard; Austin L. Gurney; Mary A. Napier; Daniel Tumas; William I. Wood
Application No. 10/265,542
Filed: October 3, 2002
For: USE OF A33 ANTIGENS AND JAM-IT

Dear Mr. Tumas:

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

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

Telephone inquiries regarding this communication should be directed to the Irvin Dingle at (703) 306-5684. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

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

cc:

Heller, Ehrman White & McAuliffe LLP
275 Middlefield Road
Menlo Park, CA 94025-3506

SKM

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GINGER R. DREGER, ESQ.
HELLER EHRMAN WHITE & MCAULIFFE LLP
275 MIDDLEFIELD ROAD
MENLO PARK CA 94025

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JUN 25 2004
HEWM LLP - P.A.

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OFFICE OF PETITIONS

In re Application of Ashkenazi, Fong, Goodard, Gurney, Napler, Tumas, Van Lookeren, and Wood Application No. 10/633,008 Filed: 31 July, 2003 Atty Docket No. 39766-0100P1	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the renewed petition filed under 37 CFR 1.47(a) on 28 May, 2004.

The petition is **GRANTED**.

Petitioners have shown that non-signing inventor Daniel Tumas cannot be found. Specifically, petitioners have shown that a letter sent via Federal Express to the last known addresses of the non-signing joint inventor was returned as undeliverable. Furthermore, despite diligent efforts on the part of petitioners, the inventor could not be located.

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

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 forwarded to Technology Center 1600 for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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HEWM LLP - P.A.

OIPE JC169
JUN 0 7 2005
PATENT & TRADEMARK OFFICE

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Daniel Tumas
Rae Avenue
Orinda CA 94563

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OFFICE OF PETITIONS

In re Application of
Ashkenazi et al.
Application No. 10/633,008
Filed: 31 July, 2003
For: Use of A3 Antigens and JAM-IT

Dear Mr. Tumas:

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 703/308-6918. 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).

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

GINGER R. DREGER
HELLER EHRMAN WHITE & MCAULIFFE LLP
275 MIDDLEFIELD ROAD
MENLO PARK CA 94025-3506

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

Paper No. None

HELLER EHRMAN LLP
275 MIDDLEFIELD ROAD
MENLO PARK CA 94025-3506

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JUL 12 2005

OFFICE OF PETITIONS

In re Application of :
Avi Ashkenazi et al. :
Application No. 10/964,263 :
Filed: October 12, 2004 :
Attorney Docket No. 39766-0100-CP-1 :
Title: TREATMENT OF COMPLEMENT-ASSOCIATED DISORDERS :

DECISION ON PETITION
UNDER 37 C.F.R. §1.47(a)

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed June 7, 2005.

On October 12, 2004, the application was deposited, identifying Avi Ashkenazi et al. as joint inventors. A declaration was included on filing which was executed by none of the joint inventors. On November 16, 2004, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" (Notice) was mailed, indicating that a fully executed oath or declaration and the associated surcharge were required, along with replacement drawings. This Notice set a two-month period for reply.

With the instant petition, Petitioner has also submitted the petition fee (which has been charged to Petitioner's Deposit Account, as authorized in the petition), the associated surcharge, a statement of facts, and replacement drawings. Petitioner has also included a five-month extension of time to make timely this response.

1A grantable petition under 37 C.F.R. §1.47(a) requires:

(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) either
  a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
  b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 CFR §1.63.

Petitioner has met each of the 5 requirements above.

The petition is **GRANTED** and this application is hereby accorded Rule §1.47(a) status.

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

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

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

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Heller Ehrman, LLP
4350 La Jolla Village Drive, 7th Floor
San Diego, CA 92122

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AUG 13 2008

OFFICE OF PETITIONS

In re Application of	:	
Avi Ashkenazi et al.	:	
Application No. 10/964,263	:	DECISION ON PETITION
Filed: October 12, 2004	:	TO WITHDRAW
Attorney Docket No. 39766-0100-CP-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 July 10, 2008.

The request is **APPROVED**.

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

The request was signed by Leslie B. Overman, on behalf of all attorneys/agents associated with customer number 25213. All attorneys/agents associated with customer number 25213 have been withdrawn.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R. 3.71. Accordingly, all correspondence will be mailed to the first signing inventor. A courtesy copy of this decision will be mailed to address as indicated in the request to withdraw. If the attorneys associated with this firm desire to receive future correspondence regarding this application, the proper power of attorney documents must be submitted.

The change of address filed on July 7, 2008 is not acceptable. A proper change of address must be signed by an attorney of record.

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

Kimberly Inabinet
Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Avi Ashkenazi
1456 Tarrytown Street
San Mateo, CA 94402

cc: Goodwin Proctor, LLP
Attn: Patent Administrator
135 Commonwealth Drive
Menlo Park, CA 94025-1105

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/964,263	10/12/2004	Avi Ashkenazi	39766-0100-CP-1

CONFIRMATION NO. 3150

POWER OF ATTORNEY NOTICE

25213
HELLER EHRMAN LLP
4350 La Jolla Village Drive, 7th Floor
San Diego, CA 92122

OC000000031542591

Date Mailed: 08/13/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/10/2008.

- 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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WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

Mail Date: 04/21/2010

Applicant	: Conor S. Rafferty	: DECISION ON REQUEST FOR
Patent Number	: 7643755	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/964,266	: 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 **1069** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DEC 27 2006

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

In re Application of:
HUDSON, WILLIAM A. et al
Serial No.: 10/964,312
Filed: Oct. 13, 2004
Docket: 31045/30014
Title: BATTERY-POWERED PUMP FOR LIQUID SPRAYER

DECISION ON PETITION TO WITHDRAW OF HOLDING OF FINALITY

This is a decision on the petition filed on Oct. 26, 2006 to withdraw the finality of the Office Action of Oct. 3, 2006. The petition is being considered pursuant to 37 CFR 1.181 and no fee is required for the petition.

The petition is **DISMISSED as moot**.

In the petition the applicant requested a withdrawal of the finality of the Office action mailed on Oct. 26, 2006. In support of his petition, the applicant argues that the final Office action was improper according to MPEP 706.07(a). On Nov. 30, 2006, the applicant filed an amendment after final and argued, *inter alia*, that the final rejection was premature. The amendment after final also included affidavits under 37 CFR 1.131 and 1.132 to overcome the references. Subsequently, on Dec. 15, 2006, the examiner agreed with the applicant's arguments, entered the amendment after final of Nov. 30, 2006, withdrew the finality of the last Office action of Oct. 3, 2006 and allowed the application.

In view of the history, the relief the applicant requested, namely the withdrawal of the finality of the Oct. 3, 2006 Office Action, has already occurred. The application was allowed on Dec. 15, 2006. Accordingly, the petition is dismissed as moot.

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

Karen M. Young

Karen M. Young, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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MacPHERSON KWOK CHEN & HEID LLP
2033 GATEWAY PLACE
SUITE 400
SAN JOSE, CA 95110

COPY MAILED

JUL 13 2007

OFFICE OF PETITIONS

In re Application of :
Kuei-Chang Tsai et al :
Application No. 10/964,317 : DECISION GRANTING PETITION
Filed: October 12, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. M-15207 US :

This is a decision on the petition, filed July 12, 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 June 20, 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 2822 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\fhicks\My Documents\470\july10\964317.wpd

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

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FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

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OCT 30 2006

OFFICE OF PETITIONS

In re Application of	:	
Roger E. Susi	:	
Application No. 10/964,333	:	DECISION ON PETITION
Filed: October 12, 2004	:	TO WITHDRAW
Attorney Docket No. 18430-09118	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 11, 2006.

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

A review of the file record indicates that the power of attorney to Albert C. Smith and those practitioners associated with customer number 00758 have been revoked by the assignee of the patent application on June 28, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

David Bucci
Petitions Examiner
Office of Petitions

cc: KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

UNITED STATES PATENT AND TRADEMARK OFFICE

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JiNan Glasgow
Spore, Inc.
P.O. Box 28539
Raleigh, NC 27611-8539

MAILED

MAY 27 2009

OFFICE OF PETITIONS

In re Application of	:	
Roger E. Susi	:	
Application No. 10/964,333	:	DECISION ON PETITION
Filed: October 12, 2004	:	TO WITHDRAW
Attorney Docket No. 18430-09118	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 11, 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 Albert C. Smith and all attorneys/agents of record has been revoked by the assignee of the patent application on June 28, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Knobbe Martens Olson & Bear, LLP
2040 Main Street
Fourteenth Floor
Irvinve, CA 92614

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
10/964,353	10/12/2004	2877	1256	509982000102	13	41	4

CONFIRMATION NO. 2776

CORRECTED FILING RECEIPT

OC000000014824292

20872
MORRISON & FOERSTER LLP
425 MARKET STREET
SAN FRANCISCO, CA 94105-2482

Date Mailed: 12/23/2004

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)

Xinhui Niu, San Jose, CA;
Nickhil Harshavardhan Jakatdar, Los Altos, CA;

Power of Attorney:

Laurence Shaw--34723

Domestic Priority data as claimed by applicant

This application is a CON of 09/770,997 01/25/2001
which claims benefit of 60/178,910 01/26/2000

Foreign Applications

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

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/964,353

Projected Publication Date: 03/31/2005

Non-Publication Request: No

Early Publication Request: No

Title

Caching of intra-layer calculations for rapid rigorous coupled-wave analyses

Preliminary Class

356

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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2049 CENTURY PARK EAST
SUITE 2740
LOS ANGELES CA 90067

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SEP 23 2009

OFFICE OF PETITIONS

In re Application of
Betin et al.
Application No. 10/964,383
Filed: October 13, 2004
Attorney Docket No. PD-04W014

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(a), filed April 30, 2009, to revive the above-identified application. In view of the allegation in the petition that a timely reply was submitted, the petition will be considered under 37 CFR 1.181 requesting the withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

This application was held abandoned for failure to timely respond to the Office action of May 22, 2008, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before August 22, 2008.

Petitioner states that a timely reply was mailed via facsimile on June 18, 2008. Petitioner states in the instant petition, "As proof of the facsimile transmission, we are herewith enclosing a copy of the automatically generated return receipt confirmation of the facsimile by the PTO along with the response as filed.

The file record does not include the originally submitted papers. Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), reproduced below:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
>
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
>
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition does not satisfy item (2) and (3) as listed above.

As to item (2), although petitioner stated that a copy of the previously submitted response was enclosed with the instant petition, a review of the application file indicates that a copy was not received.

As to item (3), the facsimile transmission receipt confirmation was also not included as specified.

If petitioner cannot provide the evidence requested above, or simply does not wish to, petitioner should notify the Office to consider the petition to revive under 37 CFR 1.137(a) filed April 30, 2009.

A grantable petition pursuant to 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 as set forth in 37 CFR 1.17(m), **$270.00 for a small entity**;

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unavoidable. The Director may require additional information where there is a question whether the delay was unavoidable.

If petitioner wishes for the petition under 37 CFR 1.137(a) to be considered instead of filing a request for reconsideration, petitioner must comply with the above items and submit the $270.00 petition fee. No consideration on the merits can be given to the petition until the required fee is received.

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

By mail: Mail Stop 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

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SUITE 2740
LOS ANGELES CA 90067

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FEB 25 2010

In re Application of	:	
Betin et al.	:	
Application No. 10/964,383	:	ON PETITION
Filed: October 13, 2004	:	
Attorney Docket No. PD-04W014	:	

CORRECTED DECISION

This is a decision on the petition under 37 C.F.R. § 1.137(a), filed April 30, 2009, to revive the above-identified application. In view of the allegation in the petition that a timely reply was submitted, the petition will be considered under 37 CFR 1.181 requesting the withdrawal of the holding of abandonment in the above-identified application.

Supplemental documents were submitted on September 18, 2009 and again on February 3, 2010. In view of the supplemental documents, the previous petition decision dated September 23, 2009 is hereby vacated.

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

This application was held abandoned for failure to timely respond to the Office action of May 22, 2008, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before August 22, 2008.

Petitioner states that a timely reply was mailed via certificate of mailing on June 18, 2008, which included the following papers: Request for Continued Examination (RCE). Petitioner has submitted a copy of the previously mailed correspondence, which bears a certificate of mailing dated June 18, 2008, which would have rendered the reply timely if received.

The file record does not include the originally submitted papers. Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), reproduced below:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
>
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of May 22, 2008 is hereby withdrawn and the application restored to pending status.

The copy of the reply received with the petition will be accepted in place of the reply shown to have been mailed (or transmitted by facsimile) on June 18, 2008.

This application is being referred to Technology Center AU 2828 for appropriate action in the normal course of business on the reply received with petition.

Liana Walsh
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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Perman & Green
425 Post Road
Fairfield, Connecticut 06824

MAILED

APR 04 2005

Technology Center 2100

In re Application of: Lev Ginzburg Application No. 10/964,408 Filed: October 14, 2004 For: AUTHENTICATION SYSTEM	)))))	**DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. §1.102(c) AND MPEP § 708.02 (III): APPLICANT'S HEALTH**

This is a decision on the petition, filed January 24, 2005, under 37 C.F.R. §1.102(c) and M.P.E.P. §708.02(IV): Applicant's Health, to make the above-identified application special.

A grantable petition to make special under 37 C.F.R. § 1.102 and in accordance with M.P.E.P. § 708.02, Section III must include a showing, as by a doctor's certificate, that the state of health of one of the applicant is such that he/she might not be available to assist in the prosecution of the application if it were to run its normal course. No fee is required for this petition.

The petition is **GRANTED.**

The application is being forwarded to the examiner for expedited prosecution.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(571) 272-3599

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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GUNNISON MCKAY & HODGSON, LLP
1900 GARDEN ROAD
SUITE 220
MONTEREY, CA 93940

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JUL 27 2006
OFFICE OF PETITIONS

In re Application	:	
Waterhouse et al.	:	
Application No. 10/964,411	:	Decision Refusing to Accord
Filed: October 12, 2004	:	Status Under 37 CFR 1.47(a)
Attorney Docket No. SUN040429	:	
For: Distributed Data Storage System for	:	
Fixed Content	:	

This is a decision on the petition under 37 CFR 1.47(a), filed October 12, 2004.

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. No further petition fee is required for the request. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the current non-signing inventor(s). **Failure to respond will result in abandonment of the application.**

A grantable petition under 37 CFR 1.47(a) requires

(1) proof that the non-signing inventor cannot be found or reached after diligent effort or that the inventor refused to sign the declaration after having been presented with the application papers (specification, claims, and drawings),
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $200 as specified in 37 CFR 1.17(g), and
(4) the last known address of the non-signing inventor(s).

The instant petition fails to satisfy (1) above. Petitioner states the non-signing inventor no longer resides at his last known address but has failed to state any steps taken to discover where the non-signing inventor currently resides. For example, petitioner has failed to state attempts were made to locate the inventor using Directory Assistance or an internet search.

An internet search by the Office of Petitions indicates that a high likelihood the non-signing inventor may reside at 1066 Grizzly Peak Blvd, Berkely, CA 94708. A possible phone number for the non-signing inventor is 510-528-6915. The Office supplies this information as a courtesy

and hopes the information assists petitioner in locating the inventor. However, the Office has not verified that the information is correct nor does the information, if inaccurate, release petitioner from the obligation to exercise diligent effort to find the nonsigning inventor.

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

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

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GUNNISON MCKAY & HODGSON, LLP
1900 GARDEN ROAD
SUITE 220
MONTEREY, CA 93940

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DEC 15 2006

OFFICE OF PETITIONS

In re Application :
Waterhouse et al. :
Application No. 10/964,411 :
Filed: October 12, 2004 :
Attorney Docket No. SUN040429 :
For: Distributed Data Storage System for :
Fixed Content :

Decision According Status
Under 37 CFR 1.47(a)

This is a decision on the renewed petition under 37 CFR 1.47(a), filed September 18, 2006.

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.

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

The Office of Initial Patent Examination will be informed of the instant decision so that it may continue to prepare the application for examination.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Bose Corporation
c/o Donna Griffiths
The Mountain, MS 40
IP Legal - Patent Support
Framingham, MA 01701

Mail Date: 04/20/2010

Applicant	: Morten Jorgensen	: DECISION ON REQUEST FOR
Patent Number	: 7643640	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/964,421	: 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 **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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INTEL CORPORATION
c/o INTELLEVATE, LLC
P.O. BOX 52050
MINNEAPOLIS MN 55402

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APR 25 2008

OFFICE OF PETITIONS

In re Application of :
Justin K. BRASK et al :
Application No. 10/964,464 : DECISION ON PETITION
Filed: 10/12/2004 :
Attorney Docket No. P20407 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed 1/23/2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before 9/26/2007, as required by the Notice of Allowance and Fee(s) Due, mailed 6/26/2007. Accordingly, the date of abandonment of this application is 9/27/2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1440 and the publication fee of $300, (2) the petition fee of $1540; and (3) an adequate statement of unintentional delay.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

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

David A. Bucci
Petitions Examiner
Office of Petitions

cc: INTEL CORPORATION
1701 INTERVAIL DR., MS: AN1-PTL1
AUSTIN, TX 78746

30

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: Confirmation No. 10964508
Applicant(s): FAUVER
Filed: 10-13-04
TC/A.U. 1743- Wallenhorst
Title: SYSTEM AND METHOD FOR PROCESSING SPECIMENS AND IMAGES FOR OPTICAL TOMOGRAPHY
Examiner:
Docket No. : 60096US
Customer No. : 23430

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

PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102 FOR INVENTION RELATED TO CANCER DIAGNOSIS (MPEP 708.2 X)

This is a Petition to Make Special the above-identified patent application. The basis for this petition is the invention's contribution to the diagnosis, treatment or prevention of cancer. In accordance with MPEP 708.02 X, a statement by Applicant, explaining how the invention contributes to the diagnosis, treatment or prevention of cancer is attached hereto.

The following papers are also enclosed herewith:

Statement of Alan C. Nelson, Ph.D.,

Fee Transmittal (enclosed with utility patent transmission form letter), and

Credit Card Payment Form (also enclosed with utility patent transmission form letter).

10/19/2004 MBIZUNES 00000006 10964508
04 FC:1460 130.00 OP

PETITION GRANTED

Richard Crispino
Special Program Examiner
Technology Center 1700
MAY - 5 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JAN 31 2005

In re Application of FAUVER et al. Serial Number: 10/964,513 Filed: October 13, 2004 For: FLOW-THROUGH DRUM CENTRIFUGE	: : : : :	PETITION UNDER M.P.E.P. 708.02 X

This is in response to the petition filed October 13, 2004, requesting that the above-identified application be granted Special Status under Sections 708.02 X of the MPEP and 37 CFR 1.102 (**fee required**).

The request for Special Status considered under Section 708.02 X is granted because criteria under 37 CFR 1.102 have been met.

The petition is **GRANTED.**

R. Crispino

Richard Crispino, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

George A Leone, Sr.
2150 128TH Avenue, NW
Minneapolis, MN 55448

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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SMITH FROHWEIN TEMPEL GREENLEE BLAHA, LLC
Two Ravinia Drive
Suite 700
ATLANTA GA 30346

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SEP 27 2007

OFFICE OF PETITIONS

In re Application of	:	
Beckemeyer	:	
Application No. 10/964,518	:	ON PETITION
Filed: October 11, 2004	:	
Attorney Docket No. 20006.1010	:	
For: TELEPHONE NUMBER BINDING IN A VOICE-OVER-INTERNET SYSTEM		

This is a decision on the filing date petition, filed December 23, 2004, requesting that the above-identified application be accorded a filing date of October 11, 2004, rather than the presently accorded filing date of October 13, 2004. The petition will be treated under 37 CFR 1.10(d),

The petition under 37 CFR 1.10(d) is **dismissed**.

Petitioner contends that the above-identified application was deposited in the United States Postal Service (USPS) Express Mail service on October 11, 2004 and accordingly requests an October 11, 2004 filing date for the application.

Paragraph (a) of 37 CFR 1.10 states that:

> 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. <u>The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation</u>. If the USPS deposit date cannot be determined, the correspondence will be accorded the Office receipt date as the filing date. See §1.6(a).

(Emphasis supplied). Paragraph (d) of 37 CFR 1.10 states that:

> 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 "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.

A grantable petition under 37 CFR 1.10(d) must include "a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day." In addition, the showing "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."

This petition does not satisfy requirements (2) and (3) listed above. The original Utility Patent Application Transmittal found in the application file lists Express Mail Label No. ED090319807US. It is noted that the corroborating evidence submitted with this petition shows Express Mail Mailing Label No. EW152900095US was filed on October 11, 2004.

There is no link between the present application and Express Mail Mailing Label No. EW152900095US. Therefore, the petition is dismissed and October 13, 2004 remains the application's filing date.

After the mailing of this decision, the application will be returned to the Office of Initial Patent Examination for further processing.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LAMBERT & ASSOCIATES, P.L.L.C.
92 STATE STREET
BOSTON MA 02109-2004

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OFFICE OF PETITIONS

In re Application of	:	
Omar Thompson	:	
Application No. 10/964,520	:	DECISION ON PETITION
Filed: October 13, 2004	:	TO WITHDRAW
Attorney Docket No. 04-070-OT	:	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 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 Gary E. Lambert on behalf of all attorneys of record who are associated with customer No. 32118.

All attorneys/agents associated with the Customer Number 32118 have been withdrawn.

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

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: OMAR THOMPSON
26 TREMLEA STREET
BOSTON, MA 02124

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
10/964,520	10/13/2004	Omar Thompson	04-070-OT

CONFIRMATION NO. 4944

OC000000021388008

OC000000021388008

32118
LAMBERT & ASSOCIATES, P.L.L.C.
92 STATE STREET
BOSTON, MA 02109-2004

Date Mailed: 11/28/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/28/2006.

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

April M Wise

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

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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HEWLETT PACKARD COMPANY
PO BOX 272400, 3400 E., HARMONY RD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS CO 80527-2400

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JUN 21 2006
OFFICE OF PETITIONS

In re Application of	:	
Shih-Yuan Wang et al	:	
Application No. 10/964,523	:	ON PETITION
Filed: October 13, 2004	:	
Attorney Docket No. 200400658-1	:	

This is a decision on the petition filed June 19, 2006, under 37 CFR 1.313(c)(2), requesting withdrawal of the above-identified application from issue.

The petition is **dismissed** as moot for the reasons stated below.

A review of the file record discloses that a Notice of Allowance was mailed on May 4, 2006, with the issue fee being due on or before August 4, 2006. The petition states that the issue fee in this case has not been paid.

37 CFR 1.313(c)(2) provides for withdrawal of an application from issue after payment of the issue fee. In the instant case, as noted above, the issue fee in reply to the Notice of Allowance of May 4, 2006, has not been received. Therefore, the filing of a petition to withdraw this application from issue is unnecessary at this time. The mere filing of an RCE and submission will effectively withdraw an application from issue prior to payment of the issue fee. In view thereof, the petition to withdraw from issue is dismissed as involving a moot issue.

Inquiries concerning this decision may be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center Art Unit 2877.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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AKERMAN SENTERFITT
P.O. BOX 3188
WEST PALM BEACH FL 33402-3188

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JUL 3 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Jordan KAVANA	:	
Application No. 10/964,525	:	DECISION ON PETITION
Filed: October 13, 2004	:	TO WITHDRAW
Attorney Docket No. 7225-7-1	:	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 November 30, 2005.

The request is **APPROVED**.

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

The request was signed by Mark D. Passler on behalf of all attorneys of record who are associated with customer No. 30448.

All attorneys/agents associated with the Customer Number 30448 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 Jordan Kavana at the address indicated below.

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

for David Bucci
Petitions Examiner
Office of Petitions

cc: Jordan Kavana
K Group Industries, LLC
4770 Biscayne Blvd, Suite 980
Miami, FL 33137

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/964,525	10/13/2004	Jordan Steven Kavana	7225-7-1

CONFIRMATION NO. 4939

OC000000019814102

30448
AKERMAN SENTERFITT
P.O. BOX 3188
WEST PALM BEACH, FL 33402-3188

Date Mailed: 07/31/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/30/2005.

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

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

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300 N. GREENE STREET, SUITE 1600
P. O. BOX 2974
GREENSBORO NC 27402

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JUL 12 2005

OFFICE OF PETITIONS

In re Application of
Mary Elizabeth Cooper et al.
Application No. 11/003,002
Filed: December 2, 2004
Attorney Docket No. 8274-027

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

This is in response to the petition filed under 37 CFR 1.47(a) on June 27, 2005.

The petition is **DISMISSED**.

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

The above-identified application was filed on December 2, 2004, naming Mary Elizabeth Cooper and Patrick Ambrose Dwyer but without an oath or declaration. Accordingly, a Notice to File Missing Parts was mailed January 4, 2005 requiring inter alia, an executed oath or declaration, filing fees and a surcharge for their late filing.

In response, the present petition seeks status under 37 CFR 1.47 claiming that joint inventor Dwyer refuses to execute the declaration. It should be pointed out that as the oath or declaration submitted upon filing was not executed by either Ms. Cooper or Mr. Dwyer, an oath or declaration executed by Ms. Cooper has also not been submitted with the instant petition though the petition only seeks status under 37 CFR 1.47 on behalf of Mr. Dwyer. If neither of the joint inventors will cooperate with the filing of the application, the petition should be under 37 CFR 1.47(b). If some of the named inventors signed the oath or declaration and one or more of the named inventors have not signed the declaration, a petition under 37 CFR 1.47(a) must be filed.

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

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petition fee; and (4) a statement of the last known address of the non-signing inventor.

Applicant lacks items (1) and (2) set forth above.

In regards to item (1), petitioners have not provided sufficient proof that a copy of the complete application (specification, including claims, drawings, if any, and the declaration) was sent to the non-signing inventor.

A statement made by the attorney of record, Victor Henzi, indicates that on two separate occasions, the declaration and power of attorney were sent, under his direction by Administrative Assistant Debra Sykes, to Mr. Uzumcu, that a telephone message by Mr. Uzumcu confirmed his receipt of same and that in a follow-up conversation, Mr. Uzumcu advised that he would not be signing the declaration for the above identified application. The evidence presented however is not sufficient to show that Mr. Uzumcu had the benefit of reviewing the application, thus the requirements for status under 37 CFR 1.47(a) have not been met.

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

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

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 has not been presented. A declaration in compliance with 37 CFR 1.63, 1.64, and 1.67 must be presented, signed by all of the signing inventors, if any. If no inventor(s) will sign the declaration, the declaration may be signed on behalf of the inventor by an assignee. The oath or declaration must be signed by an officer of the corporation (president, vice president, secretary, or treasurer) on behalf of and as agent for the non-signing inventor(s). The office must identify his/her title in the declaration, as well as his/her mailing address, residence, if the applicant lives at a different location from where he or she customarily receives mail, as well as the citizenship of individual signing on behalf of the non-signing inventor. If the oath or declaration is not signed by an officer of the corporation, then proof of authority of the person signing on behalf of

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the corporation must be submitted.[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 fax: (703) 872-9306
ATTN: Office of Petitions

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

[1]MPEP 409.03(b).

Copied from 11003002 on 07/27/2005

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300 N. GREENE STREET, SUITE 1600
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GREENSBORO NC 27402

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OFFICE OF PETITIONS

In re Application of
Mary Elizabeth Cooper et al.
Application No. 10/964,545
Filed: October 13, 2004
Attorney Docket No. 8274-008

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

This is in response to the request for reconsideration filed under 37 CFR 1.47(a) on September 14, 2005.

The petition is **GRANTED**.

The above-identified application was filed on October 13, 2004, naming Mary Elizabeth Cooper and Patrick Ambrose Dwyer but without an oath or declaration. Accordingly, a Notice to File Missing Parts was mailed November 23, 2004 requiring inter alia, an executed oath or declaration, filing fees and a surcharge for their late filing. A petition was filed June 27, 2005, seeking status under 37 CFR 1.47and claiming that joint inventor Dwyer refused to execute the declaration. That petition while only seeking status on behalf of joint inventor Dwyer, was also not accompanied by an oath or declaration executed by joint inventor Cooper. The petition was dismissed in a decision mailed July 12, 2005 because it hadn't been shown that a complete application had been sent to either joint inventor Dwyer or Cooper.

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.

In response to the decision dismissing the petition filed June 27, 2005, the instant petition shows that a complete application has been sent to non-signing inventor Dwyer and that he has, by his actions, refused to cooperate with the filing of the instant application.

The petition is also accompanied by an oath or declaration executed by joint inventor Cooper.

All requirements under 37 CFR 1.47(a) therefore having been met, as provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This matter is being referred to Technology Center 3723 for examination in due course.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SEP 30 2005

OFFICE OF PETITIONS

PATRICK A. DWYER
217 AUGUSTA DRIVE
WIMBERLEY, TX 78676-2533

In re Application of
Mary Elizabeth Cooper et al.
Application No. 10/964,545
Filed: October 13, 2004
For: WALL SCRUBBER FOR BLOWN INSULATION

Dear Mr. Dwyer:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned Petitions Attorney at (571) 272-3212. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:
MACCORD MASON PLLC
300 N. GREENE STREET, SUITE 1600
P. O. BOX 2974
GREENSBORO NC 27402

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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JUL 13 2005

In re Application of	:	
Spencer B. Dick et al.	:	DECISION ON PETITION
Serial No. 10/964,553	:	
Filed: October 12, 2004	:	
For: SYSTEM FOR PROCESSING WORKPIECES:		

This is a decision on the petition to make special filed on November 8, 2004. The petition is submitted pursuant to the practice established in MPEP § 708.02(II) "Infringement." The $130.00 petition fee has been received.

The petition is granted.

A review of the petition shows that petitioners have satisfied all of the requirements of the above-cited MPEP section. Accordingly, the examiner will treat this application as special throughout its prosecution. Prior to the first action on the merits, the examiner will conduct a rigorous search for potentially interfering applications. The interference search will be brought up to date prior to each successive action.

The Supervisory Patent Examiner of Patent Examining Art Unit 3722 will be notified of this decision, and will inform the assigned examiner to take action not inconsistent with this decision.

PETITION GRANTED.

Frederick R. Schmidt, Director
Technology Center 3700

Pierre C. Van Rysselberghe
Kolisch Hartwell, PC
520 SW Yamhill St., 200 Pacific Bldg.
Portland, OR 97204

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

WEINGARTEN, SCHURGIN, GAGNEBIN & LEBOVICI LLP
TEN POST OFFICE SQUARE
BOSTON MA 02109

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APR 07 2005

OFFICE OF PETITIONS

In re Application of	:	
Christopher Terrell	:	
Application No. 10/964,558	:	DECISION ON PETITION UNDER
Filing Date: October 13, 2004	:	37 C.F.R. §1.10(c)
Attorney Docket No. ATBUR -	:	
001XX	:	
Title: FLUID CONTROL	:	

This is a decision on the petition under 37 C.F.R. §1.10(c), filed January 21, 2005, requesting the according of a filing date of October 13, 2004 to application number 10/964,558.

The application was deposited on October 13, 2004. Shortly thereafter, the Office mailed a filing receipt, indicating that application number 10/964,558 had been accorded a filing date of October 14, 2004.

With the instant petition, Petitioner has included a copy of the Express Mail label number EV223344543US[1].

Petitioner has alleged that the application was deposited on October 13, 2004, and the Patent Office has incorrectly assigned a filing date of October 14, 2004 to the instant application. Petitioner has included a copy of the Express Mail label, and it is noted that it bears a "date-in" of " 10 14 04," along with the date stamp "Oct 13 2004."

A check of the Office's USPS Express Mail Finder Database computer program was inconclusive. A check of the United States Postal Service's website (http://www.usps.com/shipping/trackandconfirm.htm) was also

1 It is noted that this same Express Mail number appears on the Transmittal Form which was included on filing.

inconclusive, in that it stated that the information pertaining to this Express Mail label number is stored off-line. However, Petitioner has provided a print-out of the results of a search she performed on January 12, 2005, which shows that the package was accepted in Boston on October 13, 2004 at 3:29 pm.

Although the application received a filing date of October 14, 2004, the evidence is convincing that the application papers were filed on October 13, 2004, and the Patent Office assigned the incorrect date to the application. Therefore, the application was entitled to a filing date of October 13, 2004.

Accordingly, the petition is **GRANTED**.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of October 13, 2004, as well as the mailing of a corrected filing receipt.

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

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

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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
10/964,560	10/12/2004	2858	920	20194/0202000-US0	15	16	1

CONFIRMATION NO. 1374

UPDATED FILING RECEIPT

OC000000015134826

07278
DARBY & DARBY P.C.
P. O. BOX 5257
NEW YORK, NY 10150-5257

Date Mailed: 02/08/2005

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)

Bjorn-Oliver Eversmann, Munchen, GERMANY;
Martin Jenkner, Planegg, GERMANY;
Christian Paulus, Weilheim, GERMANY;
Roland Thewes, Grobenzell, GERMANY;

Assignment For Published Patent Application

Infineon Technologies AG, Munich, GERMANY

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

Domestic Priority data as claimed by applicant

This application is a CON of PCT/EP03/03355 03/31/2003

Foreign Applications

GERMANY 102 16 243.3 04/12/2002

If Required, Foreign Filing License Granted: 12/03/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/964,560

Projected Publication Date: 05/19/2005

Non-Publication Request: No

Early Publication Request: No

Title

Event detection - apparatus and method for measuring the activity of neural netwoks

Preliminary Class

324

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

GRANTED

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NOT GRANTED

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MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

Mail Date: 04/21/2010

Applicant	: Mark A. Hollar	: DECISION ON REQUEST FOR
Patent Number	: 7624282	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/964,572	: 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 **784** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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ROBERT R. WATERS, ESQ.
WATERS LAW OFFICE, PLLC
633 SEVENTH STREET
HUNTINGTON WV 25701

AUG 0 8 2008

In re Application of	:	
Paul VALENTINE et al.	:	
Application No. 10/964,583	:	DECISION ON PETITION
Filed: October 13, 2004	:	
Attorney Docket No. 10PA0804	:	

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

The petition is DISMISSED.

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

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 08, 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 June 09, 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. 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 (2 years 10 months) 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 June 9, 2005. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). As Robert Waters (Waters) was the party having the right to reply at the date of abandonment, Waters should explain why this application became abandon while it was under his control and what efforts Waters made to further reply and with whom this matter was discussed. When did Waters, Paul Valentine (Valentine), Dorreen D. Edwards (Edwards), William J. Walker, Jr. (Walker), Lyle H. Slack (Slack), Wayne D. Brown, (Brown), Cathy Osborne (Osborne), Michael Norton (Norton) and Richard Begley (Begley) become aware of the abandonment of this application? A Notice of Abandonment was mailed September 30, 2005. Was the Notice of Abandonment received in the application file?

Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s), involved with this application at the time of abandonment. Statements are required from the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. See Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).
As to Period (2):

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

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner .

. . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, nearly 3 years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. See Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons and the responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

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

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

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

Any renewed petition may be addressed as follows:

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

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

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

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

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

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

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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FAX COVER SHEET

DATE:	April 25, 2008
FROM:	Waters Law Group, PLLC
FAX: PHONE:	(304) 522-7722 (304) 522-6658
TO:	Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
FAX:	(571) 273-8300
RE:	Petition to Revive - Response Application No.: 10/964,583

TOTAL PAGES: 22 (Including this Cover)

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PTO/SB/64 (01-08)
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PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional) 10PA0804

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APR 25 2008

First named inventor: Paul Valentine

Application No.: 10/964,583 Art Unit: 2879

Filed: 10/13/2004 Examiner: Macchiarolo, Peter J.

Title: Light Emitting Ceramic Device

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

04/29/2008 PCHOMP 00000006 502550 10964583
01 FC:2453 770.00 DA

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee
☑ Small entity-fee $ 770 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.
☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee
A. The reply and/or fee to the above-noted Office action in the form of Amendment / Response (identify type of reply):
☐ has been filed previously on _____.
☑ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.
☐ has been paid previously on _____.
☐ is enclosed herewith.

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

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

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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.

Robert R. Waters Signature	04/25/2008 Date
Robert R. Waters Typed or printed name	43241 Registration Number, if applicable
633 Seventh Street Address	304-522-6658 Telephone Number
Huntington, WV 25701 Address	

Enclosures: ☑ Fee Payment DEDUCT FROM DEPOSIT ACCOUNT 50-2550 (WATERS LAW OFFICE ACCNT)

☑ 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.

04/25/2008 Date	Olen L. York III Signature
	OLEN L. YORK III Typed or printed name of person signing certificate

PAGE 3/22 * RCVD AT 4/25/2008 7:21:32 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/21 * DNIS:2738300 * CSID:3045227722 * DURATION (mm-ss):05-54

RAM Fee History Query

Revenue Accounting and Management

Name/Number: 10964583 Total Records Found: 3

Start Date: Any Date End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
04/29/2008	00000006	1	2453	$770.00	04/25/2008	DA 502550
10/18/2004	00000040	1	2001	$395.00	10/13/2004	DA 502550
10/18/2004	00000041	1	2202	$306.00	10/13/2004	DA 502550

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OFFICE OF PETITIONS

In re Application of	:	
Paul VALENTINE et al.	:	
Application No. 10/964,583	:	DECISION ON PETITION
Filed: October 13, 2004	:	
Attorney Docket No. **10PA0804**	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed January 07, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 08, 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 June 09, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $770, and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of March 08, 2005 is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 2879 for appropriate action on the concurrently filed amendment.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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SPOKANE WA 99201

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OFFICE OF PETITIONS

ON PETITION

In re Patent No. 7,362,520
Issued: April 22, 2008
Application No. 10/964,601
Filed: October 12, 2004
Attorney Docket Number: LO29-015

This is a decision on the petition for correction of assignee's name, filed October 10, 2008 under 37 CFR 3.81(b)[1]

The petition is **GRANTED**.

Petitioner states that the assignee is CARL ZEISS SMT AG and that the failure to include the correct assignee name on the Fee(s) Transmittal form PTOL-85(b) was an inadvertent error on the part of the applicant. 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 CARL ZEISS SMT AG 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

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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901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

Mail Date: 04/28/2010

Applicant	: Volker Sauermann	: DECISION ON REQUEST FOR
Patent Number	: 7647592	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/964,607	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1466** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

Edwards Angell Palmer & Dodge LLP
P.O. Box 55874
Boston, MA 02205

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OFFICE OF PETITIONS

In re Application of	:	
Heshmat Ollah Laaly et al.	:	
Application No. 10/964,612	:	DECISION ON PETITION
Filed: October 15, 2004	:	TO WITHDRAW
Attorney Docket No. 65892(53022)	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 24, 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 Steven M. Jensen on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is no outstanding Office action at this time.

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Heshmat Ollah Laaly**
9037 Monte Mar Drive
Los Angeles, CA 90035-4235

cc: **Open Energy Corporation**
226 Edward Street Unit 1
Aurora, Ontario L4G 3S8
Canada

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
10/964,612	10/15/2004	Heshmat Ollah Laaly	65892(53022)

CONFIRMATION NO. 4000

POWER OF ATTORNEY NOTICE

21874
EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON, MA 02205

OC000000027813639

Date Mailed: 01/22/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/24/2007.

- 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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MILTON GELLER
700 - 225 METCALFE STREET
OTTAWA, ON K2P-1PG
CANADA

AIRMAIL

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OCT 1 1 2005
OFFICE OF PETITIONS

In re Application of	:	
Dimitri Petrov	:	DECISION ON PETITION
Application No. 10/964,660	:	TO MAKE SPECIAL
Filed: October 15, 2004	:	37 CFR 1.102(c)
Attorney Docket No. PETRO-03II.US (5372-0311)	:	

This is a decision on the petition under 37 CFR §1.102(c), filed September 7, 2005, to make the above-identified application special.

The petition requests that the above-identified application be made special as set forth in M.P.E.P. § 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied any evidence showing that the applicant is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The declaration filed on August 1, 2005 by Dimitri Petrov attesting that he is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

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

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

This matter is being referred to Technology Center AU 3713 for expedited prosecution.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: MILTON GELLER
225 METCALFE AVENUE
SUITE 700
OTTAWA, ONTARIO, K1P 5W6
CANADA

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OFFICE OF PETITIONS

SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN NSW 2-041 AUSTRALIA

In re Application of	:
David William Jensen	:
Application No. 10/964,664	: DECISION ON PETITION
Filed: October 15, 2004	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. BAL104US	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed November 3, 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 applications, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

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

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

filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to Charlema Grant at (571) 272-3215. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3653 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

For (Charles Steven Brantley)

For Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/964,664	10/15/2004	3653	790	BAL104US	7	7	1

CONFIRMATION NO. 5611
CORRECTED FILING RECEIPT
OC000000022241163
OC000000022241163

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

Date Mailed: 01/30/2007

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)

David William Jensen, Balmain, AUSTRALIA;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of 10/703,474 11/10/2003 PAT 6,848,686
which is a CON of 10/309,230 12/04/2002 PAT 6,659,447
which is a CON of 10/052,425 01/23/2002 PAT 6,619,654

Foreign Applications

AUSTRALIA PR2925 02/07/2001

If Required, Foreign Filing License Granted: 01/10/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/964,664

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Media feed mechanism for feeding sheets of porous media from a stack

Preliminary Class

271

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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CAHN & SAMUELS LLP
2000 P STREET NW
SUITE 200
WASHINGTON DC 20036

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OFFICE OF PETITIONS

In re Application of	:	
Smith, Harry B.	:	
Application No. 10/964,707	:	ON PETITION
Filed: October 15, 2004	:	
Attorney Docket No. 803.003DIV2	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed April 6, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes a statement signed by the applicant. Accordingly, the above-identified application has been accorded "special" status.

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

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

This matter is being referred to the Technology Center Art Unit 2616 for action on the merits commensurate with this decision.

Liana Chase
Petitions Examiner
Office of Petitions

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MAY - 5 2005

CLARK & BRODY
1090 VERMONT AVENUE, NW
SUITE 250
WASHINGTON, DC 20005

In re application of F. Terry Lantrip Application No. 10/964,716 Filed: October 15, 2004 For: TIE DOWN APPARATUS AND METHOD OF USE	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)**

This is a decision on the petition under 37 C.F.R § 1.102(d) filed November 19, 2004 to make the above-identified application special.

The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(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 November 19, 2004 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 October 15, 2004.

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

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

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

KJD/slb: 04/27/05

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SUITE 1404
FALLS CHURCH, VA 22041

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OFFICE OF PETITIONS

In re Application of :
Shan-Wen Ko et al :
Application No. 10/964,759 : DECISION ON PETITION
Filed: October 15, 2004 :
Attorney Docket No. :
BHT/3092-465

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**.

This application became abandoned for failure to timely pay the issue and publication fees on or before May 17, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed February 17, 2006. Accordingly, the date of abandonment of this application is May 28, 2006. A Notice of Abandonment was mailed on June 18, 2006.

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

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

This application is being referred to Publishing Division for appropriate processing in accordance with this decision on petition via Technology Center AU 1761 for appropriate action on the request under 37 CFR 1.48(a) filed July 20, 2007 for correction of inventorship.

Frances Hicks
Petitions Examiner
Office of Petitions

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

Mail Date: 06/30/2010

Applicant	: Francis Pinault	: DECISION ON REQUEST FOR
Patent Number	: 7643457	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/964,766	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **683** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Berry & Associates, P.C.
9255 Sunset Boulevard
Suite 810
Los Angeles, CA 90069

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MAY 29 2008

OFFICE OF PETITIONS

In re Application of	:	
Michel Turcotte	:	
Application No. 10/964,788	:	ON PETITION
Filed: October 13, 2004	:	
Attorney Docket No. PALM-3586.PSI.CON	:	

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

The application became abandoned for failure to timely respond to the non-final Office action mailed April 11, 2007.

It is not apparent whether 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 Bosco Kim appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts.

Further, there is no indication that the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment to claims and specification, a terminal disclaimer under 37 CFR 1.321 with the $130 fee and twelve sheets of replacement drawings containing Figures 1A-11; (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 2189 for further processing.

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

Andrea Smith
Petitions Examiner
Office of Petitions

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JUL 13 2006

OFFICE OF PETITIONS

27683
Haynes and Boone
901 Main Street, Suite 3100
Dallas, TX 75202

In re Application of	:	
Kiran K. Ganji	:	
Application No. 10/964,797	:	DECISION ON PETITION
Filed: October 13, 2004	:	TO WITHDRAW
Attorney Docket No. 30215.88	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 29, 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 David M. O'Dell on behalf of all attorneys of record who are associated with customer No. 27683

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

There is no outstanding Office action at this time.

Telephone inquiries concerning this decision should be directed to David Bucci at 571-272-7009.

David Bucci
Petitions Examiner
Office of Petitions

cc: Kiran K. Gangi
408 Red River Trail #2029
Irving, Texas 75063

cc: Mark L. Watson
Blakely, Sokoloff, Taylor, & Zafman
8055 East Tufts Avenue, Suite 1300
Denver, Colorado 80237

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United States Patent and Trademark Office
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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 04/20/2010

Applicant	: Andrew Marshall	: DECISION ON REQUEST FOR
Patent Number	: 7570076	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/964,802	: 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 **608** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

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MAY 03 2005

OFFICE OF PETITIONS

In re Application of
Tean-Sen Jen et al.
Application No. 10/964,803
Filed: October 13, 2004
Attorney Docket No. 24373-09572

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

This decision is in response to the petition filed March 24, 2005, under 37 CFR 1.47(a), in response to the Notice to File Missing Parts "Notice" mailed November 24, 2004.

The petition is **DISMISSED**.

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

The above-identified application was filed on October 13, 2004, naming Tean-Sen Jen, Ming-Tien Lin, Deuk-Su Lee and Ta-Wei Tseng but without a signed declaration. Accordingly, on November 24, 2004, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration.

In response, the present petition was filed with a request for a two month extension of time and the oath and declaration signed by inventors Jen, Lin and Tseng only. Petitioners seek status under 37 CFR 1.47(a) based on the fact that mail sent to joint inventor Lee's last known address in the United States was returned because he no longer lives at the last known address to which it was mailed.

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

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

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

(3) the petition fee; and
(4) a statement of the last known address of the non-signing inventor.

The present petition lacks item (1).

The evidence presented is not sufficient to show that Mr. Lee cannot be located or that he refuses to cooperate with the filing of the application. The evidence indicates that correspondence sent via mail to Mr. Lee has been returned, that communications between the parties has been made by email and further that Mr. Lee is seeking compensation for his cooperation. The petitioner is taking the failure of Mr. Lee to agree to sign the oath or declaration unless he is compensated as a refusal to cooperate with the filing of the application

The proof submitted does not show that diligent efforts have been employed to forward a complete copy of the application papers to Mr. Lee and the absence of that, it hasn't been shown that he is refusing to cooperate.

If petitioners are satisfied that Mr. Lee no longer lives at the last known address and would like to argue that he cannot be located, petitioners must present a showing that diligent efforts have been made to locate him.[1] Petitioners must however provide details, in an affidavit or declaration of facts by a person with first hand knowledge of the details, of the additional efforts to locate Mr. Lee such as Internet, e-mail, or telephone directory searches, which have been undertaken to locate him. If repeated attempts to contact Mr. Lee by telephone, mail, and e-mail, are unsuccessful, petitioners will have established that he cannot be found despite diligent efforts. The fact that petitioners have an email address for Mr. Lee, that it has been shown is an accurate address since he has responded to them from mail sent to that address, petitioners should have forwarded the complete application to him by email.

Additionally, the evidence presented indicates that a copy of the declaration and assignment for the instant application were mailed to Mr. Lee but it doesn't indicate that the complete application was ever sent to him. If an address for the non-signing inventor is located, petitioner will want to show proof that a copy of the application was sent or given to the non-signing inventors for review by providing a copy of the cover letter transmitting the application papers to the non-signing inventors or details given in an affidavit or declaration of facts by a person having first hand knowledge of the details.

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

---

[1] MPEP 409.03(d).

to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

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

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

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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MOUNTAIN VIEW CA 94041

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AUG 0 9 2005

OFFICE OF PETITIONS

In re Application of
Tean-Sen Jen et al.
Application No. 10/964,803
Filed: October 13, 2004
Attorney Docket No. 24373-09572

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

This decision is in response to the request for reconsideration filed August 4, 2005, under 37 CFR 1.47(a).

The petition is **GRANTED.**

The above-identified application was filed on October 13, 2004, naming Tean-Sen Jen, Ming-Tien Lin, Deuk-Su Lee and Ta-Wei Tseng but without a signed declaration. Accordingly, on November 24, 2004, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration. A petition under 37 CFR 1.47(a) was filed March 24, 2005 with a request for a two month extension of time and the oath and declaration signed by inventors Jen, Lin and Tseng only. While the petition sought status under 37 CFR 1.47(a) based on the fact that mail sent to joint inventor Lee's last known address in the United States was returned because he no longer lived at the last known address to which it was mailed, it was dismissed because it hadn't been shown that a complete application had been sent to the non-signing inventor.

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.

In response to the decision dismissing the petition filed March 24, 2005, the instant petition shows that a complete application has now been sent to non-signing inventor Deuk-Su Lee and that he has, by his actions, refused to cooperate with the filing of the instant application.

All requirements under 37 CFR 1.47(a) therefore having been met, as provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

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AUG 15 2007

OFFICE OF PETITIONS

Applicant: Wei Yu et al.
Appl. No.: 10/964,822
Filing Date: October 15, 2004
Title: COMPOSITION COSMETIQUE COMPRENANT UN POLYMERE ACRYLIQUE
Attorney Docket No.: 5725.1379
Pub. No.: US 2006/0083696 A1
Pub. Date: April 20, 2006

This is a decision on the paper requesting a corrected publication under 37 CFR 1.221(b) received on June 20, 2006, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains material errors on the front page of the publication as the title as published is "COMPOSITION COSMETIQUE COMPRENANT UN POLYMERE ACRYLIQUE" where it should be "Cosmetic Composition Comprising and Acrylic Polymer" and on page 17, where part of Claim 111 and all of Claim 112 are missing.

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 instant request does not identify a material mistake in the publication made by the Office under 37 CFR 1.221. The title is printed as it was submitted in the transmittal letter, the French Language Application on filing, and the Application Data Sheets (ADS) received on October 15, 2004 and May 13, 2005. As the rest of the publication was printed in English, the French language title is not a material Office error under 37 CFR 1.221. The title does not affect the public's ability to appreciate the technical disclosure of the patent application publication, to

[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).

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.

The error noted on page 17 was not an Office error, as the missing claims were not submitted in compliance with 37 CFR 1.121(c) and 1.121(h). 37 CFR 1.121 requires each section of submitted amendments to begin on a new page and that the text of the claim shall not contain any other part of the amendment. Page 14 of the Amendment submitted on November 30, 2005 clearly shows that the Title and first paragraph of the "Remarks" section was combined onto the page containing part of Claim 111 and all of Claim 112. This page was categorized as part of the Remarks section. To avoid such situations in the future, please follow the requirements of 37 CFR 1.121.

Applicant is reminded of his duty to conduct a reasonable inquiry before filing a paper before the Office. See MPEP 410.

Applicants' request for a corrected patent application publication on June 20, 2006, may constitute a "failure to engage in reasonable efforts to conclude processing or examination of the application." See 1.704(c). This determination will be made on or after a mailing of a Notice of Allowance.

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

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

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

By facsimile: 571-273-8300

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

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
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Date Mailed: October 22, 2007

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

Applicant: Yu et al.
Appl. No.: 10/964,822
Filing Date: October 15, 2004
Title: COMPOSITION COSMETIQUE COMPRENANT UN POLYMERE ACRYLIQUE
Attorney Docket No.: 05725.1379-00000
Pub. No.: US 2006/0083696 A1
Pub. Date: April 20, 2006

This is a decision on the second request for republication of patent application publication under 37 CFR 1.221(a), filed on October 17, 2007, 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 "Document for an existing application", which is 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.

Any questions or requests for reconsideration of the decision, should be addressed as follows:

Adjustment date: 10/23/2007 RCLEMONS
10/17/2007 INTEFSW 00006802 10964822
01 FC:1505 -300.00 OP

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, Patent Publication Branch at 571-272-4200.

Tammy J. Koontz
Program & Management Analyst
Office of Data Management

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date Mailed: November 16, 2007

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

Applicant: Yu et al.
Appl. No.: 10/964,822
Filing Date: October 15, 2004
Title: COMPOSITION COSMETIQUE COMPRENANT UN POLYMERE ACRYLIQUE
Attorney Docket No.: 05725.1379-00000
Pub. No.: US 2006/0083696 A1
Pub. Date: April 20, 2006

This is a decision on the third request for republication of patent application publication under 37 CFR 1.221(a), filed on November 13, 2007, 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 "Document for an existing application", which is 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.

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, Patent Publication Branch at 571-272-4200.

Tammy J. Koontz
Program & Management Analyst
Office of Data Management

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Adjustment date: 11/16/2007  KKING1
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Refund Ref:
11/16/2007          0030047114
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Credit Card Refund Total:      $300.00

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SALIWANCHIK LLOYD & SALIWANCHIK
A PROFESSIONAL ASSOCIATION
PO BOX 142950
GAINESVILLE FL 32614-2950

In re Application of	:
Song et al.	:
Serial No.: 10/964,838	: PETITION DECISION
Filed: October 13, 2004	:
Attorney Docket No.: 10	:

This is in response to the petition under 37 CFR § 1.59(b), filed November 9, 2006, to expunge information from the above identified application.

Petitioner requests that the Reply to Request for Information Under 37 CFR 1.105, and all attachments thereto , submitted to the Patent Office on August 10, 2006, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entries for those documents have been closed and as such the documents are no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper.

Therefore, applicants' petition is GRANTED.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

George C. Elliott

George Elliott
Director, Technology Center 1600

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Robert E. Krebs
Thelen Reid & Priest, LLP
P.O. Box 640640
San Jose, CA 95164-0640

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SEP 28 2006

OFFICE OF PETITIONS

In re Application of :

Patrick H. McCormack et al. :
Application No. 10/964,844 : DECISION ON PETITION
Filed: October 13, 2004 : TO WITHDRAW
Attorney Docket No. 036263-000421 : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 24, 2006.

The request is **NOT APPROVED**.

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

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

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

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

Amelia Au
Petitions Examiner
Office of Petitions

cc: **Mark Spolyar, Esq.**
Spoylar Technology Law Group
2200 Cesar Chavez Street
San Francisco, CA 94124

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GREENBERG TRAURIG
3773 HOWARD HUGHES PARKWAY
SUITE 500 NORTH
LAS VEGAS, NV 89109

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OFFICE OF PETITIONS

In re Application of :
Robert Fouts :
Application No. 10/964,851 : DECISION ON PETITION UNDER
Application Filing Date: October 13, 2004 : 37 CFR 1.137(f)
Attorney Docket No 5923.00002

This is a decision on the petition under 37 CFR 1.137(f), filed November 14, 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 3765 for further processing.

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

Kenya A. McLaughlin

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.

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Townsend and Townsend and Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

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MAY 26 2009

OFFICE OF PETITIONS

In re Application of	:	
Bin Lu	:	
Application No. 10/964,853	:	DECISION ON PETITION
Filed: October 13, 2004	:	TO WITHDRAW
Attorney Docket No. 022406-000100US	:	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 22, 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 Daniel Mao and all attorneys/agents of record has been revoked by the assignee of the patent application on October 11, 2005. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: L. Howard Chen, Esq.
Kirkpatrick & Lockhart Preston
Gates Ellis, LLP
Suite 1700
55 Second Street
San Francisco, CA 94104

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DANIEL REITENBACH
CROMPTON CORPORATION
BENSON ROAD
MIDDLEBURY, CT 06749

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OCT 19 2009

OFFICE OF PETITIONS

In re Application of	:	
Sung Whee Hong	:	
Application No. 10/964,855	:	DECISION GRANTING PETITION
Filed: October 13, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 0186-PC	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 15, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.34, the signature of Mr. Jeffrey T. Gendzwill 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. Gendzwill desires to receive future correspondence regarding this file, the appropriate power of attorney documents must be submitted. All future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

The petition 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 2, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

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

This application is being referred to Technology Center AU 1796 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

cc: JEFFREY T. GENDZWILL
PATENT ADMINISTRATOR
CHEMTURA CORPORATION
199 BENSON ROAD
MIDDLEBURY, CT 06749

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

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

In re Application of	:	
Martin Schriever et al	:	
Application No. 10/964,868	:	ON PETITION
Filed: October 15, 2004	:	
Attorney Docket No. Q83968	:	

This is a decision on the petition, filed June 9, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on April 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 should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2877 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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Paper No. _____

Date : June 12, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Martin Schriever et al
Application No. :10/964,868
Filed :October 15, 2004

The above-identified application has been assigned Patent No. 7,064,843 and an issue date of June 20, 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 June 20, 2006:

"All reference to Patent No. 7,064,843 to Martin Schriever et al of Germany for INTERFEROMETRIC MEASURING DEVICE AND PROJECTION EXPOSURE INSTALLATION COMPRISING SUCH MEASURING DEVICE appearing in the Official Gazette of June 20, 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

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

Mail Date: 04/20/2010

Applicant	: Clifton E. Grim III	: DECISION ON REQUEST FOR
Patent Number	: 7660770	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/964,876	: 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 **327** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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
901 MAIN STREET, SUITE 3100
DALLAS, TX 75202

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FEB 09 2006

OFFICE OF PETITIONS

In re Application of	:	
Kiran K. Ganji	:	DECISION ON PETITION
Application No. 10/964,912	:	TO WITHDRAW
Filed: October 13, 2004	:	FROM RECORD
Attorney Docket No. 30215.87	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 29, 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 David M. O'Dell on behalf of all attorneys of record who are associated with customer No. 000027683.

All attorneys/agents associated with the Customer Number 000027683 have been withdrawn.

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

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

This matter is being referred to Technology Center AU 2666.

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

Denise Pothier for
Amelia Au
Petitions Examiner
Office of Petitions

cc: MARK L. WATSON
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
8055 EAST TUFTS AVENUE, SUITE 1300
DENVER, CO 80237

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

Mail Date: 04/20/2010

Applicant	: Kiran K. Ganji	: DECISION ON REQUEST FOR
Patent Number	: 7620001	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/964,912	: 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 **902** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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JUN 04 2009

TECHNOLOGY CENTER 2100

James J. Kulbaski
Oblon, Spivak, McClelland, Maier & Neustadt, P.C.
1940 Duke Street
Alexandria, VA 22314

In re Application of: Tonnes Brekne Application No. 10/964,921 Filed: October 15, 2004 For: Encryption of Programs Represented as Polynomial Mappings and Their Computations	)))))	**DECISION ON PETITION TO WITHDRAW RESTRICTION REQUIREMENT UNDER 37 CFR §1.144**

This is a decision on the petition filed December 17, 2008 under 37 C.F.R. §1.144 join claims 54 and 59 to the present elected claims 55-58 and 61-64.

The petition is **Dismissed**.

RELEVANT PROSECUTION HISTORY

October 15, 2004 — The application identified above was filed with claims 1-67.

January 30, 2008 — A restriction requirement was mailed out on claims 1-67. The Office action required applicant to select on fourteen groupings. Group I having claims 1-8, group II having 9-12, group III having claims 13-17, group IV having claims 18-23, 33 and 54, group V having claims 26-29, 40-42 and 59, group VI having claims 24-25 and 39, group VII having claims 30-31, group VIII having claims 45, group IX having claims 47-51, group X having claims 55-58 and 61-67, group XI having claim 60, group XII having claims 34-38, group XIII having claims 32, 43-44 and 52-53 and group XIV having claim 46.

April 29, 2008 — An election was filed selecting group X. This election was with traverse. A detailed argument was provided as to why claim 65 should be in group II, claim 66-67 should be in group III and claims 47-51 and 54-63 should be grouped either as a method and apparatus for parametrized multivariate encryption or as a method and apparatus for encrypted computation using

a register machine where claims 54-59 are part of the same invention of a method of applying parameterized multivariate encryption to an appropriate multivariate function.

June 17, 2008 — A non-final Office action was mailed including (1) acknowledgement of the election with traverse, (2) acknowledgement of claim 65 belongs to group II and claims 66-67 belong to group III and (3) that the restriction requirement was made final.

December 17, 2008 — A petition was filed to request joining claims 54 and 59 to the present provisionally elected claims 55-58 and 61-64. The petition also stated that not all of the arguments in the April 29th response with respect to the restriction were responded to. See arguments with respect to claims 54 and 59.

DECISION

Petitioner believes that claims 54-59 are part of the same invention. To support this argument, petitioner has provided an explanation that claims 54-59 are necessary to provide a complete invention for parameterized multivariate encryption, where claim 54 chooses a key structure appropriate for the function desired to be encrypted, claims 55-58 describe how to construct an appropriate key for use in the encryption step and claim 59 describes how to apply the key to a target function f using parameterized multivariate encryption to produce an encrypted version. All these claims belong together in the process of carrying out one parameterized multivariate encryption. An example is given with respect to RSA encryption where the system consists of a method for key selection, a method for generating keys and the encryption method itself.

While a complete encryption system would include choosing a key structure, constructing a key and applying the key in an encrypting method this is not the test for whether a restriction of subcombinations useable together is proper. The test for whether one can reasonably restrict subcombinations useable together is whether or not each subcombination can be used separately useable, are not overlapping in scope, not obvious variants over each other and when there is serious burden placed on the examiner by examiner all of the subcombinations. As the petition only states that the claims belong with each other and fails to establish that any of the factors have not been met, the restriction is being maintained.

Here is the examiner's response to the argument with respect to claims 54 and 59.

> This argument is not persuasive because key generation and the cryptographic algorithms that use the keys, represent subcombinations usable together. This is evidenced by the fact that each has a separate classification. Key generation is classified in 380/44-47, while encryption algorithms are classified in 380/28-30. Therefore, while the distinct aspects discussed may be utilized in a single invention, each is separately usable.

For the above reasons, the petition is **Dismissed**.

The finality of the restriction requirement made in the June 17, 2008 office action is hereby lifted as one cannot change the groupings of unamended claims and make a restriction requirement final. See claim 65.

The period for response to the May 20, 2009 final rejection continues to run.

Timothy P. Callahan
Director
Technology Center 2400
Networking, Multiplex, Cable and Security

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/964,921	10/15/2004	Tonnes Brekne	258959US2DIV	5034

22850 7590 06/05/2009
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
LANIER, BENJAMIN E

ART UNIT	PAPER NUMBER
2432	

NOTIFICATION DATE	DELIVERY MODE
06/05/2009	ELECTRONIC

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

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

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

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CHARLES K. HART
3066 BRAEBURN PLACE
HIGHLANDS RANCH, CO 80126

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SEP 29 2006

OFFICE OF PETITIONS

In re Application of	:	
Alan S. Hart et al	:	
Application No. 10/964,955	:	ON PETITION
Filed: October 14, 2004	:	
Attorney Docket No. 7161.02.01	:	

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

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) 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 23, 2005.

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

This matter is being referred to the Initial Patent Examination Unit.

Irvin Dingle
Petitions Examiner
Office of Petitions

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MILLEN, WHITE, ZELANO & BRANIGAN, PC
2200 CLARENDON BLVD
SUITE 1400
ARLINGTON, VA 22201

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FEB 1 2 2009

OFFICE OF PETITIONS

In re Application of	:	
Dragos Vizitiu, et. al.	:	
Application No. 10/964,975	:	DECISION ON PETITION
Filed: October 15, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. PHARMA-0365	:	

This is a decision on the petition, filed October 31, 2008, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on September 5, 2008. 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 and/or Notice of Foreign Filing which sets forth the projected publication date of May 14, 2009 accompanies this decision on petition.

As authorized, the petition fee of $1,620 has been charged to petitioner's deposit account.

This application is being referred to Technology Center Art Unit 1624 via the Office of Data Management for further processing into a patent.

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

Andrea Smith
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/964,975	10/15/2004	Dragos Vizitiu	PHARMA-0365

CONFIRMATION NO. 3384

24999
MILLEN, WHITE, ZELANO & BRANIGAN, PC
2200 CLARENDON BLVD
SUITE 1400
ARLINGTON, VA 22201

NONPUBLICATION RESCISSION LETTER

OC000000034401878

Date Mailed: 02/05/2009

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 05/14/2009.

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".

/amsmith/

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

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Hickman Palermo Truong & Becker, LLP
2055 Gateway Place
Suite 550
San Jose, CA 95110

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OFFICE OF PETITIONS

In re Application of	:	
Robert P. Vallone, et al.	:	
Application No. 10/964,977	:	DECISION ON PETITION
Filed: October 13, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 60066-0017	:	

This is a decision on the petition, filed August 12, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on March 15, 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 projected publication date will be assigned and applicant will be notified of this date in a separate correspondence.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

This application is being referred to the Office of Initial Patent Examination for assigning a projected publication date.

Marianne E. Jenkins

Marianne E. Jenkins
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

Townsend and Townsend and Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

In re Application of	:	
Patrick Loo et al.	:	
Application No. 10/964,980	:	DECISION ON PETITION
Filed: October 13, 2004	:	TO WITHDRAW
Attorney Docket No. 50269-0686	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 29, 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 Philip H. Albert and all attorneys/agents of record has been revoked by the assignee of the patent application on September 6, 2005. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Hickman, Palermo, Truong & Becker, LLP
Yahoo! Inc.
2055 Gateway Place
Suite 550
San Jose, CA 95110-1083

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JJGJR.: 06-06

Paper No: __

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30 ROCKEFELLER PLAZA
44TH FLOOR
NEW YORK NY 10112

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JUN 12 2006

OFFICE OF PETITIONS

In re Application of	:	
Kim, et al.	:	
Application No. 10/965,040	:	ON PETITION
Filed: 14 October, 2004	:	
Attorney Docket No. A35196-PCT-USAA-A	:	

This is a decision on a petition filed on 28 November, 2005, under 37 C.F.R. §1.137(b).

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

BACKGROUND

The record indicates:

- Petitioner failed to reply timely and properly to the Notice of Missing Parts mailed on 5 January, 2005, with reply due absent extension of time on or before Monday, 7 March, 2005;
- the application went abandoned by operation of law after midnight 5 March, 2005;
- the Office mailed the Notice of Abandonment on 12 September, 2005;
- on 28 November, 2005, Petitioner filed the instant petition, fee, reply in the form of an oath/declaration and fee/surcharge, and made a statement of unintentional delay–thus, Petitioner appears to have satisfied the regulatory requirements under 37 C.F.R. §1.137(b).

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[2]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4] And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

---

[1] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

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

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

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

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

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

Allegations as to
Unintentional Delay

The requirements for relief under the provisions of 37 C.F.R. §1.137(b) are: petition, fee, reply, showing of unintentional delay, and–where appropriate–a terminal disclaimer and fee.

It appears that Petitioner has satisfied the requirements of the regulation.

CONCLUSION

Because Petitioner appears to have satisfied the regulatory requirements, regulation, the petition under 37 C.F.R. §1.137(b) is **granted**.

The application is released to OIPE for further processing in due course.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Paper No. None

MATTINGLY, STANGER & MALUR, P.C.
Suite 370
1800 Diagonal Road
Alexandria VA 22314

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MAY 09 2005

OFFICE OF PETITIONS

In re Application of
Nobuyuki Osaki
Application No. 10/965,064
Filed: October 15, 2004
Attorney Docket No.:
HTA-101
Title: METHOD AND APPARATUS FOR DATA STORAGE

DECISION ON PETITION

This is a decision on the petition filed January 27, 2005, requesting that the above-identified application, including Figures 1-11, be accorded a filing date of October 15, 2004 as part of the original disclosure.

The application was deposited on October 15, 2004. However, on January 11, 2005, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Incomplete Nonprovisional Application" (notice), stating that the application had not been accorded a filing date, and advising applicants that a filing date would be accorded upon the deposit of drawings.

In response, on January 27, 2005, applicants filed the present petition. The petition is further accompanied by a copy of 7 sheets of drawings containing Figures 1-11, along with a copy of applicants' postcard receipt acknowledging receipt of "7 sheets of soft formal drawings (Figs. 1-11)" in the United States Patent and Trademark Office (Office) on October 15, 2004. Applicants request that Figures 1-11 be accorded a filing date of October 15, 2004.

No sheets of drawings have been located among the application papers in the electronic file. However, the evidence is convincing that the application papers deposited on October 15, 2004 included 7 sheets of drawings, and each of these sheets was subsequently misplaced in the Office.

Therefore, the application, including Figures 1-11, was complete on filing and entitled to a filing date of October 15, 2004 as part of the original disclosure.

Accordingly, the petition is **GRANTED**.

The notice mailed January 11, 2005 was sent in error, and is hereby **VACATED**. Therefore, no petition fee is necessary, and the petition fee has not been charged to Petitioner's Deposit Account.

The application file is being returned to OIPE for further processing with a filing date of October 15, 2004, using the original application papers filed on that date, as well as Figures 1-11 submitted on January 27, 2005, and for noting in Office records that these 7 sheets of drawings were present on filing.

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

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

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1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

MAILED

AUG 16 2006

Technology Center 2100

In re Application of: Osaki
Application No. 10/965,064
Filed: October 15, 2004
For: METHOD AND APPARATUS FOR DATA STORAGE

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a decision on the petition to make special under 37 C.F.R. §102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, filed on October 26, 2005.

The Petition is **GRANTED**.

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

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

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

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

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

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

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

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

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

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

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

Mail Date: 04/21/2010

Applicant	: Charles L. Saltzman	: DECISION ON REQUEST FOR
Patent Number	: 7625409	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/965,070	: 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 **354** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN, LLP
12400 Wilshire Boulevard
7th Floor
Los Angeles, CA 90025-1030

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OFFICE OF PETITIONS

In re Application of	:	
Donald S. GARDNER	:	
Application No. 10/965,086	:	ON PETITION
Filed: October 13, 2004	:	
Attorney Docket No. 42P11265D3	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 15, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to for failure to reply in a timely manner to the non-final Office Action mailed April 15, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 16, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Accordingly, the reply to the non-final Office Action of April 15, 2005 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Charles A. Marmor, II at (571) 272-6052 or in his absence, the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 2832 for appropriate action on the concurrently filed amendment.

David Bucci
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

KATTEN MUCHIN ROSENMAN LLP
575 MADISON AVENUE
NEW YORK NY 10022-2585

In re Application of	:	
Naomasa Yoshimura et al	:	
Application No. 10/965,094	:	DECISION ON PETITION
Filed: October 14, 2004	:	
Attorney Docket No. FUJR 21.451	:	

This is a decision on the petition, filed June 12, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the nonfinal Office action mailed September 28, 2007, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on May 22, 2008.

Petitioner asserts that the Office action dated September 28, 2007 was not received.

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

1. a statement from practitioner stating that the Office action was not received by the practitioner;

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

3. a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed must be attached to and referenced in the practitioner's statement.

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

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

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

This application is being referred to the Technology Center technical support staff of Art Unit 2616 for re-mailing the Office action of September 28, 2007. The period for reply will run from the mailing date of the Office action.

Karen Creasy
Petitions Examiner
Office of Petitions

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Han-Yi Lee
Bayshore Patent Group, LLC
520 Chantecler Drive
Fremont, CA 94539

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OFFICE OF PETITIONS

In re Application of	:	
Ming-Lung Chiu	:	
Application No. 10/965,110	:	DECISION ON PETITION
Filed: October 14, 2004	:	TO WITHDRAW
Attorney Docket No. US 930087	:	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, 2006.

The request is **NOT APPROVED**.

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

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

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

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

David Bucci
Petitions Examiner
Office of Petitions

cc: RICH Patent & Trademark Office
10F-2, 164, Dun-Hwa South Road
2nd Section
Taipei, Taiwan 106

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DOV ROSENFELD
5507 COLLEGE AVE
SUITE 2
OAKLAND, CA 94618

Mail Date: 04/21/2010

Applicant	: David S. McGrath	: DECISION ON REQUEST FOR
Patent Number	: 7634092	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/965,130	: 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 **1462** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

JOHNS MANVILLE
10100 WEST UTE AVENUE
PO BOX 625005
LITTLETON, CO 80162-5005

In re Application of	:	
Richard Emil Kajander, et. al.	:	
Application No. 10/965,131	:	DECISION ON PETITION
Filed: October 14, 2004	:	
Attorney Docket No. 7144CIPC	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 16, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before September 16, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed June 16, 2008. Accordingly, the date of abandonment of this application is September 17, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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.

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

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

Brian W. Brown
Petitions Examiner
Office of Petitions

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Finnegan, Henderson, Farabow, Garrett & Dunner, L.L.P.
901 New York Avenue, N.W.
Washington, DC 20001-4413

In re Application of	:	
Yu-Ying Liang	:	
Application No. 10/965,160	:	DECISION ON PETITION
Filed: October 15, 2004	:	
Attorney Docket No. 07942.0024-02	:	

This is in response to communication filed on January 25, 2005, and resubmitted on October 3, 2005, to correct the spelling of the inventor's name.

Applicant requested that the Office correct the spelling of the inventor's last name in its records due to a typographical error by applicant. With the request, applicant submitted a Supplemental Application Data Sheet, showing the correct spelling of the inventor's last name.

"When a typographical or transliteration error in the spelling of an inventor's name is discovered during pendency of an application, a petition is not required, nor is a new oath or declaration under 37 CFR 1.63 needed." MPEP 605.04(b). Therefore, the requested is **granted** without the need for filing a petition. The USPTO corrected its records to indicate the correct spelling of the inventor's name. The Office has printed a new bibliographic data sheet and will scan it into the Image File Wrapper. A corrected filing receipt, reflecting the change, is enclosed.

This matter is being referred to the Office of Patent Publication.

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

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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Greenberg & Lieberman, LLC
2141 Wisconsin Avenue, NW
Suite C-2
Washington, DC 20007

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OFFICE OF PETITIONS

In re Application of
Boris J. Muchnik
Application No. 10/965,164
Filed: October 14, 2004
Attorney Docket No. 2304-0701/2004

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 8, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 7, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 8, 2006. A Notice of Abandonment was mailed on March 20, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment after non-final, (2) the petition fee of $770.00, 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 $1020 extension of time fee submitted with the petition on February 12, 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 Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 2886 for appropriate action by the Examiner in the normal course of business on the reply received October 8, 2007.

Andrea Smith
Petitions Examiner
Office of Petitions

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IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11400 BURNET ROAD
AUSTIN, TX 78758

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OFFICE OF PETITIONS

In re Application of

Viktors Berstis

Application No. 10/965,173

Filed: October 14, 2004

Attorney Docket No. AUS920040681US1

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), November 13, 2006, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee of $1400.00 and publication fee of $300.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed March 15, 2006. The Notice set forth a three (3) month statutory period for reply. No response was received within the allowable period. Accordingly, this application became abandoned on June 16, 2006. A Notice of Abandonment was mailed on July 19, 2006.

The issue fee and publication fee were received on November 13, 2006.

Form PTOL-85B, filed November 13, 2006, is noted and made of record.

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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OSI PHARMACEUTICALS, INC.
41 PINELAWN ROAD
MELVILLE NY 11747

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OFFICE OF PETITIONS

In re Application of	:	
Beck et al.	:	DECISION ON PETITION TO
Application Number: 10/965182	:	WITHDRAW HOLDING OF
Filing Date: 10/14/2004	:	ABANDONMENT
Attorney Docket Number: OS-10010	:	

This is a decision on the petition to withdraw the holding of abandonment filed on November 1, 2007.

The petition is **GRANTED**.

A Notice of Abandonment was mailed on October 23, 2007, stating that the application was abandoned for failure to timely file a proper reply to the Office action mailed on April 16, 2007.

A review of the record reveals that on October 16, 2007, an election and five (5) month extension of time were filed in response to the Office action requiring restriction and/or election mailed on April 16, 2007.

Upon review, it is noted that the reply filed on October 16, 2007, was a timely and proper response to the Office action mailed on April 16, 2007. As such, there is no abandonment in fact. The Office regrets the error.

The holding of abandonment is withdrawn. The Notice of Abandonment is vacated.

The application is referred to Technology Center Art Unit 1624 for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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OSI PHARMACEUTICALS, INC.
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MELVILLE NY 11747

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APR 16 2008

OFFICE OF PETITIONS

In re Application of	:	
Beck et al.	:	
Application No. 10/965,182	:	DECISION ON PETITION
Filed: October 14, 2004	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. OS-10010	:	

This is a decision on the petition under 37 CFR 1.17(t), filed April 2, 2008, which is properly considered as a petition under 37 CFR 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The 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.

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

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 Christopher Bottorff at (571) 272-6692 or in his absence, the undersigned at (571) 272-7099. 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 1624 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.

David Bucci
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
10/965,182	10/14/2004	1624	3064	OS-10010	100	11

CONFIRMATION NO. 5347

CORRECTED FILING RECEIPT

38724
OSI PHARMACEUTICALS, INC.
41 PINELAWN ROAD
MELVILLE, NY 11747

OC000000029420995

Date Mailed: 04/16/2008

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

Applicant(s)

Patricia Anne Beck, Dixon, MO;
Cara Cesario, New City, NY;
Matthew Cox, Oxford, UNITED KINGDOM;
Han-Qing Dong, Farmingdale, NY;
Kenneth Foreman, Farmingdale, NY;
Mark Joseph Mulvihill, Farmingdale, NY;
Anthony Innocenzo Nigro, Farmingdale, NY;
Lydia Saroglou, Oxford, UNITED KINGDOM;
Arno G. Steinig, Farmingdale, NY;
Yingchuan Sun, Farmingdale, NY;
Qinghua Weng, Farmingdale, NY;
Douglas Werner, Farmingdale, NY;
Robin Wilkes, Oxford, UNITED KINGDOM;
Jonathan Williams, Oxford, UNITED KINGDOM;

Power of Attorney:
Shu Lee--41147
Alexander Stewart--47110
Kim Nguyen--47821

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/511,712 10/15/2003

Foreign Applications

If Required, Foreign Filing License Granted: 11/29/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/965,182**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
Title

Imidazopyrazine tyrosine kinase inhibitors

Preliminary Class

514

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

NOT GRANTED

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

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OSI PHARMACEUTICALS, INC.
41 PINELAWN ROAD
MELVILLE NY 11747

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OCT 29 2008

OFFICE OF PETITIONS

In re Application of	:	
Dong et al.	:	
Application Number: 10/965182	:	
Filing Date: 10/14/2004	:	DECISION ON PETITION
Attorney Docket Number: OS-10010	:	

This is a decision on the "PETITION REGARDING UNAVAILABLE INVENTORS," and the "REQUEST TO CORRECT INVENTORSHIP UNDER 37 C.F.R. § 1.48(a)," filed on July 23, 2008, which are being treated as (1) a petition under 37 CFR 1.48(a) to amend the inventive entity by the deletion of Patricia A. Beck, Cara Cesario, Matthew Cox, Lydia Sarogiou, Yingchuan Sun, Quinghua Weng, and Jonathan Williams as named inventors, and (2) a petition under 37 CFR 1.183 to waive 1.48(a)(2) in that the person sought to be deleted as one inventor, Yingchuan Sun, cannot be located to sign the statement of lack of deceptive intent.

The petition is **GRANTED**.

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by:

(1) a petition including a statement from each person being added and each person being deleted as an inventor that the error occurred without deceptive intention on his or her part;

(2) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47;

(3) the fee set forth in 37 CFR 1.17(i), and

(4) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment.

As a result of papers filed on July 23, 2008, and supplemented on October 6, 2008, and October 24, 2008, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and, accordingly, this application has been corrected in compliance with 37 CFR 1.48(a)(2).

With regards to the petition under 37 CFR 1.183, petitioners have shown, via the statement of registered patent practitioner Frank W. Forman, that a letter was sent to inventor Sun's last known address, requesting that she sign the statement of lack of deceptive intent. The letter, however was returned as undeliverable. The letter was then sent to the forwarding address provided for Sun by the USPS, but the statement of lack of deceptive intent was not signed and returned.

In view of the efforts recounted in the petition to obtain the signature of Yingchuan Sun on the statement required by 37 CFR 1.48(a)(1), it is agreed that justice would be served by waiving the requirement for her signature thereon.

The inventorship of this application has been changed by the deletion of: Patricia A. Beck, Dixon, MO; Cara Cesario, New City, NY; Matthew Cox and Lydia Saroglou, both of Oxford, United Kingdom; Yingchuan Sun and Quighua Weng, both of Farmingdale, NY; and Jonathan Williams, Oxford, United Kingdom.

It is noted that the declaration submitted with the present petition lists Kenneth Foreman as the first named inventor and Han-Quing Dong[1] as the second named inventor. While the first three named inventors on the original declaration filed on October 14, 2004, have been deleted, Han-Quing Dong is listed as the fourth named inventor and Kenneth Foreman as the fifth named inventor. Since a change to the order of the inventor's names is an amendment to the application and amendments are not permitted

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[1] It is further noted that inventor Han-Quing Dong's first name has been captioned as "Hanquing" on the declaration filed on October 24, 2008. Without an application data sheet with the corrected spelling, any patent to issue is less likely to reflect the correct spelling since the spelling of the inventor's name is taken from the oath or declaration, or any subsequently filed application data sheet. If the error is not detected until after the payment of the issue fee, because amendments are not permitted after the payment of the issue fee, either (A) the application must be withdrawn from issue under 37 CFR 1.313(c)(2) and a request to correct the spelling of the inventor's name submitted with a request for continued examination (RCE) under 37 CFR 1.114, or (B) a certificate of correction must be filed after the patent issues requesting correction of the spelling of the inventor's name. MPEP 605.04(b). Accordingly, the spelling of the inventor's name will remain as indicated in the originally-filed declaration.

after the payment of the issue fee (37 CFR 1.312), a petition under 37 CFR 1.182 to change the order of the inventors' names cannot be granted if filed after the payment of the issue fee.[2] Accordingly, the order of the remaining inventors' names will be the order which was previously specified.

Office PALM records have been corrected to reflect the correct inventorship of the application. A corrected Filing Receipt is enclosed for petitioner's records.

Petitioners should note that the fee for a petition under 37 CFR 1.183 is $400.00, and the processing fee for a request under 37 CFR 1.48(a) is $130.00. On July 23, 2008, petitioner submitted a petition fee of $200.00 and a processing fee of $130.00. Therefore, a balance of $200.00 is due and will be charged to counsel's deposit account, as authorized in the petition.

The application is being forwarded to the Office of Data Management for processing into a patent.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Corrected Filing Receipt

[2] MPEP 605.04(e).

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/965,182	10/14/2004	1624	3364	OS-10010	100	11

CONFIRMATION NO. 5347

38724
OSI PHARMACEUTICALS, INC.
41 PINELAWN ROAD
MELVILLE, NY 11747

CORRECTED FILING RECEIPT

OC000000032843725

Date Mailed: 10/29/2008

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)

Han-Qing Dong, Farmingdale, NY;
Kenneth Foreman, Farmingdale, NY;
Mark Joseph Mulvihill, Farmingdale, NY;
Anthony Innocenzo Nigro, Farmingdale, NY;
Arno G. Steinig, Farmingdale, NY;
Douglas Werner, Farmingdale, NY;
Robin Wilkes, Oxford, UNITED KINGDOM;

Power of Attorney:
Shu Lee--41147
Alexander Stewart--47110
Kim Nguyen--47821

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/511,712 10/15/2003

Foreign Applications

If Required, Foreign Filing License Granted: 11/29/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/965,182**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

IMIDAZOPYRAZINE TYROSINE KINASE INHIBITORS

Preliminary Class

544

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.

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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OSI PHARMACEUTICALS, INC.
41 PINELAWN ROAD
MELVILLE, NY 11747

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NOV 19 2009

OFFICE OF PETITIONS

In re Patent of Dong et al.	:	DECISION ON APPLICATION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT
Patent No. 7,459,554	:	
Issue Date: December 2, 2008	:	
Application No. 10/965,182	:	
Filing Date: October 14, 2004	:	
Attorney Docket No. OS-10010	:	

This is in response to the "Request for Reconsideration of the Patent Term Adjustment Under 37 C.F.R. § 1.705(d)" filed January 30, 2009. Patentees request the determination of patent term adjustment indicated on the patent be corrected from three hundred sixty-five (365) days to seven hundred seventy-one (771) days.

The request for reconsideration of the patent term adjustment indicated on the patent is **dismissed**.

The application matured into United States Patent No. 7,459,554 with a revised patent term adjustment of 365 days on December 2, 2008.

Patentees assert the correct patent term adjustment is 771 days based on an assertion the patent term adjustment should have been increased 415 days for Office delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay").

The application was filed October 14, 2004, and issued as a patent three years and 415 days later on December 2, 2008. Therefore, the Office agrees with patentees' assertion the number of days of B Delay is 415 days.[1]

35 U.S.C. § 154(b)(2)(A) limits Office delay to the sum of delay under 35 U.S.C: § 154(b)(1)(A) ("A Delay") and B Delay to the extent such periods of delay are not overlapping. Specifically, 35 U.S.C. § 154(b)(2)(A) states,

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

[1] The instant case does not contain any time periods falling under 35 U.S.C. §§ 154(b)(1)(B)(i)-(iii).

Patentees do not dispute that the total period of Office delay is the sum of the period of A Delay and the period of B Delay to the extent the periods of delay do not overlap. However, patentees assert the period of overlap is 0 days. The Office does not agree with patentees' assertion. The Office contends the period of overlap is 415 days.

The Office has described its position regarding the proper interpretation of 35 U.S.C. § 154(b)(2)(A) as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period 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 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.[2]

In this case, the relevant time period when determining if periods of delay "overlap" is the time period from the filing date of the application, October 14, 2004, to the date of issuance of the patent, December 2, 2008. As a result, the 415 days of B Delay overlap with the 497 days of A Delay. Since all of the days of B delay overlap with days of A Delay, the Office acted properly when the Office did not enter any additional days to the patent term adjustment for B Delay when issuing the patent.

The Office recognizes patentee's arguments based on the Memorandum and Order entered in *Wyeth v. Dudas*, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). However, the Office is not persuaded that the Office's current and long standing interpretation of the statute is incorrect.

The Office's interpretation of 35 U.S.C. § 154(b)(2)(A) is consistent with the purpose of the statute. The language in 35 U.S.C. § 154(b)(2)(A) is the result of the passage of the American Inventors Protection Act, Pub. L. No. 106-113, §§ 4401, 113 Stat. 1501, 1501A-552 (1999).

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[2] *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) (*quoting Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704, 21706 (April 22, 2004)). The Notice also provided a discussion of an example of the application of the overlap provision:

> A two month delay in issuing a first Office action (35 U.S.C. 154(b)(1)(A)(i)) and a two-month delay in issuing the patent (35 U.S.C. 154(b)(1)(B)) [are] considered overlapping delays, even though the two-month delay in issuing the first Office action occurred prior to three years (thirty-six months) after the application's filing date. This is because if the Office does not issue the patent until three years and two months (thirty-eight months) after its filing date, the relevant period in determining the Office delay in issuing the patent is not just the period between three years (thirty-six months) after the application's filing date and the date the patent issues (thirty-eight months after the application's filing date), but is the entire period between the application's filing date and the date the application issues.

A section-by-section analysis of the American Inventors Protection Act, published in the Congressional Record at the request of Senator Lott, elaborated this limitation:

> [T]otal adjustments granted for restorations under (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 * * * and administrative delay under section 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.[3]

For the reasons previously discussed, the Office acted properly when it did not increase the patent term adjustment as a result of B Delay and the patent term adjustment set forth on the patent remains 365 days.

Submission of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fee is required.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

[3] 145 Cong. Rec. S14,708, S14,718 (Nov. 17, 1999).

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OSI PHARMACEUTICALS, INC.
420 Saw Mill River Road
Ardsley, NY 10502

MAILED

JUN 01 2010

OFFICE OF PETITIONS

In re Patent of Han-Qing Dong et al.	:	DECISION ON REQUEST
Patent No. 7,459,554	:	FOR RECONSIDERATION OF
Issue Date: December 2, 2008	:	PATENT TERM ADJUSTMENT
Application No. 10/965,182	:	AND NOTICE OF INTENT TO
Filing Date: October 14, 2004	:	ISSUE CERTIFICATE OF
Attorney Docket No. OS-10010	:	CORRECTION

This is a decision on the petition filed January 13, 2010, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting the patent term adjustment indicated on the patent be corrected to indicate the term of the patent is extended or adjusted by seven hundred seventy-one (771) days.

The petition to correct the patent term adjustment indicated on the patent to indicate the term of the patent is extended or adjusted by seven hundred seventy-one (771) days is **GRANTED**.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the patent is extended or adjusted by **seven hundred seventy-one (771)** days.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.	:	7,459,554 B2
APPLICATION NO.	:	10/965,182
DATED	:	December 2, 2008
INVENTOR(S)	:	Han-Qing Dong et al.

DRAFT

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

On the Title page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 365 days.

Delete the phrase "by 365 days" and insert -- by 771 days--

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DRINKER BIDDLE & REATH (DC)
1500 K STREET, N.W.
SUITE 1100
WASHINGTON DC 20005-1209

9/26/07

In re Application of:
Englund, Kjell
Serial No. 10/965,198
Filed: Oct. 15, 2004
Docket: 024445-517
Title: CUTTING TOOL COMPONENT AND A METHOD OF MANUFACTURING SAME

DECISION ON PETITION UNDER 37 CFR § 1.181

This is a decision on the petition filed Sep. 10, 2007 under 37 CFR 1.181 requesting a complete Office action and reset a new period of response because the Office action mailed on Aug. 21, 2007 failed to address the applicant's arguments filed on Feb. 21, 2007.

The petition is **granted.**

In finding petitioner's points of argument persuasive, the requested relief is granted. The last Office action mailed Aug. 21, 2007 is hereby withdrawn. The examiner has been directed to issue a new Office action to treat the arguments advanced by the applicant on Feb. 21, 2007 with a new period to respond.

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

PETITION GRANTED.

Karen M. Young

Karen M. Young, Director
Technology Center 3700

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INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS CO 80527-2400

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APR 24 2008

In re Application of
Rhys Wyn Evans et al.
Application No. 10/965,201
Filed: October 15, 2004
Attorney Docket No. 200312096-2

ON PETITION

This is a decision on the petition filed November 29, 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 **DISMISSED.**

This application became abandoned July 17, 2007 for failure to timely reply to the Notice of Non-Compliant Amendment (37 CFR 1.121) mailed June 14, 2007, which set a one month period for reply since the amendment was filed in response to a non-Final Office Action. No response having been filed, a Notice of Abandonment was mailed November 15, 2007.

The file record discloses that the Notice of Non-Compliant Amendment (37 CFR 1.121) was mailed to what was believed to be the address of record. However, petitioner contends that it was not received. In support of this contention, petitioner indicates that the mail log shows no record of receipt and provides copies of the mail log.

Unfortunately, the requirement under 37 CFR 1.181, that copies of the actual docket records or file jacket be provided, has not been met. In a petition under 37 CFR 1.181 the petitioner must show, as in this instance where non-receipt is claimed that petitioner is without fault in not receiving the communication. In the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record. This presumption may be overcome by a showing that the Office action was not in fact received at the address of record.

The statements and the mail log are not enough to substantiate the claim of non-receipt and no other corroborating evidence to prove non-receipt has been presented. In view thereof, the holding of abandonment cannot be withdrawn.

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 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:

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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);

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

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

By 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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
Rhys Wynn Evans et al.
Application No. 10/965,201
Filed: October 15, 2004
Attorney Docket No. 200312096-2

ON PETITION

This is a decision on the petition filed June 11, 2008 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

In response to a March 8, 2007 non-Final Office Action, an amendment was filed June 8, 2007. However, a Notice of Non-Compliant Amendment (37 CFR 1.121) was mailed June 14, 2007 which set a one month period for reply. No response having been filed, the application became abandoned July 17, 2007. Accordingly, a Notice of Abandonment was mailed November 15, 2007.

The petition fee in the amount of $1540 has been charged to deposit account no. 08-2025, per the authorization contained in the petition. All other requirements having been met, this matter is being referred to Technology Center 2186 for appropriate action on the amendment filed June 11, 2008.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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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
Dickerson et al.
Application No. 10/965,214
Filed: October 14, 2004
Attorney Docket No.
AUS920040384US1

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 16, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This above-identified application became abandoned for failure to timely file a response to a non-final Office Action, which was mailed on February 14, 2008. 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 May 15, 2008. A Notice of Abandonment was mailed on August 27, 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 $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 2146 for appropriate action by the Examiner in the normal course of business on the reply received.

Charlema Grant
Petitions Attorney
Office of Petitions

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AUSTIN, TX 78758

Mail Date: 04/20/2010

Applicant	: Scott Stephen Dickerson	: DECISION ON REQUEST FOR
Patent Number	: 7624176	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/965,214	: 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 **1286** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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MINNEAPOLIS MN 55440-1022

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In re Application	:	
Li, et al.	:	
Application No. 10/965,215	:	PATENT TERM ADJUSTMENT
Filed: June 25, 2004	:	
Dkt. No.: 250543-25499	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT," filed November 10, 2008. This matter is being treated as an application for patent term adjustment pursuant to the provisions of 37 CFR 1.705(b).

The application for patent term adjustment (PTA) under 37 CFR 1.705(b) as it relates to adjustment under 37 CFR 1.702(b) is **HELD IN ABEYANCE**.

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b), mailed August 22, 2008, indicated a patent term adjustment (PTA) to date of 357 days. The instant application for PTA was timely filed November 10, 2008 along with the issue fee payment. Applicants argue that the application is entitled to an adjustment of 561 days, which would include adjustment under the provisions of 37 CFR 1.702(b).

The correct PTA at the time of the allowance is 337 days, as discussed further herein.

Applicants herein do not contest the adjustment of 386 days or the reduction totalling 29 days accorded at the time of allowance.

The instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date of the application. 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 for Office failure to issue the patent within three years. *See*, 37 CFR 1.703(b).

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 three

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 37 CFR 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Applicants are reminded that if an application is entitled to an adjustment under 35 USC 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 USC 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 USC 154(b)(1)(B) in determining whether periods of delay overlap under 35 USC 154(b)(2)(A).

Thus, any days of delay for Office issuance of the patent more than three 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 USC 154(b)(1)(B), 35 USC 154(b)(2)(A), and 37 CFR § 1.703(f). *See, also, Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004).

However, review of the application history reveals that the Office neglected to reduce the adjustment for one instance wherein applicants failed to engage in reasonable efforts to conclude prosecution.

The adjustment totaling 386 days is subject to a further reduction of 20 days in accordance with 37 CFR 1.704(b)in connection with the amendment filed January 14, 2008. The reduction commenced December 26, 2007, the day after the date that is three months after the date that the final Office action was mailed, and ended January 14, 2008, the date that the reply was filed.

In view thereof, as of the time of allowance, the application is entitled to an adjustment of 337 days (adjustments totaling 386 days less reductions totaling 49 days).

The required PTA application fee of $200.00 has been charged to applicants' deposit account, as authorized.

Applicants are further advised that the patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

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

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

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

Enclosure: Adjusted PAIR Calculation

Day : Tuesday
Date: 12/16/2008

PALM INTRANET

Time: 11:34:46

PTA Calculations for Application: 10/965215			
Application Filing Date:	10/15/2004	PTO Delay (PTO):	386
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	29
Post-Issue Petitions:	0	Total PTA (days):	337
PTO Delay Adjustment:	-20		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
86	12/16/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		20	
80	08/22/2008	MAIL NOTICE OF ALLOWANCE			
79	08/20/2008	ISSUE REVISION COMPLETED			
78	08/20/2008	DOCUMENT VERIFICATION			
77	08/19/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
76	08/19/2008	NOTICE OF ALLOWABILITY			
75	08/06/2008	DATE FORWARDED TO EXAMINER			
74	07/08/2008	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
73	08/06/2008	DATE FORWARDED TO EXAMINER			
72	07/08/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
71	08/06/2008	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
70	07/07/2008	EXPORT TO INITIAL DATA CAPTURE			
69	07/08/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
68	07/02/2008	MAIL NOTICE OF ALLOWANCE			
67	07/02/2008	ISSUE REVISION COMPLETED			
66	07/02/2008	DOCUMENT VERIFICATION			
65	07/02/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
64	06/26/2008	NOTICE OF ALLOWABILITY			
63	04/16/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
62	04/16/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
		INFORMATION DISCLOSURE STATEMENT			

61	04/16/2008	CONSIDERED			
60	04/16/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
59	05/20/2008	DATE FORWARDED TO EXAMINER			
58	04/16/2008	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
57	05/20/2008	DATE FORWARDED TO EXAMINER			
56	04/16/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
55	05/20/2008	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
54	04/24/2008	FINISHED INITIAL DATA CAPTURE			
53	04/16/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
52	04/16/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
51	04/16/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
50	04/16/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
49	01/25/2008	EXPORT TO INITIAL DATA CAPTURE			
48	01/14/2008	AMENDMENT CROSSED IN MAIL			
47	01/17/2008	MAIL NOTICE OF ALLOWANCE			
46	01/17/2008	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
45	01/17/2008	MAIL EXAMINER'S AMENDMENT			
44	01/16/2008	ISSUE REVISION COMPLETED			
43	01/16/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
42	01/16/2008	CASE DOCKETED TO EXAMINER IN GAU			
41	01/16/2008	EXAMINER'S AMENDMENT COMMUNICATION			
40	01/16/2008	DOCUMENT VERIFICATION			
39	01/15/2008	NOTICE OF ALLOWABILITY			
38	01/15/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
37	11/30/2007	DATE FORWARDED TO EXAMINER			
36	11/19/2007	AMENDMENT AFTER FINAL REJECTION			
35	09/25/2007	MAIL FINAL REJECTION (PTOL - 326)			
34	09/24/2007	FINAL REJECTION			
33	07/24/2007	DATE FORWARDED TO EXAMINER			
32	07/19/2007	RESPONSE AFTER NON-FINAL ACTION		29	26

31	07/19/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
30	07/18/2007	CORRESPONDENCE ADDRESS CHANGE			
28	07/18/2007	CORRESPONDENCE ADDRESS CHANGE			
26	03/20/2007	MAIL NON-FINAL REJECTION			
25	03/16/2007	NON-FINAL REJECTION			
24	01/25/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
23	03/21/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
22	02/15/2007	DATE FORWARDED TO EXAMINER			
21	02/05/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
20	01/05/2007	MAIL RESTRICTION REQUIREMENT	386		-1
19	01/03/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
18	10/18/2005	CASE DOCKETED TO EXAMINER IN GAU			
17	07/06/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
16	07/06/2005	CASE DOCKETED TO EXAMINER IN GAU			
15.7	03/21/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	03/21/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	01/25/2005	REFERENCE CAPTURE ON IDS			
13.7	01/25/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	01/25/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	03/08/2005	CASE CLASSIFIED BY OIPE			
11	02/16/2005	APPLICATION RETURN FROM OIPE			
10	02/16/2005	APPLICATION RETURN TO OIPE			
9	02/16/2005	APPLICATION DISPATCHED FROM OIPE			
8	02/16/2005	APPLICATION IS NOW COMPLETE			
7	01/25/2005	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
6	01/25/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
5	11/29/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	11/18/2004	CLEARED BY OIPE CSR			

3	11/18/2004	CASE CLASSIFIED BY OIPE			
2	11/05/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	10/15/2004	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	: Li et al.	Art Unit	: 1626
Serial No.	: 10/965,215	Examiner	: Rei Tsang Shiao
Filed	: October 15, 2004	Conf. No.	: 4841
Title	: SUBSTITUTED CYCLIC HYDROXAMATES AS INHIBITORS OF MATRIX METALLOPROTEINASES		

Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450
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APPLICATION FOR PATENT TERM ADJUSTMENT

UNDER 37 CFR § 1.705(b)

Applicants respectfully request reconsideration of Patent Term Adjustment (PTA) indicated in the Notice of Allowance mailed August 22, 2008. The Notice of Allowance reported that the application was entitled to 357 days of PTA, however, Applicants believe they are entitled to **561** days of PTA. This request is being submitted prior to or with payment of the issue fee.

The basis under which the corrected PTA is sought is 37 CFR 1.702(b) *Failure to issue a patent within three years of the actual filing date of the application.* See also 35 USC 154(b)(1)(B). Historically, the Patent Office has calculated PTA such that Applicants will be granted PTA under the longer of EITHER time accrued under 37 CFR 1.702(a) ("A delay") OR time accrued under 37 CFR 1.702(b) ("B delay"). However, the court in *Wyeth v. Dudas*, No. 07-1492 (D.D.C. 2008), (enclosed) recently held that this method of calculation was not consistent with the statutory language of 35 USC 154(b)(1)(B) which clearly states a guarantee of no more than 3-year application pendency. Thus, PTA calculations should consider time periods attributable to both A delay and B delay, not one or the other, to the extent that they do not fall on the same day.

12/17/2008 LDIEP1 00000012 061050 10965215
01 FC:1455 200.00 DA

For convenience, Applicants enclose a marked up copy of the Patent Term Adjustment page from PAIR showing the Office's calculation of PTA, and Applicant's corrections. The enclosed page correctly shows one "A delay" period of 386 days accrued under 37 CFR 1.703(a)(1) for failing to issue a first substantive office action by 14 months from the filing date. What the PTA page fails to show (which Applicants write in and believe they are entitled to) is a "B delay" period of 204 days accrued under 37 CFR 1.703(b) for failing to issue the patent in 3 years (not including time from the filing of an RCE to issue). Because the "A delay" and the "B delay" do not occur on the same days, they do not overlap and, thus, should both to count toward PTA. The PTA page also correctly identifies 29 days of Applicant delay under 37 CFR 1.704. The application is not subject to a terminal disclaimer. See the Table below for a summary of delay periods and the relevant dates.

Table

Delay	Dates	Number of Days
37 CFR 1.703(a)(1) "A Delay"	START **12-15-2005** (day after 14 months from the filing date) END **1-5-2007** (mail restriction requirement)	+386
37 CFR 1.703(b) "B Delay"	START **10-16-2007** (day after 3-year date) END **4-16-2008** (file RCE)	+204
37 CFR 1.704 Applicant Delay	START **6-21-2007** (day after 3-month due date) END **7-19-2007** (response filed)	-29
TOTAL 37 CFR 1.703(f)		**+561**

In view of the facts presented above, Applicants respectfully request correction of patent term adjustment to 561 days.

Please apply the required fee under 37 CFR 1.18(c) and any charges or credits to Deposit Account No. 06-1050, referencing attorney docket number 20443-148001.

Respectfully submitted,

Date: November 10, 2008

Christine A. Goddard, Ph.D.
Reg. No. 46,731

Enclosures:
Wyeth v. Dudas
Marked up PTA calculation page from PAIR

Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110
Telephone: (617) 542-5070
Facsimile: (877) 769-7945

22062538.doc

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OFFICE OF PETITIONS

FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

In re Patent No. 7,491,724
Issued: February 17, 2009
Application No. 10/965,215
Filed: October 15, 2004
Dkt. No.: 20443-0148001 / INCY0077-

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

This is a decision on the petition filed on March 17, 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 561 days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein**.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on October 16, 2007 and ends on April 15, 2008, the day before the RCE was filed, and not April 16, 2008, the day of filing of the RCE as calculated by patentees. See, 35 U.S.C. 154(b)(1)(B)(i). Thus, the over 3 year period is 183 days not 204 days as argued by patentees. The applicant delay has been corrected to reflect 29 days, as argued by patentees. Thus, the correct patent term adjustment is 540 days (386 + 183 – 29), not 561 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. See, 37 CFR 1.323(a)(4).

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

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by 540 days.

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

/ALESIA M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,491,724 B2

DATED : **February 17, 2009** **DRAFT**

INVENTOR(S) : Li, 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 337 days

Delete the phrase "by 337 days" and insert – by 540 days--

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OFFICE OF PETITIONS

In re Patent No. 7,488,593	:
Belcher et al.	:
Issue Date: February 10, 2009	: DECISION ON REQUEST FOR
Application No. 10/965,227	: RECONSIDERATION OF
Filed: October 15, 2004	: PATENT TERM ADJUSTMENT
Attorney Docket No. 091242-0144	:

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705" filed April 9, 2009, which is properly treated under 37 CFR 1.705(d). Patentees request that the patent term adjustment determination for the above-identified patent be corrected from four (4) days to twenty (20) 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 4 days.

On February 10, 2009, the above-identified application matured into U.S. Patent No. 7,488,593 with a revised patent term adjustment of 4 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees aver that the correct number of days of patent term adjustment is 20 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).

Specifically, patentees state:

> Applicants have recalculated PTA for the captioned patent under the court's interpretation of the PTA statute, and have determined that the patent is entitled to 20 days PTA, as shown on the attached sheet, which shows the relevant delays under 37 CFR §§1.702(a) and (b), and under 37 CFR §§1.703(a) and (b).
>
> The attached sheet details the circumstances during the prosecution of the application resulting in the patent that constitute a failure to engage in reasonable efforts to conclude processing or examination of such application as set forth in § 1.704.
>
> (a) Total of non-overlapping PTO delay under §154(b)(1)(A) & (B): 141 days
>
> (b) Total Applicant delay: 121 days
>
> Final PTA Determination: 20 days
>
> Applicants therefore respectfully request that the patent be accorded 20 days PTA.

Request of 04/09/09, p. 1.

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)*[1] *and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the

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[1] Likewise, 37 CFR 1.703(f) provides that:

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

position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together, the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding 37 CFR 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

It is noted, however, that delays resulting in the Office's failure to meet the time frames specified in 35 U.S.C. 154 (b)(1)(A) (the "fourteen-four-four-four" provisions) are not always overlapping with a delay resulting in the Office's failure to issue a patent within the three-year time frame specified in 35 U.S.C. 154(b)(1)(B) because not all application pendency time is counted toward this three-year period. See 35 U.S.C. 154(b)(1)(B)(i)-(iii).

In this instance, all application pendency time is not counted toward the three-year period. A request for continued examination was filed on October 31, 2007. The period subsequent to the filing of the RCE is not included in the three-year time frame specified in 35 U.S.C. 154(b)(1)(B). See 35 U.S.C. 154(b)(1)(B)(i). Thus, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period from October 15, 2004, the filing of the application to October 30, 2007, the day before the filing of the RCE. Thus, only the 112 days[2] of patent term adjustment accorded prior to the filing of the RCE pursuant to 37 CFR 1.702(a)(1)[3] are considered in

---

[2] A Restriction Requirement was mailed on April 6, 2006, 14 months and 112 days after the application was filed on October 15, 2004.

[3] 37 CFR 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

determining overlap. The 13 days[4] for Office delay under 37 CFR 1.702(a)(2),[5] occurring subsequent to the filing of the RCE is not considered. The 15 days attributed to Office delay pursuant to 37 CFR 1.702(b) (October 15, 2007 to October 30, 2007) for failure to issue the patent within three years after the filing of the application is determined to overlap with the 112 days attributed to Office delay pursuant to 1.702(a)(1). 125 (112 + 13) days is the actual number of days issuance of the patent was delayed. Accordingly, at issuance, the Office properly entered no additional period of adjustment.

In view thereof, the Office affirms the revised determination of patent term adjustment at the time of the issuance of the patent is 4 days (125 (112 + 13) days of Office delay - 121 days of applicant delay).

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

(a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:

(1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application[.]

[4] The Office did not respond to the reply of October 31, 2007, until the mailing of the non-final Office action on March 13, 2008, 4 months and 13 days later.

[5] 37 CFR 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

(a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:

. . .

(2) Respond to a reply under 35 U.S.C. 132 or to an appeal taken under 35 U.S.C. 134 not later than four months after the date on which the reply was filed or the appeal was taken[.]

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Patent No. 7,488,593	:	DECISION ON REQUEST FOR
BELCHER et al.	:	RECONSIDERATION OF
Issue Date: February 10, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/965,227	:	
Filed: October 15, 2004	:	
Atty Docket No. 091242-0144	:	

This is a decision on the renewed petition filed on December 7, 2009,[1] 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 twenty (20) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **DISMISSED**.

Patentee is given **TWO (2) MONTHS** from the mailing date of this decision to respond. No extensions of time will be granted under 37 CFR 1.136.

37 CFR 1.703(b) indicates that the period of adjustment under 37 CFR 1.702(b) ("over three year period") is the number of days, if any, in the period beginning on the day after the date that is three years after the actual filing date of the application and ending on the date a patent was issued. 35 U.S.C. 154(b)(1)(B). However, 37 CFR 1.703(b) also sets forth the limitations on patent term adjustment specified in 35 U.S.C.

[1] This petition was timely filed within two months of the decision on the request for reconsideration of patent term adjustment mailed November 25, 2009.

154(b)(1)(B)(i) and (ii). Specifically, 37 CFR 1.703(b)(4) provides that the period of adjustment of the term of a patent shall not include the period equal to the sum of the period of pendency consumed by appellate review under 35 U.S.C. 134, 141, 145, whether successful or unsuccessful (35 U.S.C. 154(b)(1)(B)(ii)).

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the B delay period, the over three year period begins on October 16, 2007, and ends on October 30, 2007, the day before the RCE was filed, and is 15 (not 16) days. See 35 U.S.C. 154(b)(1)(B)(i). However, patentee failed to account for the filing of the notice of appeal on July 20, 2007. The Office reminds patentee that the period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See 35 U.S.C. 154(b)(1)(B)(ii).

In this instance, the period consumed by appellate review is 103 days, beginning on the date on which the notice of appeal to the Board of Patent Appeals and Interferences was filed, July 20, 2007, and ending on the day before the filing of the RCE, October 30, 2007. Thus, B delay is 0 days.

Accordingly, the patent term adjustment remains 4 days.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application :
Bruce Davis :
Application No. 10/965,232 : LETTER REGARDING PTA
Filed: October 13, 2004 :
Atty Docket No. P1032D :

This letter is in response to the "REQUESTING FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(b," filed December 12, 2008. Pursuant to their duty of good faith and candor, applicants disclose that they believe the patent term adjustment calculation was done incorrectly.

The request for review of the determination of patent term adjustment (PTA) is **dismissed**.

On September 12, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 540 days. Applicants state that pursuant to 37 CFR §1.704(b), the time period should be reduced 91 days from June 13, 2008 to September 12, 2008 for the submission of the Request for Continued Examination (RCE) submitted on June 13, 2008.

A review of the application history supports a conclusion that the number of days adjusted for Office delay was correct. Pursuant to 37 CFR 1.704(b) applicant timely submitted a reply to the Notice of Allowance. In lieu of the issue fee, applicant submitted an RCE. As such a reduction for the submission of the RCE is not required in this instance. A copy of the PAIR calculations for this application is enclosed. Patentee continues to be under a duty to advise the Office of any error in according too much PTA.

In view thereof, the revised Patent Term Adjustment remains five hundred forty (540) days.

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

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Ms. Peters 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, Ms. Peters 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 Ms. Peters, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

enc: PAIR screen for U.S. Application No. 10/965,232

cc: Carol H. Peters
Mintz, Levin, Cohn, Ferris
Glovsky and Popeo, P.C.
One Financial Center
Boston, Massachusetts 02111

PALM INTRANET

Day : Monday
Date: 2/9/2009
Time: 17:16:43

PTA Calculations for Application: 10/965232			
Application Filing Date:	10/13/2004	PTO Delay (PTO):	540
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	540
PTO Delay Adjustment:	0		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
70	09/12/2008	MAIL NOTICE OF ALLOWANCE			
69	09/10/2008	ISSUE REVISION COMPLETED			
68	09/10/2008	DOCUMENT VERIFICATION			
67	09/10/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
66	09/02/2008	NOTICE OF ALLOWABILITY			
65	06/13/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
64	06/13/2008	REFERENCE CAPTURE ON IDS			
63	06/13/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
62	06/13/2008	MISCELLANEOUS INCOMING LETTER			
61	06/17/2008	DATE FORWARDED TO EXAMINER			
60	06/13/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
59	06/17/2008	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
58	06/13/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
57	06/13/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
56	04/21/2008	FINISHED INITIAL DATA CAPTURE			
55	03/17/2008	EXPORT TO INITIAL DATA CAPTURE			
54	03/14/2008	MAIL NOTICE OF ALLOWANCE	159		34
53	03/08/2008	ISSUE REVISION COMPLETED			
52	03/08/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
41	03/03/2008	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
40	03/03/2008	DOCUMENT VERIFICATION			

39	03/03/2008	NOTICE OF ALLOWABILITY			
38	06/07/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
35	01/28/2008	DATE FORWARDED TO EXAMINER			
34	06/07/2007	RESPONSE AFTER NON-FINAL ACTION			
33	12/12/2007	CASE DOCKETED TO EXAMINER IN GAU			
32	06/07/2007	REFERENCE CAPTURE ON IDS			
31	06/07/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
30	06/07/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
29	06/01/2007	MAIL NON-FINAL REJECTION			
28	05/29/2007	NON-FINAL REJECTION			
27	03/20/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
26	03/25/2007	DATE FORWARDED TO EXAMINER			
25	03/20/2007	RESPONSE AFTER NON-FINAL ACTION			
24	03/20/2007	REFERENCE CAPTURE ON IDS			
23.7	03/20/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
23	03/20/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	12/29/2006	MAIL NON-FINAL REJECTION	381		-1
21	12/22/2006	NON-FINAL REJECTION			
20	01/18/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
19	02/22/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
18	02/22/2005	CASE DOCKETED TO EXAMINER IN GAU			
17.7	01/18/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	01/18/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	01/18/2005	REFERENCE CAPTURE ON IDS			
15	02/17/2005	RECEIPT OF ALL ACKNOWLEDGEMENT LETTERS			
14	02/17/2005	RECEIPT OF ACKNOWLEDGMENT LETTER			
13	02/09/2005	APPLICATION RETURN FROM OIPE			
12	02/09/2005	APPLICATION RETURN TO OIPE			
11	02/09/2005	APPLICATION DISPATCHED FROM OIPE			

10	02/09/2005	APPLICATION IS NOW COMPLETE			
9	01/18/2005	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
8	01/18/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
7	12/14/2004	AGENCY REFERRAL LETTER MAILED			
6	12/13/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
5	12/08/2004	REFERRED BY L&R FOR THIRD-LEVEL SECURITY REVIEW. AGENCY REFERRAL LETTER GENERATED			
4	11/16/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	11/16/2004	CASE CLASSIFIED BY OIPE			
2	10/27/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	10/13/2004	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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OFFICE OF PETITIONS

In re Patent No. 7,503,488	
Bruce Davis	
Issue Date: March 17, 2009	
Application No. 10/965,232	DECISION ON REQUEST FOR
Filed: October 13, 2004	RECONSIDERATION OF
Attorney Docket No. P1032D	PATENT TERM ADJUSTMENT
Title: Fraud Prevention in	
Issuance of Identification	
Credentials	

This is in response to the "Request for Reconsideration of Patent Term Adjustment Under 37 C.F.R. §1.705(d)" filed May 15, 2009.

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

On March 17, 2009, the above-identified application matured into US Patent No. 7,503,488 with a patent term adjustment of 540 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) is 244 days.

Thus, patentees request that the determination of patent term adjustment be increased by 244 days to a total of seven hundred eighty-four (784) days.

The 244-day period is calculated based on the application having been filed under 35 U.S.C. §111(a) on October 13, 2004, and a request for continued examination (RCE) having been filed on June 13, 2008. The filing of a RCE cuts-off the applicants' ability to accumulate any additional patent term adjustment against the three-year pendency provision, but does not otherwise affect patent term adjustment. 37 CFR § 1.703(b)(1).

Accordingly, patentee asserts the period of adjustment under § 1.702(b) is 244 days, counting the number of days beginning on October 13, 2007 and ending on June 13, 2008.

The period of reduction of "0" days for applicant delay is not in dispute.

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 applicants failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR §1.704. In other words, the period of Office delay reduced by the period of applicant delay.

At issue is whether patentees should accrue 244 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 540 days for Office failure to take certain actions within specified time frames (or examination delay).

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

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

Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of

> adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

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

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of applicants. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the

rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3 year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[1]

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[1] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

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

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, October 13, 2004, to the date that the RCE was filed, June 13, 2008. Prior to the issuance of the patent, 540 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 244 days for Office delay in issuing the patent overlap with the 540 days of Office delay. During that time, the issuance of the patent was delayed by 540 days. The Office did not delay 540 days and then delay an additional 244 days. Accordingly, as the 244 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 540 days attributable to grounds specified in § 1.702(a)(1), entry of both periods is not warranted.

In view thereof, the Office affirms the determination of patent term adjustment at the time of the issuance of the patent of 540 days (540 - 0).

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.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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Eric D. Cohen
Welsh & Katz, Ltd.
120 South Riverside Plaza
Chicago, IL 60606

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OFFICE OF PETITIONS

In re Application of	:	
Chung-Chih Tung	:	
Application No. 10/965,242	:	DECISION ON PETITION
Filed: October 14, 2004	:	TO WITHDRAW
Attorney Docket No. TAIW 876	:	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 January 23, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **RABIN & Berdo, PC**
1101 14th Street, NW
Suite 500
Washington, DC 20005

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DUANE MORRIS LLP - Princeton
PO BOX 5203
PRINCETON, NJ 08543-5203

Mail Date: 04/21/2010

Applicant	: Stephen Francis Bush	: DECISION ON REQUEST FOR
Patent Number	: 7620985	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/965,248	: 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 **1214** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Charles C.H. Wu
98 Discovery
Irvine, CA 92618-3105

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OFFICE OF PETITIONS

In re Application of	:	
Richard A. Lopez	:	
Application No. 10/965,250	:	DECISION ON PETITION
Filed: October 14, 2004	:	TO WITHDRAW
Attorney Docket No. 933-04061401	:	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 18, 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 Charles C. H. Wu on behalf of all attorneys of record who are associated with Customer No. 25864.

All attorneys/agents associated with the Customer Number 25864 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 Richard A. Lopez 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.

for David Bucci
Petitions Examiner
Office of Petitions

cc: Richard A.Lopez
24683 Santa Clara Avenue
Dana Point, CA 92629

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CONLEY ROSE, P.C.
David A. Rose
P. O. BOX 3267
HOUSTON, TX 77253-3267

Mail Date: 04/20/2010

Applicant	: Mansun Chan	: DECISION ON REQUEST FOR
Patent Number	: 7585664	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/965,270	: 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 **870** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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OFFICE OF PETITIONS

In re Patent No. 7,488,495	:	
Issued: February 10, 2009	:	
Application No. 10/965,274	:	PATENT TERM ADJUSTMENT
Filed: October 13, 2004	:	
Dkt. No.: RLY 04022.101	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR 1.705," filed March 5, 2009. This matter is being properly treated under 37 CFR 1.705(d) as an application for patent term adjustment.

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

The above-identified application matured into U.S. Pat. No. 7,488,495 on February 10, 2009. The patent issued with a PTA of 560 days. The request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See, 37 CFR 1.705(d). Patentees request that the patent term adjustment be increased from 560 days to 1,046 days.

Patentees request reconsideration of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees contend according to Wyeth, "the Office's Period of B delay does not overlap with the Office's Period of A delay, because the period of B delay does not occur within the period of the three years after the filing of the application in which the Period of A delay occurred."

Patentees' calculation of adjustment asserts that the following adjustments do not overlap: a three year delay by the Office, pursuant to 37 CFR 1.703(b), of 486 days and the period of adjustment due to examination delay, pursuant to 37 CFR 1.702(a), of 594 days. The 486-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on October 13, 2004, and the patent having been issued on February 10, 2009. Patentees assert that in addition to this 486-day period, they are entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a) of 594 days.

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to

conclude prosecution pursuant to 37 CFR 1.704. In other words, patentees are entitled to the period of Office delay reduced by the period of applicant delay.

The Office agrees that certain action was not taken within a specified time frame, and, thus, the entry of a period of adjustment of 594 days is correct. At issue is whether patentees should accrue an additional 486 days of patent term adjustment for the Office taking in excess of three years to issue the patent as well as 594 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the period of 486 days of delay in issuance of the patent more than three years after the date that the application was filed overlaps with the period of 594 days of examination delay. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

Likewise, 35 CFR 1.703(f) provides that:

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

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

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

> Pat. Office 100 (May 18, 2004). See, also, Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A), 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of Patentees. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A), the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding § 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3-year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See, 145 Cong. Rec. S14,718[1].

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

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[1] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section`-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, October 13, 2004, to the date the patent issued on February 10, 2009. Prior to the issuance of the patent, 594 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 486 days for Office delay in issuing the patent overlap with the 594 days of Office examination delay. The Office did not delay 594 days and also delay an additional 486 days. Accordingly, as the 486 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 594 days attributable to grounds specified in § 1.702(a)(1), entry of both periods is not warranted.

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

The Office acknowledges submission of the required application fee of $200.00. See, 37 CFR 1.18(e).

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Robert Castaneda :
Application No. 10/965,280 :
Filed: October 14, 2004 :
Attorney Docket No. AQULFESIMAPP.PAT :

ON PETITION

This is a decision on the petition filed January 9, 2006 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The instant application became abandoned on February 18, 2005, for failure to timely reply to the Notice to File Missing Parts, mailed December 17, 2004, 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 September 12, 2005.

The filing of the response to the Notice to File Missing Parts mailed December 17, 2004 is acknowledged. All other requirements having been met, this matter is being referred to the Office of Initial Patent Examination for further pre-examination processing.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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RAYMOND J. WERNER
2056 NW ALOCLEK DRIVE, SUITE 314
HILLSBORO OR 97124

In re Application of	:	
Leslie Chase	:	
Application No. 10/965,285	:	DECISION ON PETITION
Filed: October 13, 2004	:	TO WITHDRAW
Attorney Docket No. LCHASE.P001	:	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 07, 2005

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of attorneys/agents associated with customer number 41536. 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).

Raymond J. Werner signed the request on behalf of all attorneys of record.

Raymond J. Werner and all attorneys/agents associated with application have been withdrawn.

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

All future communications from the Office will be directed the assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant.

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

David Bucci
Petitions Examiner
Office of Petitions

cc: Leslie Chase
40 East 68th Street
New York, New York 10021

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CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON MA 02210

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In re Patent No. 7,378,886 :
Issued: May 27, 2008 :
Application No. 10/965,300 : ON PETITION
Filed: October 14, 2004 :
Attorney Docket Number: 112055-0082U :

This is a decision on the petition filed August 12, 2008 under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the Letters Patent.

The petition is **GRANTED**.

Petitioner states that the assignee is FAIRCHILD SEMICONDUCTOR CORPORATION 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 FAIRCHILD SEMICONDUCTOR CORPORATION 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.

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[1] *See* Official Gazette of June 22, 2004

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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QUARLES & BRADY LLP
ONE SOUTH CHURCH AVENUE,
SUITE 1700
TUCSON AZ 85701-1621

COPY MAILED

JUL 12 2007

OFFICE OF PETITIONS

In re Application of :
Laurence H. Hurley et al :
Application No. 10/965,313 :
Filed: October 14, 2004 :
Attorney Docket No. 920214.00003 :

ON PETITION

This is a decision on the petition, filed July 10, 2007, under 37 CFR 1.313(a) to withdraw the above-identified application from issue.

The petition is **DISMISSED**.

37 CFR 1.313(a) states in part:

> "Applications may be withdrawn from issue for further action at the initiative of the Office or upon petition by the applicant. To request that the Office withdraw an application from issue, applicant must file a petition under this section including the fee set forth in 1.17(h) and a showing of good and sufficient reason why withdrawal of the application from issue is necessary.

As such, a grantable petition requesting withdrawal of an application from issue must be accompanied by: (1) a showing of good and sufficient reasons why withdrawal of the application from issue is necessary; and (2) the requisite petition fee under 37 CFR 1.17(h). The petition includes the requisite petition fee.

However, the petition does not set forth good and sufficient reasons as to why withdrawal of the application from issue is necessary. Petitioner requests withdrawal from issue in view of an inventorship matter.

Following the part of 37 CFR 1.313(a) cited above, 37 CFR 1.313(a) goes on to state:

> "A petition under this section is not required if a request for continued examination under 1.114 is filed prior to payment of the issue fee."

The filing of an RCE under 37 CFR 1.114 with a submission and the fee set forth in 37 CFR 1.17(e) would have been a proper available option to have the above matter considered.

However, since the issue fee has been paid, petitioner may consider filing under 37 CFR 1.313(c)(2).

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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Commissioner for Patents
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QUARLES & BRADY LLP
ONE SOUTH CHURCH AVENUE, SUITE 1700
TUCSON AZ 85701-1621

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Laurence H. Hurley et al :
Application No. 10/965,313 :
Filed: October 14, 2004 :
Attorney Docket No. 920214.00003 :

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

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on July 10, 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 1624 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 08/05/09

TO SPE OF : ART UNIT 2834

SUBJECT : Request for Certificate of Correction for Appl. No.: 10965320 Patent No.: 7256521 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome

Certificates of Correction Branch

703-756-1574

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

/Quyen Leung/ — SPE

2834 — Art Unit

Newsome, Lamonte

From: Leung, Quyen
Sent: Thursday, August 06, 2009 4:22 PM
To: Lam, Thanh; Newsome, Lamonte
Subject: RE: 10965320

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No

DATE : 08/05/09

TO SPE OF : ART UNIT 2834

SUBJECT : Request for Certificate of Correction for Appl. No.: 10965320 Patent No.: 725652

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) the IFW application image. No new matter should be introduced, nor should the scope meaning of the claims be changed.

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9C62-D
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

Lamonte News

Certificates of Correction Bra
703-756-1574

Thank You For Your Assistance

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

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

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JUN 17 2009

OFFICE OF PETITIONS

MARVIN H. KLEINBERG
Kleinberg & Lerner, LLP
Suite 1080
2049 Century Park East
Los Angeles CA 90067-3112

In re Application of	:	
Darwin Chang	:	
Application No. 10/965,337	:	ON PETITION
Filed: October 14, 2004	:	
Attorney Docket No. 458019.15592	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 3, 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, May 13, 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 August 14, 2008.

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

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

This application is being referred to Technology Center AU 2622 for appropriate action by the Examiner in the normal course of business on the reply received.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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TECHNOLOGY CENTER 3600

John W. Renner
RENNER, OTTO, BOISSELLE & SKLAR
1621 Euclid Avenue, 19th Floor
Cleveland, OH 44115

In re Application of Louis Colarusso et al Application No. 10/965,339 Filed: October 14, 2004 Attorney Docket No.: ERIC.P0307USA For: DEFORMED REINFORCING BAR SPLICE AND METHOD	DECISION ON PETITION TO INVOKE SUPERVISORY AUTHORITY UNDER 37 CFR 1.181

This is in response to applicants' petition to invoke supervisory authority under 37 CFR 1.181 filed August 4, 2006[1] requesting that the examiner be required to accept as compliant an appeal brief. An appeal brief was filed February 27, 2006 and another appeal brief was filed May 22, 2006. It is not clear which appeal brief applicants request to be accepted (both were held to be non-compliant) so both will be considered for this response.

The petition is **DENIED**.

A review of the record reveals the following:

1. An appeal brief was first filed on November 7, 2005.
2. A Notification of Non-Compliant Appeal Brief was mailed January 27, 2006 which pointed out that applicants' appeal brief failed to comply with any of the provisions of 37 CFR 41.37.
3. A second appeal brief was filed on February 27, 2006.
4. A Notice of Non-Response was mailed April 25, 2006 that pointed out applicants' failure to properly include a SUMMARY OF CLAIMED SUBJECT MATTER and subheadings under the ARGUMENT section for the claims that were separately argued.
5. A third appeal brief was filed on May 22, 2006 along with a petition for supervisory review seeking relief from the examiner's holding of non-compliant brief.

[1] This petition is a continuation of, or an addendum to, a petition previously filed on May 22, 2006 to which there was no previous record in the file. However, a detailed review of the file has found that the May 22, 2006 petition was incorrectly scanned into the file as being a part of the appeal brief filed on the same day. Appropriate action has been taken to correctly list the May 22, 2006 petition as a separate paper. Applicants' supplemental petition filed on October 25, 2006 is also acknowledged. This supplemental petition pertains to a request for the withdrawal of the holding of abandonment upon acceptance of an appeal brief as being compliant.

6. A Notice of Non-Response was mailed July 24, 2006 that, once again, pointed out applicants' failure to properly include a SUMMARY OF CLAIMED SUBJECT MATTER.
7. A Notice of Appeal Dismissal and Abandonment was mailed September 22, 2006.

At the outset, it should be noted that review of the original appeal brief filed on November 7, 2005 reveals that such brief clearly failed to comply with the currently required format for appeal briefs set forth by 37 CFR 41.37 and thus the originally filed appeal brief was clearly defective and non-compliant. The examiner's Notification of Non-Compliant Appeal Brief mailed January 27, 2006 set a one-month extendable time limit for applicants to file a corrected appeal brief.

On April 25, 2006, the examiner issued a Notice of Non-Response stating that the appeal brief filed February 27, 2006 was not acceptable and continued to be non-compliant for failure to present a proper SUMMARY OF CLAIMED SUBJECT MATTER section because of the inclusion of extraneous subject matter outside of a concise explanation of each independent claim as required by 37 CFR 41.37(c)(1)(v) and because separate subheadings for the claims separately argued were not provided. No additional time was granted for the submission of a corrected appeal brief and thus applicants' time continued to run from the January 27, 2006 mailing date of the Notification of Non-Compliant Appeal Brief.

Applicants assert that the examiner's position is "totally unreasonable" and "completely overlooks that the new rules (MPEP, page 1200-1215 [August 2005]) merely specify the minimum requirements". With respect to the requirement for subheadings for those dependent claims argued separately, applicants assert that their use is optional and that the examiner appears to be putting form over substance.

37 CFR 41.37(c)(1)(v) requires that the SUMMARY OF CLAIMED SUBJECT MATTER contain a *concise* explanation of the subject matter found in each independent claim. The intent of the new rule and the changing of this section of the appeal brief from the previous SUMMARY OF THE INVENTION to SUMMARY OF CLAIMED SUBJECT MATTER is to allow patent applicants, as the authors of the application and creators of the invention, to assist the Board in claim construction as to what applicants believe the scope of the recited features found in each independent claim is. It also assists the Board in contrasting the relative positions of the examiner and the applicants. Finally, requiring that *each* independent claim be discussed at a minimum instead of just representative claim(s) or the invention as a whole assists the Board in their determination of which embodiments are covered or not covered by the various independent claims in the application, as well as how the scope of the various claims varies relative to one another. See Comment 53 of Board of Patent Appeals and Interferences (BPAI) Final Rule, *69 Federal Register 49976* (August 12, 2004).

A review of the appeal brief filed February 27, 2006 reveals that applicants failed to provide a SUMMARY OF CLAIMED SUBJECT MATTER section as required by 37 CFR 41.37 (c)(1)(v). Rather, applicants have provided a section entitled "Summary of Invention Defined in the Claims on Appeal". It is clear that there is no *concise* explanation of the subject matter found in *each* independent claim. Applicants' summary, instead, is a discussion that intermixes the background of the invention, advantages over the prior art, discussion of embodiments shown by

Figures 1 and 2, features found in each independent claim, features found in some dependent claims, and features not found in any of the claims, without identifying which is which. Accordingly, contrary to applicants' assertion, the examiner's position is totally reasonable in both the letter and intent of the rule. Requiring a new summary would clearly assist the Board as intended by 37 CFR 41.37(c)(1)(v). Since the entire intent of the rule is to give the Board applicants' position on the scope of the claims by having applicants map the terms used in each independent claim to the explanation in the specification and elements in the figures, intermixing other claimed elements as well as other arguments (background of the invention, advantages over the prior art, etc.) without distinction clouds the issue in this regard. Thus, applicants' current "summary" does not assist the Board in claim construction and determination of the scope of each independent claim.

With respect to applicants' second argument, MPEP 1205.02 states that 37 CFR 41.37(c)(1) merely specifies the minimum requirements for an appeal brief and that this rule does not prohibit the inclusion of any material which an appellant may consider to be necessary or desirable. Examples are given as being a list of references, table of contents, or a table of cases. Nevertheless, the complete passage in question indicates that one may include in the appeal brief any additional material that is deemed to be necessary or desirable, but it does not state that one need not otherwise comply with the specific requirements outlined by 37 CFR 41.37(c)(1). Thus, 37 CFR 41.37(c)(1)(v) still requires that an appellant provide a concise explanation of the claimed subject matter. This requirement is not broadened by the passage referred to by applicants to enable one to provide an explanation of the disclosed invention instead. If applicants remain of the belief that subject matter pertaining to the background of the invention, advantages over the prior art, etc., is necessary and desirable, then separate sections labeled as such should also be included in the appeal brief.

With respect to the use of subheadings in the ARGUMENT section, 37 CFR 41.37(c)(1)(vii) requires that any claim argued separately should be placed under a subheading identifying the claim by number. The intent of this rule is to define the necessary structure of an appeal brief to ensure that all of the information needed by the Board to render an informed decision on the issues presented for review is provided by the appeal brief. The use of subheadings provides clear indication to the Board which claims an appellant considers to stand or fall separately and which do not. Contrary to applicants' assertion, the use of subheadings for claims that have been separately argued is not "optional". What is "optional" is the content/type of subheading utilized. This is made evident by the examples given in the Federal Register and MPEP 1205.02.

Review of the appeal brief filed May 22, 2006 reveals that it too fails to provide a SUMMARY OF CLAIMED SUBJECT MATTER section as required by 37 CFR 41.37(c)(1)(v). Rather, applicants have yet again provided a section entitled "Summary of Invention Defined in the Claims on Appeal". Further, this section yet again is merely a discussion that intermixes the background of the invention, advantages over the prior art, features found in each independent claim, features found in some dependent claims, and features not found in any of the claims, without identifying which is which. As previously noted, intermixing other claimed elements as well as other argument (background of the invention, advantages over the prior art, etc.) without distinction clouds the issue in regard to applicants' position on the scope of each independent claim. Applicants' current "summary" does not assist the Board in claim construction and

determination of the scope of each independent claim and is not in compliance with the requirement of 37 CFR 41.37(c)(1)(v).

In view of the above, it is clear that none of the three previously submitted appeal briefs are in compliance with the requirements of 37 CFR 41.37(c)(1) and that the examiner's holding of such is appropriate and not "unreasonable". Accordingly, applicants' request to accept one of the appeal briefs is denied.

In view of the fact that the appeal has been dismissed and the application has been held abandoned, applicant may wish to consider filing a petition to revive under 37 CFR 1.137(a) (unavoidable delay) or 37 CFR 1.137(b) (unintentional delay) as discussed below.

I. Unavoidable Delay

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: **(1)** the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute; **(2)** the petition fee required by 37 CFR 1.17(l); and **(3)** an adequate 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.

The showing requirement can be met by submission of statements of fact establishing that the delay in filing the response was unavoidable. This includes a satisfactory showing that the cause of delay resulting in failure to respond in timely fashion to the Office communication was unavoidable. Diligence during the time period between abandonment and filing of the petition to revive must also be shown.

As an alternative to filing a petition for unavoidable abandonment, a petition for revival of an application abandoned unintentionally under 37 CFR 1.137(b) might be appropriate.

II. Unintentional Delay

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: **(1)** the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute; **(2)** the petition fee required by 37 CFR 1.17(m); and **(3)** a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

The petition fee required by law for filing a petition under the unavoidable standard is $250 for small entity and $500 for large entity. The fee for a petition under the unintentional standard is $750 for small entity and $1500 for large entity.

If not previously filed, the reply to the outstanding Office action must accompany the petition to revive.

The required items should be promptly submitted under a cover letter entitled "Petition to Revive".

Further correspondence with respect to a petition to revive 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

Telephone inquiries should be directed to the Office of Petitions staff at (571) 272-3282.

Donald T. Hajec, Director
Technology Center 3600
(571) 272-5150
Facsimile No.: (571) 273-8300

DTH/ds: 12/4/06

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RENNER, OTTO, BOISSELLE & SKLAR, LLP
NINETEENTH FLOOR
1621 EUCLID AVENUE
CLEVELAND, OH 44115

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OFFICE OF PETITIONS

In re Application of	:	
Colarusso et al.	:	
Application No. 10/965,339	:	ON PETITION
Filed: October 14, 2004	:	
Attorney Docket No. ERIC.P0307USA	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 16, 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 Appeal Brief; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to Technology Center 3600 for further processing.

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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VOLPE AND KOENIG, P.C.
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103

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JAN 07 2010

OFFICE OF PETITIONS

In re Patent No. 7,428,899	:	
Issue Date: September 30, 2008	:	
Application No. 10/965,384	:	NOTICE
Filed: October 14, 2004	:	
Attorney Docket No. NPS-PT080	:	

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 Diane C. Goodwyn at (571) 272-6735.

Thurman K. Page
Petitions Examiner
Office of Petitions

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FAY SHARPE/LUCENT
1228 Euclid Avenue, 5th Floor
The Halle Building
Cleveland, OH 44115-1843

Mail Date: 04/21/2010

Applicant	: Shiyan Hua	: DECISION ON REQUEST FOR
Patent Number	: 7583646	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/965,387	: 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 **465** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Alexandria, Virginia 22313-1450
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HAYNES AND BOONE, LLP
IP Section
2323 Victory Avenue
Suite 700
Dallas, TX 75219

Mail Date: 04/21/2010

Applicant	: John J. Breen	: DECISION ON REQUEST FOR
Patent Number	: 7583055	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/965,392	: 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 **989** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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GIFFORD, KRASS, SPRINKLE,ANDERSON & CITKOWSKI, P.C
PO BOX 7021
TROY, MI 48007-7021

Mail Date: 04/21/2010

Applicant	: Jonathan D. Zook	: DECISION ON REQUEST FOR
Patent Number	: 7645840	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/965,393	: 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 **555** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

U.P. Peter Eng
Wilson Sonsini Goodrich & Rosati
650 Page Mill Road
Palo Alto, CA 94304-1050

COPY MAILED
AUG 01 2006
OFFICE OF PETITIONS

In re Application of	:	
Paul Huang et al.	:	
Application No. 10/965,406	:	DECISION ON PETITION
Filed: October 14, 2004	:	TO WITHDRAW
Attorney Docket No. 31358-705.201	:	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, 2005.

The request is **NOT APPROVED**.

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

The 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 a client**, do not meet any the conditions set forth in 37 CFR 10.40.

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

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

David Bucci
Petitions Examiner
Office of Petitions

cc: MedRule Business Solutions Inc.
Attn: Paul Huang
790 E. Colorado Blvd., Suite 600
Pasadena, CA 91101

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Alexandria, VA 22313-1450
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CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA, CA 91109-7068

Paper No.

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FEB 25 2005

OFFICE OF PETITIONS

In re Application of
Aaron Bachelder
Application No. 10/965,408
Filed: October 12, 2004
Attorney Docket No. 53525/DJB/E368

DECISION ON PETITION

This is a decision on the "PETITION TO CORRECT FILING DATE AND PRIORITY CLAIM," filed January 26, 2005, requesting that the above-identified application be accorded a filing date of October 12, 2004, rather than the presently accorded filing date of October 13, 2004.

The petition is **GRANTED**.

Petitioner maintains that the Express Mail package containing the above-identified application was picked up by USPS personnel at 4:30 pm on October 12, 2004; however, the USPS incorrectly entered a "date-in" of October 13, 2004. In support, petitioner submitted *inter alia* a copy of a log entitled Express Mail Receipt and Billing Dates and a copy of the application transmittal. The log includes the following headings: date, Express Mail no., Client ID/Matter, Atty, Depositor, Address and Postage. The petition did not include a copy of the Express Mail mailing label.

The instant petition was promptly filed within the meaning of § 1.10(d)(1). The transmittal on petition, is a true copy of the transmittal of record. The transmittal specifically identifies the components present in the application on filing. The number of the "Express Mail" mailing label, EV 531027055, is on the transmittal, and thus, the number was placed on the correspondence prior to the original mailing as required by § 1.10(d)(2).

Finally, petitioner has made a showing which establishes, to the satisfaction of the Director, 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. This showing is corroborated by petitioner's paper entitled "Express Mail Receipt and Billing Dates." By the USPS employee's signature thereon, this log serves as persuasive evidence that the relevant Express Mail package was picked up by the USPS at 4:30 pm on October 12, 2004. Moreover, the USPTO's USPS Express Mail Information Database corroborates pickup on October 12, 2004, inasmuch as, the record shows that the "Express Mail" package was accepted at 4:00 am on October 13, 2004 (copy of database record enclosed).

Having considered the evidence, it is concluded that petitioner has shown that the "date-in" entered on the "Express Mail" mailing label by the USPS is incorrect, and that the requested filing date, October 12, 2004, is the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup of the day. The proper date to be accorded this application is October 12, 2004, not October 13, 2004.

No petition fee is required and none has been charged.

The Office of Initial Patent Examination (OIPE) has been advised of this decision. The application is, thereby, being forwarded to the Office of Initial Patent Examination for further processing including correction of the filing date to October 12, 2004, and mailing of a corrected filing receipt.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of USPS Track & Confirm Record

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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RATNERPRESTIA
P.O. BOX 1596
WILMINGTON, DE 19899

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MAR 06 2006

OFFICE OF PETITIONS

In re Application of :
Michael A. Dimitriou et al :
Application No. 10/965,409 :
Filed: October 14, 2004 :
Attorney Docket No. ITFT-PS100US

ON PETITION

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 January 19, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1724 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

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G. VICTOR TREYZ
FLOOD BUILDING
870 MARKET STREET, SUITE 984
SAN FRANCISCO, CA 94102

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FEB 06 2006

OFFICE OF PETITIONS

In re Application of:	:	
Singh et al.	:	
Application No. 10/965,422	:	DECISION ON
Filed: October 13, 2004	:	PETITION UNDER
Title of Invention:	:	37 CFR 1.137(b)
WIRELESS ACCESS POINT WITH	:	
FINGERPRINT AUTHENTICATION	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 28, 2005 (Certificate of Transmission dated November 23, 2005), to revive the above-identified application. The petition is being treated under the unintentional provisions of 37 CFR 1.137(f).

This Petition is hereby **granted**.

The above-identified application became abandoned pursuant to 35 USC 122 (b)(2)(B)(iii) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multinational international agreement, the 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[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.

[1] The filing of a petition under this section will not relieve application of the obligation to reply to any outstanding Office action.

The instant petition has been found 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 as provided by 35 USC 122(b)(2)(B)(iii) 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 indicating a projected publication date of May 18, 2006, accompanies the present petition.

This application is being referred to the Publishing Division for publishing of the application in due course.

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

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Communication 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
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/965,422	10/13/2004	Gurminder Singh	SHI-2

CONFIRMATION NO. 4153

36532
G. VICTOR TREYZ
FLOOD BUILDING
870 MARKET STREET, SUITE 984
SAN FRANCISCO, CA 94102

Date Mailed: 02/06/2006

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

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 05/18/2006.

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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6391 SPRINT PARKWAY
MAILSTOP: KSOPHT0101-Z2100
OVERLAND PARK, KS 66251-2100

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DEC 1 2 2007

OFFICE OF PETITIONS

In re Application of :
Nagi Mansour :
Application No. 10/965,429 :
Filed: October 12, 2004 :
Attorney Docket No. 100773.53254US :

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed August 14, 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 indicates 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.

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

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

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of March 20, 2008 accompanies this decision on petition.

It is noted that 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.

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

This application is being referred to the Technology Center 2616.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

cc: STEPHEN W. PALAN
CROWELL & MORING, LLP
1001 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, DC 20004-2595

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
10/965,429	10/12/2004	Nagi Mansour	100773.53254US

CONFIRMATION NO. 4547

57541
SPRINT NEXTEL CORPORATION
6391 SPRINT PARKWAY
MAILSTOP: KSOPHT0101-Z2100
OVERLAND PARK, KS 66251-2100

NONPUBLICATION RESCISSION LETTER

OC000000027213842

Date Mailed: 12/11/2007

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 03/20/2008.

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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MYERS DAWES ANDRAS & SHERMAN, LLP.
19900 MACARTHUR BOULEVARD, SUITE 1150
IRVINE, CA 92612

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OFFICE OF PETITIONS

In re Application of :
HOLUNGA, et al. :
Application No. 10/965,432 :
Filed: October 12, 2004 :
Attorney Docket No. **CITI.PAU.51** :

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 2, 2008.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to **MYERS DAWES ANDRAS & SHERMAN LLP** has been revoked by the assignee of the patent application on October 15, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 7253.

/Monica A. Graves/
Petitions Examiner
Office of Petitions

cc: **LAW OFFICE OF DANIEL L. DAWES**
5200 WARNER BOULEVARD, SUITE 106
HUNTINGTON BEACH, CA 92649

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

RECEIVED
DEC 22 2008
OFFICE OF PETITIONS

In re Application of	:	
Ulrich KAISER	:	
Application No. 10/965,457	:	DECISION ON PETITION
Filed: October 13, 2004	:	
Attorney Docket No. TI-36694	:	

This is a decision on the petition filed September 24, 2008 requesting withdrawal of the holding of abandonment in the above-identified application or in the alternative, petition to revive under 37 CFR 1.137(b). The petition is being treated as a petition to revive under 37 CFR 1.137(b).

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file a complete and proper reply to the Office communication mailed, April 28, 2008, which set a period for reply of two (2) months. The period for reply is not extendable under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on June 29, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) a reply to the Office communication in the form of replacement drawings, (2) the petition fee of $1540; and (3) an adequate statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to the Office of Data Management for appropriate action in the normal course of business on the reply received September 24, 2008.

Ramesh Krishnamurthy

for Thurman Page
Petitions Examiner
Office of Petitions

RAM Fee History Query

Revenue Accounting and Management

Name/Number: 10965457 Total Records Found: 6

Start Date: Any Date End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
09/25/2008	00005011	4	1453	$1,540.00	09/24/2008	DA 200668
12/20/2007	00000640	4	1501	$1,440.00	12/19/2007	DA 200668
12/20/2007	00000641	4	1504	$300.00	12/19/2007	DA 200668
02/17/2005	00000185		8021	$40.00	02/09/2005	DA 200668
02/16/2005	00000069	1	1051	$130.00	02/14/2005	DA 200668
10/20/2004	00000194	1	1001	$790.00	10/13/2004	DA 200668

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of		TI-36694
	Ulrich Kaiser	Art Unit: 2838
Serial No.:	10/965,457	Examiner: Edward H. Tso
Filed:	10/13/2004	Conf. No.: 5619
For:	TRANSPONDER	

PETITION TO REVIVE UNTENTIONALLY ABANDONED PATENT APPLICATION UNDER (37 CFR 1.137 (b))

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

4/28/08

Sir:

Applicants petition the Commissioner to revive the patent application referenced above. The application became abandoned on March 8, 2008 due to failure to timely file a proper reply to the Office letter mailed on April 30, 2008. The entire delay in not sending in the replacement drawings was unintentional. Applicants hereby enclose a corrected set of formal drawings that were unintentionally cut off, along with this petition. Applicants also request that the petition fee under 37 C.F.R. 1.17 (m) of $1540.00 be charged to the deposit account of Texas Instruments Incorporated, account number 20-0668. Please charge any other fees associated with this petition to the same deposit account.

Respectfully submitted,

/William B. Kempler /
William B. Kempler
Attorney for Applicant
Reg. No. 28,228

Texas Instruments Incorporated
P.O. Box 655474, MS 3999
Dallas, TX 75265
(972) 917-5452

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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Serial No. : 10/965,457
Applicant: Kaiser
Filing Date : 10/13/04
Date Mailed : 04/28/08

NOTICE TO FILE CORRECTED APPLICATION PAPERS

Notice of Allowance Mailed

This application has been accorded an Allowance Date and is being prepared for issuance. The application, however, is incomplete for the reasons below.

Applicant is given 2 months from the mail date of this Notice within which to correct the informalities indicated below. If the informality pertains to the abstract, specification (including claims) or drawings, the informality must be corrected with an amendment in compliance with 37 CFR 1.121 (or, if the application is a reissue application, 37 CFR 1.173). Such an amendment may be filed after payment of the issue fee if limited to correction of informalities noted herein. See Waiver of 37 CFR1.312 for Documents Required by the Office of Patent Publication, 1280 Off. Gaz. Patent Office 918 (March 23, 2004). In addition, if the informality is not corrected until after payment of the issue fee, for purposes of 35 U.S.C. 154(b)(1)(iv), "all outstanding requirements" will be considered to have been satisfied when the informality has been corrected. A failure to reply will result in the application being ABANDONED. **This period for reply is NOT extendable under 37 CFR 1.136(a).**

See attachment.

Fig. 3 appears to be cut off. Please provide replacement drawings.

A copy of this notice MUST be returned with the reply. Please address response to "Mail Stop Issue Fee, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450".

L. Fletcher_____
Your name
Office of Patent Publication
Phone: 703-308-9250, ext. **143**

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

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DEC 3 0 2008

OFFICE OF PETITIONS

In re Application of	:	
Ulrich KAISER	:	
Application No. 10/965,457	:	DECISION ON PETITION
Filed: October 13, 2004	:	
Attorney Docket No. TI-36694	:	

This is a decision on the petition filed September 24, 2008 requesting withdrawal of the holding of abandonment in the above-identified application or in the alternative, petition to revive under 37 CFR 1.137(b). The petition is being treated as a petition to revive under 37 CFR 1.137(b).

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file a complete and proper reply to the Office communication mailed, April 28, 2008, which set a period for reply of two (2) months. The period for reply is not extendable under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on June 29, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) a reply to the Office communication in the form of replacement drawings, (2) the petition fee of $1540; and (3) an adequate statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

There is no indication that the 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.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center 2838 for appropriate action by the Examiner in the normal course of business on the reply received September 24, 2008.

Thurman Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

THOMAS J. TIGHE, ESQ.
6265 GREENWICH DRIVE
SUITE 103
SAN DIEGO, CA 92122

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MAR 19 2007

OFFICE OF PETITIONS

In re Application of	:	
Eugene Francis Kopecky	:	
Application No. 10/965,460	:	DECISION ON PETITION
Filed: October 13, 2004	:	
Attorney Docket No. 5488 DV01	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 21, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before January 3, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed October 3, 2005. Accordingly, the date of abandonment of this application is January 4, 2006. A Notice of Abandonment was mailed on February 22, 2006.

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

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

This application is being referred to Publishing Division for appropriate processing in accordance with this decision on petition.

Frances Hicks
Petitions Examiner
Office of Petitions

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AGILENT TECHNOLOGIES INC.
INTELLECTUAL PROPERTY
ADMINISTRATION, M/S DU404
P.O. BOX 7599
LOVELAND CO 80537-0599

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SEP 1 1 2006

OFFICE OF PETITIONS

In re Application of :
John D. Larson III, et al :
Application No. 10/965,474 :
Filed: October 13, 2004 :
Attorney Docket No. 10041304-01 :

ON PETITION

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 4, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2817 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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MICHAEL YAVILEVICH
5 HAIM STREET
APARTMENT 4
KIRIAT BIALIK 27076 IL ISRAEL

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FEB 03 2010

In re Application of	:	
Michael Yavilevich	:	
Application No. 10/965,485	:	ON PETITION
Filed: October 15, 2004	:	
Attorney Docket No. 786P	:	

This is a decision in response to the communication filed September 23, 2009, which is being treated as a petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181.

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."

The application was held abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment mailed December 17, 2008. A Notice of Abandonment was mailed on September 18, 2009. In response, on December 23, 2009, the present petition was filed wherein petitioner states that he did not intend to abandon the application.

A review of the record discloses that applicant responded on January 7, 2009, February 18, 2009 and February 24, 2009; however none of the replies were considered responsive to the Notice of December 17, 2008. See specifically, the reasons noted in the Notice of Abandonment of September 18, 2009.

Pursuant to 35 U.S.C. 133, "[u]pon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the application, or within such shorter time, not less than thirty days, as fixed by the Director in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to satisfactory of the Director that such delay was unavoidable.

As the record has shown, this application was properly held abandoned by operation of law and will remain abandoned until petitioner takes some other action in the above-identified application to continue prosecution.

In view of the above, the request to withdraw the holding of abandonment cannot be granted.

Petitioner is strongly encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181 or a petition under 37 CFR 1.137(a).

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: (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 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[1]

Questions regarding this decision may be directed to the undersigned at 571-272-3204.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: MICHAEL YAVILEVICH
5/4 HAIM ST.
KIRYAT BIALIK 27076
ISRAEL

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

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MICHAEL YAVILEVICH
5 HAIM STREET
APARTMENT 4
KIRIAT BIALIK 27076 IL ISRAEL

MAILED

MAY 27 2010

OFFICE OF PETITIONS

In re Application of	:	
Michael Yavilevich	:	
Application No. 10/965,485	:	ON PETITION
Filed: October 15, 2004	:	
Attorney Docket No. 786P	:	

This is a decision in response to the communication filed March 26, 2010, which is being treated as a renewed petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181.

The application was held abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment mailed December 17, 2008. A Notice of Abandonment was mailed on September 18, 2009. On December 23, 2009, a petition under the provisions of 37 CFR 1.181was filed; however, the petition was dismissed in a decision mailed February 3, 2010. In response, on March 26, 2010, the present petition was filed, wherein petitioner simply states that he did not "sent amended claims with markings to USPTO in the beginning of examination because of sudden missing of patent attorney.

Clearly petitioner admits that a proper response was not filed to outstanding notice. Consequently, the application was properly held abandoned by operation of law and will remain abandoned until petitioner takes some other action in the above-identified application to continue prosecution.

The petition was reconsidered, but the result is the same. Accordingly, the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181 is **DISMISSED**.

Under the circumstance of this case, petitioner is encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181 or a petition under 37 CFR 1.137(a).

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: (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 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).

Any further petition in response to this decision must be filed within TWO MONTHS to be considered timely and 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[1]

Questions regarding this decision may be directed to the undersigned at 571-272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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STETINA BRUNDA GARRED & BRUCKER
75 ENTERPRISE, SUITE 250
ALISO VIEJO, CA 92656

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APR 17 2006
OFFICE OF PETITIONS

In re Application of	:	
Steven Joseph Edwards	:	
Application No. 10/965,490	:	ON PETITION
Filed: October 14, 2004	:	
Attorney Docket No. FITMO-003A	:	

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

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed December 15, 2004. A Notice of Abandonment was mailed on September 12, 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 substitute specification; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

Since a $65 surcharge is not required for the filing of a substitute specification, that overpayment has been refunded to petitioner's deposit account.

The Power of Attorney and Correspondence Address Indication form has been made of record.

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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AUG 19 2005

CARRIER BLACKMAN AND ASSOCIATES
24101 NOVI ROAD
SUITE 100
NOVI MI 48375

In re Application of	:	
Robert A. Parks	:	
Serial No.: 10/965,514	:	DECISION ON PETITION
Filed: October 14,2004	:	
For: Subcutaneous Vascular Access Port	:	
And Methods of Using Same	:	

This is in response to applicants' petition filed on May 6, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(a), as it relates to Cancer.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02(X). Therefore the petition is GRANTED.

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

Should there be any questions with regard to this letter please contact Frederick Schmidt by letter addressed to the Director, Technology Center 3700, P.O. Box 1450 Alexandria, VA 22313-1450, or by telephone at (571) 272-2975 or by facsimile transmission at (571) 273-8300.

Frederick R. Schmidt, Director
Technology Center 3700

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Alexandria, VA 22313-1450
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APR 07 2009

OFFICE OF PETITIONS

BRACEWELL & GIULIANI LLP
P.O. BOX 61389
HOUSTON TX 77208-1389

In re Application of	:	
Douglas F. Greene	:	
Application No. 10/965,526	:	DECISION ON PETITION
Filed: October 14, 2004	:	TO WITHDRAW
Attorney Docket No. 064741.000095	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 12, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Jeffrey S. Whittle on behalf of all attorneys of record who are associated with this application. All attorneys/agents associated with this application have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There are no pending Office actions at the present time.

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

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

cc: DOUGLAS F. GREENE
1886 FLAT BEAR CIRCLE
DRAPER, UT 84020-9657

cc: OVERSTOCK.COM, INC.
6350 SOUTH 3000 EAST
SALT LAKE CITY, UT 84121

cc: CLAYTON, HOWARTH & CANNON, P.C.
P.O. BOX 1909
SANDY, UT 84091

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/965,526	10/14/2004	Douglas F. Greene	064741.000095

CONFIRMATION NO. 3920

POWER OF ATTORNEY NOTICE

35979
BRACEWELL & GIULIANI LLP
P.O. BOX 61389
HOUSTON, TX 77208-1389

OC000000035341917

Date Mailed: 04/06/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/12/2009.

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

/amwise/

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

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AKERMAN SENTERFITT
P.O. BOX 3188
WEST PALM BEACH FL 33402-3188

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APR 13 2010

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Prestini :
Application No. 10/965,548 :
Filed: October 14, 2004 :
Attorney Docket No. 7202-64 :

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

The petition is **GRANTED**.

The application became abandoned August 30, 2008 for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of May 29, 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). Notice of Abandonment was mailed December 22, 2008.

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

The above-identified application has been carefully reviewed and found in compliance with the above set forth requirements.

Accordingly, this application is being directed to Group Art Unit 1794 for processing of the RCE and submission submitted herewith.

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 $555.00 extension of time fee submitted with the petition was subsequent to the maximum extendable period for reply, petitioner may request a refund of this 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 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) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

CC: MARK PASSLER
Akerman Senterfitt
222 Lakeview Avenue, Suite 400
West Palm Beach, FL 33401

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United States Patent and Trademark Office
P.O. Box 1450
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www.uspto.gov

LADAS & PARRY LLP
224 SOUTH MICHIGAN AVENUE
SUITE 1600
CHICAGO IL 60604

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DEC 23 2008

OFFICE OF PETITIONS

In re Application of	:	
Sang Hee Kang	:	
Application No. 10/965,550	:	DECISION ON PETITION
Filed: October 14, 2004	:	
Attorney Docket No. CU-3948 RJS	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 19, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the final Office action mailed August 28, 2006. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on November 29, 2006. A Notice of Abandonment was mailed April 6, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

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

The file is now being forwarded to Technology Center 2827 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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REISING, ETHINGTON, BARNES, KISSELLE, P.C.
P.O. BOX 4390
TROY, MI 48099-4390

Mail Date: 04/21/2010

Applicant	: Philip J. Robinson	: DECISION ON REQUEST FOR
Patent Number	: 7641064	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/965,553	: 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 **1322** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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PRICE HENEVELD COOPER DEWITT & LITTON, LLP
695 KENMOOR, S.E.
P O BOX 2567
GRAND RAPIDS MI 49501

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AUG 1 5 2007

OFFICE OF PETITIONS

Applicant: Slabaugh et al.
Appl. No.: 10/965,558
Filing Date: October 14, 2004
Title: MARINE SEAT INTERCHANGEABLE COMPONENT ASSEMBLY AND METHOD
Attorney Docket No.: ATT01 P481
Pub. No.: US 2006/0082211
Pub. Date: April 20, 2006

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on June 26, 2006, for the above-identified application, which has a certificate of date of June 20, 2006.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains material errors in claim 9, wherein ":" is misprinted as ";", claim 17, wherein the phrase "one of the primary seat structure" is misprinted as "one of the pr y seat structure: and claim 21, wherein "[a] method of fabricating a seat for marine using comprising:" is misprinted as "[a] method of a seat for marine use, comprising:".

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 9 may be an Office error, but it is not a material Office error under 37 CFR 1.221. The substitution of a semi-colon for a colon is not a material error and is due to the poor quality of the text. The error noted by requestor in claim 17 where the word "primary" is replaced by "pr y" may be an Office error, but it is not a material Office error under 37 CFR 1.221. The phrase "primary seat structure" is used in several places in the application and the error may be due to the quality of the text. Therefore, the typo is not a

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

material error. The errors noted by the requestor in claim 21 are in the preamble of the claim and are not material Office errors under 37 CFR 1.221. The amendment received on January 10, 2006 amended the claim by changing "fabricating" to "making" and "user" to "use", the omission of the word "making" may be an Office error, but it is not a material Office error under 37 CFR 1.221. The error is due to the poor quality of the text. The errors do not affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

The errors noted by requestor in this published application are due to the poor quality of the text in the application. The text in the claims is not clear, which may be due to faxing the amendment. The quality of the text is poor, as it is small and blurry, which makes it difficult to electronically reproduce by digital imaging and optical character recognition. See 37 CFR 1.52.

Applicant is advised that he may want to file application papers that are clearer, as the error is due to the quality of the text. The text in the application is small, 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

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

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FEB 01 2005

OFFICE OF PETITIONS

D. PETER HOCHBERG CO. L.P.A.
1940 EAST 6TH STREET
CLEVELAND OH 44114

In re Application of
William Carey and Timothy McParland
Application No. 10/965,560
Filed: October 14, 2004
Attorney Docket No. XX0881US (#90618)
Title: SYSTEM AND METHOD FOR APPRAISER-ASSISTED VALUATION

DECISION ON PETITION UNDER 37 C.F.R. §1.47(a)

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed October 14, 2004.

On October 14, 2004, the application was deposited, identifying William Carey and Timothy McParland as joint inventors. The instant petition was included on filing, along with a declaration which has been executed by joint inventor Carey.

With the instant petition, Petitioner has also submitted the petition fee, the last known address of non-signing inventor McParland, and copies of various search reports.

Petitioner has met each of the 5 requirements above.

The petition is **GRANTED** and this application is hereby accorded Rule §1.47(a) status.

1A grantable petition under 37 C.F.R. §1.47(a) requires:

(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) either
  a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
  b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 CFR §1.63.

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.

After this decision is mailed, the application will be forwarded to Technology Center 3600 for further processing.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Kenneth J. LuKacher
South Winton Court
3136 Winton Road South, Suite 204
Rochester, NY 14623

MAILED

JAN 29 2009

OFFICE OF PETITIONS

In re Application of
Daniel H. Raguin, et. al.
Application No. 10/965,570
Filed: October 14, 2004
Attorney Docket No. APR-001CV

ON PETITION

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

The application became abandoned for failure to file a proper response to the final Office action mailed on April 18, 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 under 37 CFR 1.114; (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 2627 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

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

Andrea Smith
Petitions Examiner
Office of Petitions

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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DIW 02-06

ALLSTON L. JONES
PETERS, VERNY, JONES & SCHMITT LLP
SUITE 230
425 SHERMAN AVENUE
PALO ALTO CA 94306-1840

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FEB 0 3 2006

OFFICE OF PETITIONS

In re Application of	:	
Lin et al.	:	
Application No. 10/965,579	:	LETTER
Filed: 14 October, 2004	:	
Atty Docket No. 3827.11	:	

This communication is in response to the letter filed on 6 May, 2005, regarding the above identified application.

Petitioners request a priority document be withdrawn from the above-identified application, stating the document was submitted in error.

A review of the record reveals that the priority document supposedly submitted in error is not located in the official file for the above identified patent. As such, there is no document to be removed from the file.

The application is being referred to Technology Center 2800 for examination in due course.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BRINKS HOFER GILSON & LIONE
/CHICAGO/COOK
PO BOX 10395
CHICAGO, IL 60610

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SEP 29 2006
OFFICE OF PETITIONS

In re Application of	:	
Murphy	:	
Application No. 10/965,590	:	DECISION ON PETITION
Filed: October 14, 2004	:	TO WITHDRAW
Attorney Docket No. 8627-551 (PA-5558-RFB)	:	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 16, 2005.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Brinks, Hofer, Gilson & Lione/Chicago/Cook has been revoked by the assignee of the patent application on September 9, 2005. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April Wise

April M. Wise
Petitions Examiner
Office of Petitions

cc: MATTHEW J. MARQUARDT
TORYS LLP
79 WELLINGTON ST. WEST
SUITE 3000
TORONTO ON M5K 1N2 CA 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
10/965,590	10/14/2004	Kieran P. Murphy	8627-551

CONFIRMATION NO. 5729

OC000000020592866

OC000000020592866

48003
BRINKS HOFER GILSON & LIONE/CHICAGO/COOK
PO BOX 10395
CHICAGO, IL 60610

Date Mailed: 09/26/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/09/2005.

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

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

Mail Date: 04/20/2010

Applicant	: Clifton Grim III	: DECISION ON REQUEST FOR
Patent Number	: 7587366	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/965,592	: 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 **1015** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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TERRY L. MILLER
24832 VIA SAN FERNANDO
MISSION VIEJO, CA 92692

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FEB 14 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
STYLES et al. :
Application No. 10/965,599 :
Filed: October 14, 2004 :
Attorney Docket No. 2003-011D1 :

This is a decision on the petition under 37 CFR 1.137(a), filed October 14, 2005, 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 application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed January 6, 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 7, 2005.

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 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(d). The instant petition lacks item (3).

As to requirement (3), the petition states that the Notice was not received. Petitioner provides evidence of other applications that were mistakenly mailed to another law firm or company (e.g., 11/005,337, 10/225,163 and 10/601,284). The present petition lacks any evidence, other than petitioner's speculation that the Notice was not received due to "USPTO Mail Room error[,]" of non-receipt. Moreover, Petitioner admits that the Notice for the above-identified application was addressed to the undersigned. Thus, the conclusion that the Notice in the present application "in

all likelihood was not properly and accurately mailed by the USPTO Mail Room" is unsupported. The evidence presently provided does not demonstrate to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for reply until the filing of a grantable petition was unavoidable within the meaning of 37 CFR 1.137(a).

In order to satisfy requirement (3), Petitioner must establish nonreceipt of the Notice to the satisfaction of the Commissioner. The showing must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

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

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

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

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

Telephone inquiries concerning this decision should be directed to Denise Pothier at (571) 272-4787.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LAW OFFICE OF TERRY L. MILLER
24832 VIA SAN FERNANDO
MISSION VIEJO, CA 92692

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JUL 0 5 2006

OFFICE OF PETITIONS

In re Application of :
STYLES et al. :
Application No. 10/965,599 : ON PETITION
Filed: October 14, 2004 :
Attorney Docket No. 2003-011D1 :

This is a decision on the petition under 37 CFR 1.137(a), filed March 9, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the requirements of 37 CFR 1.137(a) in that petitioner has supplied (1) the required reply in the form of $10 to complete the basic filing fee for a small entity and the $65 late filing fee surcharge; (2) the petition fee of $250.00; and (3) a showing to the satisfaction of the Commissioner that the entire delay was unavoidable.

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

Telephone inquiries concerning this decision should be directed to Denise Pothier at (571) 272-4787.

Frances Hicks
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
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Gladys H. Monroy
Morrison & Foerster LLP
755 Page Mill Road
Palo Alto, CA 94304-1018

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JUL 25 2006

OFFICE OF PETITIONS

In re Application of	:	
Fernando J.R. Do Couto et al.	:	
Application No. 10/965,616	:	DECISION ON PETITION
Filed: October 13, 2004	:	TO WITHDRAW
Attorney Docket No. 276332000102	:	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 19, 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 Gladys H. Monroy on behalf of all attorneys of record.

All of the attorneys of record have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There are no outstanding Office actions at this time.

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

David Bucci
Petitions Examiner
Office of Petitions

cc: Fernando do Couto
7710 Oak Creek Drive
Pleasanton, CA 94588

cc: Lisa A. Haile, Ph.D
DLA Piper Rudnick Gary Cary LLP
San Diego, CA 92121

Recommended for approval.
/T. D./- 08/05/2009

Attorney Docket No. 04706/LH

This paper is being submitted via EFS-Web on April 22, 2009.

In the event that this Paper is late filed, and the necessary petition for extension of time is not filed concurrently herewith, please consider this as a Petition for the requisite extension of time, and to the extent not already paid, authorization to charge the extension fee to Account No. 06-1378. In addition, authorization is hereby given to charge any fees for which payment has not been submitted, or to credit any overpayments, to Account No. 06-1378.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Keiichi SAKURAI, et al.

Patent No. : 7,486,310

Serial No. : 10/965,639

Filed : October 13, 2004

For : IMAGING APPARATUS AND IMAGE PROCESSING METHOD THEREFOR

Confirm. No.: 5778

Art Unit : 2622

Examiner : TRUNG T. DIEP

REQUEST FOR CERTIFICATE OF CORRECTION UNDER 37 CFR 1.322

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

S I R :

It is respectfully requested that a Certificate of Correction, as per the attached, be granted. The errors are USPTO errors. No fee is required.

Please see the Supplemental Notice of Allowability mailed April 6, 2009 and the attached INFORMATION DISCLOSURE STATEMENT Form which indicates that the Examiner considered the FOREIGN PATENT DOCUMENTS listed therein. Favorable action on this request for a Certificate of Correction is respectfully requested.

Frishauf, Holtz, Goodman
& Chick, P.C.
220 Fifth Avenue, 16th Floor
New York, NY 10001-7708
Tel. No. (212) 319-4900
LH:sd
encs.

Respectfully submitted,

Leonard Holtz
Reg. No. 22,974

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

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,486,310

APPLICATION NO.: 10/965,639

ISSUE DATE : February 3, 2009

INVENTOR(S) : Keiichi SAKURAI

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

On the Title Page:

Item (56), References Cited, Foreign Patent Documents;

Insert --JP	05-266161	A	10/1993	
JP	06-274649	A	09/1994	
JP	2001-223891	A	08/2001	
JP	2003-078725	A	03/2003	
JP	2003-141520	A	05/2003	
JP	2003-288588	A	10/2003--.	

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Frishauf Holtz Goodman & Chick P.C.
220 5th Ave, 16th Floor
New York, New York 10001

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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090805

DATE : August 05, 2009

TO SPE OF : ART UNIT 2622

SUBJECT : Request for Certificate of Correction on Patent No.: 7,486,310

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:

Hi Lin,
It's recommended for approval.
Thanks,
Trung Diep

/Lin Ye/
Supervisory Patent Examiner, Art Unit 2622

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

Mail Date: 04/20/2010

Applicant	: George Bolt	: DECISION ON REQUEST FOR
Patent Number	: 7631355	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/965,670	: 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 **1074** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Hickman Palermo Truong & Becker, LLP
2055 Gateway Place
Suite 550
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OFFICE OF PETITIONS

In re Application of	:	
J. Andrew Freeman, et al.	:	
Application No. 10/965,675	:	DECISION ON PETITION
Filed: October 13, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 60066-0016	:	

This is a decision on the petition, filed August 12, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on March 15, 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 set forth the projected publication date of November 24, 2005 was mailed to applicant on August 19, 2005.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

This application is being referred to Technology Center Art Unit 2100 for examination in due course.

Marianne E. Jenkins

Marianne E. Jenkins
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Application of	:	
J. Andrew Freeman, et al.	:	
Application No. 10/965,676	:	DECISION ON PETITION
Filed: October 13, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 60066-0015	:	

This is a decision on the petition, filed August 12, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on March 15, 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 projected publication date will be assigned and applicant will be notified of this date in a separate correspondence.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

This application is being referred to the Office of Initial Patent Examination for assigning a projected publication date.

Marianne E. Jenkins
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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DNW 01-05

ALLEN J. OH
SUITE 4850
225 SOUTH SIXTH STREET
MINNEAPOLIS MN 55402

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OFFICE OF PETITIONS

In re Application of	:
Kevin M. Murphy	:
Application No. 10/965,681	:DECISION GRANTING PETITION
Filed: 14 October, 2004	:
Atty Dkt. No. ON M64-003-01-US	:

This is a decision on the petition styled under 37 CFR 1.53(e)(2), filed on 18 January, 2005, which is treated as a petition under 37 CFR 1.10(c) requesting that the above-identified application be accorded a filing date of 14 October, 2004, instead of the presently accorded filing date of 15 October, 2004.

The petition is **GRANTED**.

Petitioner asserts that the application was deposited in Express Mail service on 14 October, 2004. In support of petitioner's contention that the application was deposited in Express Mail Post Office to Addressee Service on 14 October, 2004, petitioner supplied, with the present petition, a copy of Express Mail Customer Label No. EV506976852US (the same Express Mail number found on the itemized transmittal sheet filed with the original application papers located in the official file).

Although the "date-in" on the Express Mail Label has not been completed, petitioner has additionally provided a copy of a USPS Internet Track & Confirm Database report showing that this Express Mail Label No. was accepted by the USPS on 14 October, 2004.

In view of the above, the petition is granted. The petition fee is unnecessary and will be credited to counsel's deposit account, No. 13-4300, as authorized in the present petition.

The address listed on the petition is different than the correspondence address of record. 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 the Office of Initial Patent Examination for reprocessing with a filing date of 14 October, 2004, not 15 October, 2004, and for issuance of a corrected Filing Receipt.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

cf: ALLEN J. OH
MOORE, HANSEN & SUMNER
2900 WELLS FARGO CENTER
90 SOUTH SEVENTH STREET
MINNEAPOLIS MN 55402

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

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 2/2/04

2 Serial/Patent # 10965681

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
1462	Petition		1/18/05	$400 —
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $400 —

8 TO BE REFUNDED BY:

	Treasury Check
X	Credit Deposit A/C #:

9 13--4300

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

NO FEE DUE WITH 1.10 PET

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: D. WOOD TITLE: SR ATTY

SIGNATURE: [illegible] PHONE: 272-3231

OFFICE: OP

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: [illegible] DATE: 2/4/05

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

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

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2055 Gateway Place
Suite 550
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OCT 3 1 2005

OFFICE OF PETITIONS

In re Application of
Stephen G. Russell, et al.
Application No. 10/965,682
Filed: October 13, 2004
Attorney Docket No. 60066-0014

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed August 12, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on March 15, 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 projected publication date will be assigned and petitioner will be notified of this date in a separate correspondence.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

This application is being referred to Technology Center Art Unit 2100 for examination in due course.

Marianne E. Jenkins
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
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Senniger, Powers, Leavitt & Roedel
Attention: Kathleen M. Petrillo
16th Floor Metropolitan Square
St. Louis, MO 63102

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OFFICE OF PETITIONS

In re Application of	:	
Dominique Charmot, et. al.	:	
Application No. 10/965,688	:	ON PETITION
Filed: September 27, 2001	:	
Attorney Docket No. 29329-748.201	:	

This is a decision on the petition under 37 CFR 1.182, filed May 24, 2005, 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. Domininque Charmot
2. Jerry M. Buysse
3. Han Ting Chang
4. Tony Kwok-Kong Mong
5. Michael James Cope
6. Elizabeth Goka

The Request for Withdrawal as Attorney or Agent and Change of Correspondence Address filed October 19, 2005, has been accepted and made of record. However, a courtesy copy of this decision is being mailed to petitioner, using the address listed on the instant petition.

This application 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) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

Enclosure: Corrected Filing Receipt

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

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KRIEGSMAN & KRIEGSMAN
30 TURNPIKE ROAD, SUITE 9
SOUTHBOROUGH MA 01772

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In re Application of	:	
Peter Reimer, et al.	:	
Application No. 10/965,692	:	DECISION ON PETITION
Filed: October 14, 2004	:	
Attorney Docket No. 82311	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 27, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, July 26, 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 October 27, 2007. The Notice of Abandonment was mailed March 28, 2008.

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

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

This application is being referred to Technology Center AU 2872 for appropriate action by the Examiner in the normal course of business on the reply received

Chris Bottorff

Chris Bottorff
Petitions Examiner
Office of Petitions

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

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OFFICE OF PETITIONS

In re Application of	:	
Sanjay Krishna et al.	:	
Application No. 10/965,702	:	DECISION ON PETITION
Filed: October 13, 2004	:	TO WITHDRAW
Attorney Docket No. 22920-09499	:	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 6, 2006.

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

A review of the file record indicates that the power of attorney to the attorneys and/or agents associated with Customer Number 00758 has been revoked by the assignee of the patent application on November 2, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **MH2 TECHNOLOGY LAW GROUP**
1951 KIDWELL DRIVE
SUITE 550
TYSONS CORNER VA 22182

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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OFFICE OF PETITIONS

In re Application of	:	
Sanjay Krishna et al.	:	
Application No. 10/965,702	:	DECISION ON PETITION
Filed: October 13, 2004	:	TO WITHDRAW
Attorney Docket No. 22920-09499	:	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 6, 2006.

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

A review of the file record indicates that the power of attorney to the attorneys and/or agents associated with Customer Number 00758 has been revoked by the assignee of the patent application on November 2, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **MH2 TECHNOLOGY LAW GROUP**
1951 KIDWELL DRIVE
SUITE 550
TYSONS CORNER VA 22182

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET NY 11791

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OFFICE OF PETITIONS

In re Application of
Jordan Aron Kahn et al.
Application No. 10/965,705
Filed: October 14, 2004
Attorney Docket No.: 717-961CIPII

: DECISION ON PETITION

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

The petition is **DISMISSED**.

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

The application became abandoned on April 18, 2006, for failure to timely submit the issue fee as required by the Notice of Allowance and Issue Fee Due mailed January 17, 2006, which set a three (3) month statutory period for reply. The instant petition and this decision precede the mailing of the Notice of Abandonment.

The present petition was filed with an authorization to charge the petition fee, issue fee, and publication fee. Petitioner asserts that the issue fee was not timely paid because the docket clerk responsible for addressing the envelope for mailing, incorrectly entered the zip code for the USPTO and the United States Postal Service returned the package containing the Issue Fee Transmittal as having an incomplete address.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be

> met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;
> (2) the petition fee as set forth in § 1.17(l);
> (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and
> (4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (c) of this section.

This petition lacks items (3) above.

SHOWING OF UNAVOIDABLE DELAY

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[1]

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, telefacsimile, or the negligence of otherwise reliable

---

[1] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

employees, the response is not timely received in the Office.[2]

The showing of record is that the delay in payment of the issue fee occurred because of a typographical error in the zip code. The failure to pay the issue fee when due is therefore based on a circumstance that could have been avoided had the docketing clerk been more careful in addressing the envelope for mailing of the issue fee.

Petitioner has therefore not established that the delay was unavoidable. While the error in mailing may have been unintentional, it hasn't been shown that the error was unavoidable. Rather than unavoidable delay, the record indicates a lack of care in mailing. In order to establish unavoidable delay, petitioner must demonstrate diligence in prosecution of the matter,[3] and the record does not establish that petitioner took all action necessary for prosecution of this application in satisfaction of 37 CFR 1.137(a). As petitioner has presented no showing of unavoidable delay, the petition will be dismissed.

ALTERNATIVE VENUE

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(b)[4], which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional

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[2] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

[3] See Douglas v. Manbeck, 21 USPQ2d 1697, 1700 (E.D. Pa. 1991), aff'd 975 F.2d 869, 24 USPQ2d 1318 (Fed. Cir. 1992).

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

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

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

delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b). A petition under 37 CFR 1.137 (b) also carries with it a petition fee of $750.00 for a small entity and $1500.00 for a large entity and the $500.00 petition fee paid with the instant petition cannot be credited towards the fee for the petition under 37 CFR 1.137(b), if petitioner chooses to file such.

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

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

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET NY 11791

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OFFICE OF PETITIONS

In re Application of
Jordan Aron Kahn et al.
Application No. 10/965,705
Filed: October 14, 2004
Attorney Docket No.: 717-961CIPII

: DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 15, 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 a final agency decision.

The application became abandoned on April 18, 2006, for failure to timely submit the issue fee as required by the Notice of Allowance and Issue Fee Due mailed January 17, 2006, which set a three (3) month statutory period for reply. A petition filed May 5, 2006 under 37 CFR 1.137(a)[1] was dismissed in a decision mailed June 9, 2006 because the

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[1]A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;
(2) the petition fee as set forth in § 1.17(l);
(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and
(4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (c) of this section.

showing of record was inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a).

The decision indicated that a petition under 37 CFR 1.137 (b) also carried with it a petition fee of $750.00 for a small entity and $1500.00 for a large entity and that the $500.00 petition fee paid with the instant petition could not be credited towards the fee for the petition under 37 CFR 1.137(b), if petitioner chose to file such.

Comes now petitioner with the instant petition under the unintentional standard. While the petition notes $1,000 was being submitted for the petition fee, no such fee accompanied the petition. Furthermore, as is indicated above, the fee is either $750.00 or $1500 and not $1,000.

Until such time as the petition fee is submitted, this application will remain in an abandoned status. Petitioner should also, prior to submission, check the Code of Federal Regulations to ensure that no additional increases have been implemented.

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

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

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET NY 11791

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SEP 13 2006
OFFICE OF PETITIONS

In re Application of
Jordan Aron Kahn et al.
Application No. 10/965,705
Filed: October 14, 2004
Attorney Docket No.: 717-961CIPII

: DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b)[1], filed July 31, 2006, to revive the above identified application.

The petition is **GRANTED**.

The application became abandoned on April 18, 2006, for failure to timely submit the issue fee as required by the Notice of Allowance and Issue Fee Due mailed January 17, 2006, which set a three (3) month statutory period for reply. A petition to revive was filed June 15, 2006 but was dismissed in a decision mailed July 26, 2006 because the petition was not submitted with the proper fees required by 37 CFR 1.137(b).

Comes now petitioner with the instant renewed petition and a proper credit card authorization for the balance of the issue fee due.

All other requirements under 37 CFR 1.137(b) having been met, this matter is being referred to the Publishing Division to be processed into a patent.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

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

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

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SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN 2041 AU AUSTRALIA

COPY MAILED

AUG 25 2008

OFFICE OF PETITIONS

In re Application of	:	
Silverbrook, et al.	:	
Application No. 10/965,772	:	DECISION ON PETITION
Filed: October 16, 2004	:	
Attorney Docket No. MJ142US	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed February 29, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to application Nos. 10/270,153 and 09/575,117.

The petition under 37 CFR 1.78(a)(3) is **GRANTED**.

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

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

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

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

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

The instant petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the above-noted, prior-filed applications has been included in an amendment to the first sentence of the specification; (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the prior-filed 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 365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

Any questions concerning this decision on petition may be directed to Petitions Attorney Cliff Congo at (571)272-3207.

Anthony Knight
Supervisor
Office of Petitions

Enc: corrected Filing Receipt

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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
10/965,772	10/18/2004	2853	790	MJ142US	6	1

CONFIRMATION NO. 6597

CORRECTED FILING RECEIPT

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

OC000000031595246

Date Mailed: 08/15/2008

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

Applicant(s)

Kia Silverbrook, Balmain, AUSTRALIA;
Paul Lapstun, Balmain, AUSTRALIA;
Simon Walmsley, Balmain, AUSTRALIA;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of 10/270,153 10/15/2002 PAT 6,834,932
which is a CON of 09/575,117 05/23/2000 PAT 6,464,332

Foreign Applications

If Required, Foreign Filing License Granted: 12/23/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/965,772**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Printhead with segments and compensation for temperature induced misalignments

Preliminary Class

347

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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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Foley and Lardner, LLP
Suite 500
3000 K Street NW
Washington, DC 20007

MAILED

MAR 30 2009

OFFICE OF PETITIONS

In re Application of	:	
Gregory K. Frykman et al.	:	
Application No. 10/965,799	:	DECISION ON PETITION
Filed: October 18, 2004	:	TO WITHDRAW
Attorney Docket No. 043912-0104	:	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 Rouget F. Henschel on behalf of all attorneys/agents associated with customer number 22428. All attorneys/agents associated with customer number 22428 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: Gregory K. Frykman
1564 33rd Street, N.W.
Washington, DC 20007

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
10/965,799	10/18/2004	Gregory K. Frykman	043912-0104

CONFIRMATION NO. 6082

POWER OF ATTORNEY NOTICE

22428
FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

OC000000035239301

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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DENNEMEYER & COMPANY LTD.
REGENT HOUSE
HEATON LANE
STOCKPORT, CHESHIRE
ENGLAND SK4 1BB,
UNITED KINGDOM

Mail Date: 04/21/2010

Applicant	: Ulrich Klar	: DECISION ON REQUEST FOR
Patent Number	: 7645891	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/965,802	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/18/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1101** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Alexandria, Virginia 22313-1450
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JACOBSON HOLMAN
PROFESSIONAL LIMITED LIABILITY COMPANY
400 SEVENTH STREET, N.W.
WASHINGTON, DC 20004

Mail Date: 04/21/2010

Applicant	: Stefan Freudiger	: DECISION ON REQUEST FOR
Patent Number	: 7597707	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/965,841	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/18/2004	: 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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ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

DENNISON, SCHULTZ, DOUGHERTY & MACDONALD
SUITE 105
1722 KING STREET
ALEXANDRIA VA 22314-2700

COPY MAILED

JUN 08 2005

OFFICE OF PETITIONS

In re Application of :
Yuh-Ren Shen :
Application No. 10/965,863 :
Filed: March 7, 2005 :
Attorney Docket No. 3079/265 :
Title: METHOD OF SIGNAL :
PROCESSING

DECISION ON PETITION

This is a decision on the petition filed March 7, 2005.

On October 18, 2004, the above-identified application was deposited. On January 6, 2005, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Omitted Items in a Non-provisional Application - Filing Date Granted (notice)", advising applicant that Figures 4A-D appeared to have been omitted. The Notice set a two-month period for response.

On March 7, 2005, Petitioner submitted a petition, along with Figures 4A-D, payment of the petition fee[1], and a supplemental declaration. Petitioner has indicated that the wrong drawings were provided on filing, has presented substitute drawings, and has requested that the date of deposit of the substitute drawings be accorded as the filing date.

The petition is **GRANTED**.

The application file is being forwarded to the Office of Initial Patent Examination for further processing with a **filing date of**

1 Petitioner has indicated that the petition fee is $130. The fee for filing a petition under 37 C.F.R. §1.182 is $400.

March 7, 2005, the date of receipt of the formerly omitted items, Figures 4A-D, using the original application papers filed October 18, 2004, as well as the substitute drawings submitted with the petition on March 7, 2005. **OIPE will then mail a corrected filing receipt**.

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

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

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

In re Application of	:	
OSAKA, TETSUYA	:	
Application No.: 10/965868	:	DECISION ON
Filing or 371(c) Date: October 18, 2004	:	PETITION
Attorney Docket Number: **2004_1637A**	:	

This is a decision in response to the "Petition to Withdraw Holding of Abandonment," filed July 22, 2008.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance, mailed February 26, 2008.

In view of the foregoing, the holding of abandonment for failure to timely pay the issue fee is hereby withdrawn and the application restored to pending status.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 308-9250 ext. 164.

Kendrick Sprung
Application Assistance Unit
For Office of Data Management

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ROYLANCE, ABRAMS, BERDO & GOODMAN, L.L.P.
1300 19TH STREET, N.W.
SUITE 600
WASHINGTON,, DC 20036

Mail Date: 04/21/2010

Applicant	: Eog-Kyu Kim	: DECISION ON REQUEST FOR
Patent Number	: 7634078	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/965,872	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/18/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1430** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Alexandria, VA 22313-1450
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MAILED

MAR 26 2009

TECHNOLOGY CENTER 2100

Tim Tingkang Xia
Morris, Manning & Martin, LLP
1600 Atlanta Financial Center
3343 Peachtree Rd, N.E.
Atlanta, Georgia 30326

In re Application of:
Chang et al.
Application No. 10/965,880
Filed: October 18, 2004
For: Electronic Security Machine Start Method for Notebook Computers

DECISION ON PETITION UNDER 37 C.F.R. § 1.181

This is a decision on the petition filed on November 19, 2008 requesting that the Final Office Action dated October 24, 2008 to be re-mailed to the current attorney of record and a new period of response to be reset.

The petition is **Dismissed as moot**.

BACKGROUND

On July 25, 2008, a Revocation and Power of Attorney along with an appropriate statement under 37 CFR 3.73(b) were filed. However, the October 24, 2008 Final Office Action was mailed to the previous counsel's address. On March 5, 2009, the October 24, 2008 Final Office Action was re-mailed to the current attorney of record. Accordingly, as applicant's relief has already been received the petition is moot and therefore dismissed. The shortened statutory period that was originally set forth in the Office communication shall be restarted to run from the mail date of the newly supplied Office action.

Any inquiry concerning this decision should be directed to Tod Swann at (571) 272-3612.

Tod Swann
WorkGroup QAS
Technology Center 2400

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/965,880	10/18/2004	Paul Chang	15042-66681	6472

24728 7590 03/27/2009
MORRIS MANNING MARTIN LLP
3343 PEACHTREE ROAD, NE
1600 ATLANTA FINANCIAL CENTER
ATLANTA, GA 30326

EXAMINER
MCNALLY, MICHAEL S

ART UNIT	PAPER NUMBER
2436	

MAIL DATE	DELIVERY MODE
03/27/2009	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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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE NW
WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Application of	:	
Uchiyama, et al.	:	
Application No. 10/965,929	:	ON PETITION
Filed: October 18, 2004	:	
Attorney Docket No. 1713.1019	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed December 1, 2008.

The petition is **GRANTED**.

This application was held abandoned for failure to timely file a response to the non-final Office action mailed March 18, 2008. This Office set a shortened statutory period for reply of three (3) months. No reply having been received, the application became abandoned on June 19, 2008. The Office mailed a Notice of Abandonment on October 30, 2008.

It is obvious from reviewing the file that the March 18, 2008 Office action was not received, as it was returned to the Office as undeliverable on March 21, 2008.

In view thereof, **THE HOLDING OF ABANDONMENT IS WITHDRAWN.**

The application is being forwarded to Group Art Unit 2629 for re-mailing of the March 18, 2008 Office action, setting a new period for reply.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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201 TABOR ROAD
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OFFICE OF PETITIONS

ON PETITION

In re Application of
Patricia A. **DELLI SANTI et al.**
Application No. 10/965,968
Filed: October 15, 2004
Attorney Docket No.
PCH0808USCNT3

This is a decision on the renewed petition under 37 CFR 1.137(b), filed April 11, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed August 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 above-identified application became abandoned on November 23, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment, a Request for Continued Examination, and the $810 filing fee, (2) the petition fee of $ 1540; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office Action of August 22, 2007 is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1050 extension of time fee submitted with the petition on April 11, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Petitioner filed both a Notice of Appeal and a Request for Continued Examination with an appropriate submission under 37 CFR 10114 only one of which is the required response for consideration of a petition to revive. As the submission under 37 CFR 1.114 included amendments to the claims and arguments with respect thereto the Notice of Appeal is deemed unnecessary. Accordingly, the $510 fee submitted with the Notice of Appeal will be credited to petitioner's deposit account.

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

Telephone inquiries concerning this decision should be directed to Lori Baker Amerson at (571) 272-6052.

This application is being referred to Technology Center AU 1612 for appropriate action on the concurrently filed Request for Continued Examination.

David Bucci
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of

WANG, Xiaozhong et al.
Application No. 10/965,984
Filed: October 15, 2004
Attorney Docket No. **9456-93114**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed January 16, 2007.

The request is **NOT APPROVED**.

A review of the file record indicates that Michaelson & Associates 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 Michelle R. Eason at 571-272-4231.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Casey Toohey**
Emcore Corp.
1600 Eubank Blvd., SE
Albuquerque NM 87123

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

In re Application of
MEIER, ROBERT C., et. al.
Application No. 10/965,991
Filed: October 15, 2004
For: **RADIO FREQUENCY LOCAL AREA NETWORK**

DECISION ON PETITION
UNDER 37 CFR 1.59

This is a response to the petition under 37 CFR 1.59(b), filed November 8, 2007, to expunge information from the above identified application.

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

Petitioner requests that the proprietary material submitted March 20, 2007, be expunged from the record. Petitioner states 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, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid.

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

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

The document in question will not be available to the public during prosecution.

/Eileen D. Lillis/

Eileen D. Lillis
Quality Assurance Specialist
Technology Center 2600
Communications

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TECHNOLOGY CENTER 2600

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

In re Application of
MEIER, ROBERT C., et al.
Appl. No.: 10/965,991
Filed: October 15, 2004
For: **RADIO FREQUENCY LOCAL AREA NETWORK**

DECISION ON PETITION UNDER 37 CFR 1.59

This is a decision on the petition filed November 8, 2007, to expunge information from the above identified application pursuant to 37 CFR 1.59(b).

The petition is **Granted**.

Petitioner requests that items C27, C28, C29, C119, C120, and C431 listed in the Information Disclosure Statement filed June 5, 2006 be expunged from the record. Petitioner states that the references were inadvertently submitted and states the failure to obtain their return would cause irreparable harm to Qualcom (page 2 of the petition filed 11/08/07), and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid in the original petition filed November 8, 2007.

The expunged documents have been closed from public view and will not be returned to applicant.

It is noted that the instant application has been published on 14 April 2005. Thus, the aforementioned documents submitted on 5 June 2006 have already been made available to the public and subject to copying by the public. Accordingly, the Office cannot guarantee that the information being closed as a result of this decision was not previously accessed by the public.

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

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OFFICE OF PETITIONS

In re Application of
Thomas G. Evans et al.
Application No. 10/966,006
Filed: October 15, 2004
Attorney Docket No. SST/1405

ON PETITION

This is a decision on the petition to withdraw the holding of abandonment, filed August 20, 2007, under 37 CFR 1.181. The petition also pleads under 37 CFR 1.10(e) to accord a filing date to a response filed May 4, 2007.

The petition to withdraw the holding of abandonment is **GRANTED**.
The petition to accord a filing date to a previously filed response is **DISMISSED** as involving moot issues.

The application was held abandoned on February 7, 2007 for failure to file a timely response to the non-Final Office Action mailed November 6, 2006, which set a three (3) month shortened period for reply. No extensions of time in accordance with 37 CFR 1.136(a) were obtained prior to the abandonment of the application. Accordingly, a Notice of Abandonment was mailed June 27, 2007.

Petitioner asserts that a proper response, was filed on May 4, 2007, with a three month extension of time request. In support, petitioner submits a copy of the reply said to have been filed, which includes a certificate of mail dated May 4, 2007, pursuant to 37 CFR 1.8 and a post card receipt date stamped May 4, 2007 by the U.S. Patent and Trademark Office.

The evidence submitted corroborates a timely response to the non-Final Office Action. Accordingly, the holding of abandonment is withdrawn and the Notice of Abandonment is vacated. No petition fee Is due and none has been charged. The fee for the three month extension of time in the amount of $1020.00 has been charged to deposit account no. 03-4075.

With respect to the petition filed under 37 CFR 1.10(e), in view of the above and the corroborating evidence supporting the claim that the response had been timely, there is no need to treat the petition to accord a filing date to the response. The petition fee in the amount of $400.00 will therefore be credited to deposit account no. 03-4075.

This matter is being referred to Technology Center 3635 for appropriate action on the amendment filed May 4, 2007, a copy of which was submitted August 20, 2007 with the instant petition.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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KRUMHOLZ & MENTLIK
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WESTFIELD NJ 07090

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OFFICE OF PETITIONS

In re Application of	:
Everett, et al.	: DECISION REFUSING
Application No. 10/966,012	: STATUS UNDER
Filed: October 15, 2004	: 37 CFR 1.47(a)
Attorney Docket No. ISTASP 3.3-002 CONT	:
For: DETECTION AND QUANTIFICATION OF PRION ISOFORMS IN NEURODEGENERATIVE DISEASEUSING MASS SPECTROMETRY	:

This decision is in response to the petition under 37 CFR 1.47(a), filed February 7, 2005.

The petition is dismissed.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on October 15, 2004 without an executed oath or declaration. Accordingly, on December 2, 2004, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring, *inter alia*, an executed oath or declaration and a surcharge for its late filing.

In response, petitioner filed a declaration executed by one of two joint inventors, the surcharge, the petition fee, and the instant petition, *inter alia*, on February 7, 2005 (certificate of mailing date February 2, 2005). Attorney Shawn P. Foley signed the instant petition. Attorney Foley sets forth the last known addresses of non-signing inventor James K. Petell and states that numerous mailings to his last known addresses were returned, Internet searches for Mr. Petell's whereabouts were fruitless, and attempts to contact him through former business colleagues and other known associates were unsuccessful. Petitioner has shown diligence in attempting to locate Mr. Petell.

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;
(2) an acceptable oath or declaration;
(3) the petition fee of $200;
(4) a statement of the last known address of the non-signing inventor;

Applicant lacks item (2) set forth above. An oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. See MPEP 409.03(a). The declaration does not contain required information for Mr. Petell. The name, citizenship, residence, and mailing address of **both inventors** must be included on the declaration. Since Mr. Petell's current residence and post office address is not known definitively, petitioner should use the last known address for the inventor, which appears to be the Tennessee address.

As listing the citizenship for each inventor is a statutory requirement under 35 U.S.C. 115, it cannot be waived. An oath or declaration in compliance with 37 CFR 1.63 and1.64 signed by the Rule 1.47 applicant on behalf of the non-signing inventor is REQUIRED. See MPEP 409.03(a).

Mr. Everett should sign and date a new declaration that lists identifying information for both inventors.

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

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

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

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

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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WESTFIELD NJ 07090

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OFFICE OF PETITIONS

In re Application of	:
Everett, et al.	: DECISION ACCORDING
Application No. 10/966,012	: STATUS UNDER
Filed: October 15, 2004	: 37 CFR 1.47(a)
Attorney Docket No. ISTASP 3.3-002 CONT	:
For: DETECTION AND QUANTIFICATION OF PRION ISOFORMS IN NEURODEGENERATIVE DISEASEUSING MASS SPECTROMETRY	:

This decision is in response to the reconsideration petition under 37 CFR 1.47(a), filed April 18, 2005 (certificate of mailing date April 15, 2005).

The petition is GRANTED.

Petitioner has shown that the non-signing inventor, James K. Petell, cannot be located. Specifically, the February 7, 2005 (certificate of mailing date February 2, 2005) petition signed by Attorney Shawn P. Foley sets forth the last known addresses of Mr. Petell and states that numerous mailings to his last known addresses were returned, Internet searches for Mr. Petell's whereabouts were fruitless, and attempts to contact him through former business colleagues and other known associates were unsuccessful. Petitioner has shown diligence in attempting to locate Mr. Petell. Petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

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

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

After this decision is mailed, the above-identified application will be forwarded to the Office of Initial Patent Examination for further processing.

Inquiries pertaining to this decision may be directed to the undersigned at (571) 272-3230.

E Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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JAMES K. PETELL
2400 DEERBOURNE DRIVE
BRENTWOOD, TN 37027

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OFFICE OF PETITIONS

In re Application of
Everett, et al.
Application No. 10/966,012
Filed: October 15, 2004
Attorney Docket No. ISTASP 3.3-002 CONT
For: DETECTION AND QUANTIFICATION OF PRION ISOFORMS IN NEURODEGENERATIVE DISEASEUSING MASS SPECTROMETRY

LETTER

Dear Mr. Petell:

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

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

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

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

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Glenn Patent Group
3475 Edison Way, Suite L
Menlo Park, CA 94025

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In re Application of	:	
Gretchen Sleeper et al.	:	
Application No. 10/966,013	:	DECISION ON PETITION
Filed: October 14, 2004	:	TO WITHDRAW
Attorney Docket No. 052873-0119	:	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 24, 2008.

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

A review of the file record indicates that the power of attorney to Jeffrey Brill and all attorneys/agents associated with customer number 22862 has been revoked by the assignee of the patent application on July 31, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Foley & Lardner
777 East Wisconsin Avenue
Suite 3800
Milwaukee, WI 53202-5360

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United States Patent and Trademark Office
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MARK D. SARALINO (GENERAL)
RENNER, OTTO, BOISSELLE & SKLAR, LLP
1621 EUCLID AVENUE, NINETEENTH FLOOR
CLEVELAND, OH 44115-2191

Mail Date: 04/21/2010

Applicant	: Yoshiho Gotoh	: DECISION ON REQUEST FOR
Patent Number	: 7602686	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/966,016	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1007** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Robert Axenfeld
Werner & Axenfeld, LLP
P.O. Box 1629
West Chester, PA 19380

In re Application of: Schran, et al.
Application No. 10/966,017
Filed: October 15, 2004
For: SUPERVISING MONITORING AND CONTROLLING ACTIVITIES PERFORMED ON A CLIENT DEVICE

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. §1.102(d) AND M.P.E.P.§708.02(XI)

This is a decision on the petition filed on March 9, 2005 to make special under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(XI): Inventions For Countering Terrorism.

The Petition is **GRANTED**.

M.P.E.P. §708.02(XI), which sets forth the prerequisites for a grantable petition for Inventions For Countering Terrorism under 37 C.F.R. § 1.102(d), states in relevant part:

> International terrorism as defined in 18 U.S.C. 2331 includes "activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping..." The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.
>
> Applicants who desire that an application relating to inventions for countering terrorism be made special should file a petition with the petition fee under 37 CFR 1.17(h) requesting the U.S. Patent and Trademark Office to make the application special. The petition for special status should be accompanied by a statement explaining how the invention contributes to countering terrorism.

Petitioner's submission meets the criteria set out above with respect to countering terrorism as in M.P.E.P. § 708.02(XI). Accordingly, the petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for expedited examination. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.

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

6/15/05

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PO BOX 1022
MINNEAPOLIS MN 55402-1022

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OFFICE OF PETITIONS

ON PETITION

In re Application :
Schmitt, et al. :
Application No. 10/966,042 :
Filed: October 15, 2004 :
Attorney Docket No. 13906-232001 :
For: DATABASE RECORD TEMPLATES

This is a decision on the petition under 37 CFR 1.182, filed January 24, 2005, to correct the name of the second listed joint inventor.

The petition is **GRANTED**.

The second named inventor will be changed from "Stefan Dieter Lang" to "Stefan Dieter Schreck". A replacement filing receipt reflecting this change is enclosed.

The current fee for filing a petition under 37 CFR 1.182 is $400.00. Petitioners paid $130.00 by check. Deposit account no. 06-1050 was charged the $270.00 balance due on January 27, 2005.

The file is being returned to Technology Center G.A.U. 2171.

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

E Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner for
Patent Examination Policy

enclosure: replacement filing receipt

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OFFICE OF PETITIONS

In re Application of	:	
KOLKMAN, et al.	:	
Application No. 10/966,064	:	DECISION ON PETITION
Filed: October 15, 2004	:	TO WITHDRAW
Attorney Docket No. 022013-000141US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 21, 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 Matthew E. Hinsch 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 April 9, 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: **JOOST A. KOLKMAN**
VOETWEG 13
SINT-MARTENS-LATEM, BELGIUM 9830

cc: **CHARLES K. SHOLTZ, PH.D.**
AMGEN INC.
1120 VETERANS BOULEVARD
SAN FRANCISCO, CA 94080

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

ADELI & TOLLEN, LLP
11940 San Vicente Blvd., Suite 100
LOS ANGELES, CA 90049

Mail Date: 04/21/2010

Applicant	: Christina E. Warren	: DECISION ON REQUEST FOR
Patent Number	: 7603257	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/966,085	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1289** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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ADELI & TOLLEN, LLP
11940 San Vicente Blvd., Suite 100
LOS ANGELES, CA 90049

Mail Date: 05/18/2010

Applicant	: Christina E. Warren	: NOTICE CONCERNING IMPROPER
Patent Number	: 7603257	: CALCULATION OF PATENT TERM
Issue Date	: 10/13/2009	: ADJUSTMENT BASED UPON USPTO
Application No	: 10/966,085	: IMPROPERLY MEASURING REDUCTION
Filed	: 10/15/2004	: PERIOD UNDER 37 CFR 1.704(c)(10).

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

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

The patent term adjustment has been determined to be **1331** 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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Paper No.

FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

MAILED

MAR 16 2009

OFFICE OF PETITIONS

In re Application of :
Miranda Miller :
Application No. 10/966,093 : ON APPLICATION FOR
Filed: October 15, 2004 : PATENT TERM ADJUSTMENT
Attorney Docket No. 1410/77133:

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b) filed February 16, 2009. Applicants submit that the patent term adjustment should be 1258 days[1]. Referring to Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008), applicants request this correction on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b).

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

[1] This calculation assumes that the patent issues on May 26, 2009.

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

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

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

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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P. O. BOX 65973
WASHINGTON DC 20035

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FEB 2 4 2005

OFFICE OF PETITIONS

In re Application of
Hans Braun et al.
Application No. 10/966,105
Filed: October 18, 2004
Attorney Docket No. 8009-84155

: DECISION GRANTING PETITION

This is a decision on the petition filed February 8, 2005, under 37 CFR 1.53, in response to the Notice of Incomplete Nonprovisional Application ("Notice"), mailed December 22, 2004, requesting that the above identified application be accorded a filing date of October 18, 2004.

The "Notice" mailed December 22, 2004 by the Office of Initial Patent Examination, indicated that the application had not been accorded a filing date because the application was deposited without drawings and that the filing date of the application would be the date of receipt of the drawings.

In response, the present petition, and 4 sheets of drawings were filed. Petitioners argue that 4 sheets of drawings were filed with the other application papers on October 18, 2004. In support of the petition, a copy of petitioner's postcard receipt which shows an official USPTO date-stamp of October 18, 2004, and the above-identified application number, and acknowledges receipt of, *inter alia*, 4 sheets of drawings, was supplied with the present petition. Petitioner requests that the application, including 4 sheets of drawings, be accorded a filing date of October 18, 2004.

Upon review of the record, no sheets of drawings deposited on October 18, 2004, have been located among the application papers. However, the evidence is convincing that the application papers deposited on October 18, 2004, included 4 sheets of drawings, which were subsequently misplaced in the USPTO. Therefore, the application, including the 4 sheets of drawings, was complete on filing and entitled to a filing date of October 18, 2004.

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

The Notice of Incomplete Nonprovisional Application mailed.December 22, 2004, is withdrawn. Therefore, no petition fee is due and none has been charged.

It should be noted that at the time the Notice of Incomplete Application was mailed no

filing date had been accorded but with the filing of the oath or declaration, an incorrect filing date of December 6, 2004 was improperly accorded.

This matter is being referred to the Office of Initial Patent Examination for correction of the filing date to October 18, 2004, not the current date of December 6, 2004, using the application papers filed on October 18, 2004 and the 4 sheets of drawings supplied on February 8, 2005.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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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	:	
GABBAY, Jeffrey	:	
Application No. 10/966,138	:	DECISION GRANTING PETITION
Filed: October 15, 2004	:	UNDER 37 CFR 1.313(c)(3)
Attorney Docket No. 082871-000410US	:	

This is a decision on the petition, filed October 10, 2007, 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. *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 Monica A. Graves at (571) 272-7253.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

In re Application of	:	
MCCLINTOCK, CHRISTA	:	
Application No.: 10/966142	:	DECISION ON
Filing or 371(c) Date: October 15, 2004	:	PETITION
Attorney Docket Number: **020824-007320US**	:	

This is a decision in response to the "Petition to Withdraw Holding of Abandonment," filed January 27, 2009.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance, mailed September 17, 2008.

In view of the foregoing, the holding of abandonment for failure to timely pay the issue fee is hereby withdrawn and the application restored to pending status.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 308-9250 ext. 164.

Kendrick Spruill
Application Assistance Unit
Office of Data Management

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Paper No. None

BEYER WEAVER & THOMAS LLP
P.O. BOX 70250
OAKLAND CA 94612-0250

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MAY 23 2005

OFFICE OF PETITIONS

In re Application of :
Eric Morton, Rajesh Kota, Adnan Khaleel, :
and David B,. Glasco :
Application No. 10/966,161 :
Filed: October 15, 2004 :
Attorney Docket No. NWISP052 :
Title: REDUCING PROBE TRAFFIC IN :
MULTIPROCESSOR SYSTEMS :

DECISION ON PETITION
UNDER 37 C.F.R. §1.47(a)

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed February 11, 2005.

On October 15, 2004, the application was deposited, identifying Eric Morton, Rajesh Kota, Adnan Khaleel, and David B,. Glasco as joint inventors. No oath or declaration was included on filing. On November 24, 2004, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" (Notice) was mailed, indicating that a fully executed oath or declaration and the associated surcharge were required, along with a the basic filing fee and additional claim fees. This Notice set a two-month period for reply.

With the instant petition, Petitioner has also submitted the petition fee, the associated surcharge, the basic filing fee and additional claim fees, a declaration which has been executed by each of

1A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) either
a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 CFR §1.63.

the inventors save Mr. Glasco, copies of various e-mails, and a statement of facts. Petitioner has further included a one-month extension of time to make timely this response.

Petitioner has failed to supply the last known address of the non-signing inventor. The Office will presume that the last known address is that which has been listed on the declaration, and Petitioner must notify the Office if this assumption is not correct.

Petitioner has met each of the 5 requirements above.

The petition is **GRANTED** and this application is hereby accorded Rule §1.47(a) status.

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

After this decision is mailed, the application will be forwarded to Technology Center 2100 for further processing.

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

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

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ALEXANDRIA, VA 22313-1450
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MATTINGLY, STANGER, MALUR &
BRUNDIDGE, P.C.
1800 Diagonal Road
Suite 370
Alexandria, VA 22314

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FEB 23 2006

TECHNOLOGY CENTER 2100

In re Application of:
M. KITAMURA
Application No. 10/966,185
Filed: October 18, 2004
For: STORAGE APPRATUS, SYSTEM AND METHOD USING A PLURALITY OF OBJECT-BASED STORAGE DEVICES

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petitions, filed on August 18, 2005 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

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

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

Applicant's submission of August 18, 2005 meets all the criteria set out above. Accordingly, the petition is **GRANTED**. The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.

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

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EZRA SUTTON
PLAZA 9
900 ROUTE 9
WOODBRIDGE NJ 07095

In re Application of: EREMIA, SORIN Serial No. 10/966,197 Filed: Oct. 15, 2004 Docket: EREMIA-3.0-001 Title: SUTURE INSTRUMENT AND METHOD OF SUTURING IN COSMETIC SURGERY	DECISION ON PETITION UNDER 37 CFR § 1.181 To Withdraw Holding of Abandonment

This is a decision on the request filed on Apr. 10, 2008. The applicant requests withdrawal of the holding of abandonment pursuant to 37 CFR 1.181(a).

The petition is **GRANTED.**

The present application was held abandoned for failure to timely respond to the Office action Aug. 10, 2007, which set a three-month shortened period for reply. Notice of abandonment was mailed on Apr. 9, 2008.

Applicant asserts that a timely response to the Office action was to the Office on Nov. 9, 2007. The applicant has supplied a copy of the amendment to the claims with a copy of signed certificate of mailing pursuant to 37 CFR § 1.8 dated Nov. 9, 2007.

As petitioner has provided convincing evidence that a timely reply to the Office action mailed on Aug. 10, 2007 was filed with the Office, there is no abandonment in fact. Any inconvenience or delay caused to applicant is regretted.

In view of the above, the Notice of Abandonment mailed Apr. 9, 2008 is in error and is hereby vacated. The holding of abandonment is withdrawn. This application is being forwarded to the examiner in Art Unit 3731 for appropriate action.

PETITION GRANTED

Frederick R. Schmidt, Director
Technology Center 3700

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 06-08-10

TO SPE OF : ART UNIT 3714

SUBJECT : Request for Certificate of Correction for Appl. No.: 10966223 Patent No.: 7699696

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Angela Green 703-756-1541
Certificates of Correction Branch
703-756-1814

Thank You For Your Assistance

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

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

Comments: _____

SPE

3714
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 06-08-10

TO SPE OF : ART UNIT 3714

SUBJECT : Request for Certificate of Correction for Appl. No.: 10966223 Patent No.: 7699696

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Angela Green 703-756-1541
Certificates of Correction Branch
703-756-1814

Thank You For Your Assistance

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

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

Comments: _____

SPE Art Unit 3714

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JJGJR.: 03-05

Paper No: __

AGILENT TECHNOLOGIES, INC.
LEGAL DEPARTMENT, DL429
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 7599
LOVELAND CO 80537-0599

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MAR 0 9 2005

OFFICE OF PETITIONS

In re Application of
Chua, et al. :
Application No. 10/966,238 :
Filed: 14 October, 2004 :
Attorney Docket No. 70040850-1 :

ON PETITION

This is a decision on the petition under ¶(a) of 37 C.F.R. §1.47, filed on 18 January, 2005.

The petition is **GRANTED**.

BACKGROUND

The record indicates:

- the application was filed on 14 October, 2004, without, *inter alia*, a fully executed oath or declaration; and

- on 23 November, 2004, the Office mailed a Notice to File Missing Parts;

- on 18 January, 2005, Petitioner filed, *inter alia*, the instant petition under 37 C.F.R. §1.47, with fee; an oath/declaration signed by named inventors–save for Hwai Peng Choo (Ms. Choo), the non-signing inventor–who have signed for themselves and on behalf of Ms. Choo; and, *inter alia*, a narrative within the petition and correspondence by Petitioner Thomas H. Ham (Reg. No. 43,654), which represents that the entire application (specification, claims,

drawings) was transmitted to Ms. Choo, but that Ms. Choo has failed to submit a signed copy of the 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 released to OIPE for processing as necessary to reflect the instant decision before being released for examination in due course.

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

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

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JJGJR.: 03-05

Paper No: __

HWAI PENG CHOO
33-11-24, JALAN PEKAKA 1
TAMAN PEKAKA
11700 PENANG
MALAYSIA

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MAR 0 9 2005

OFFICE OF PETITIONS

In re Application of
Chua, et al. :
Application No. 10/966,238 : CORRESPONDENCE
Filed: 14 October, 2004 :
Attorney Docket No. 70040850-1 :

Dear Hwai Peng Choo:

You are named as inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. §116 (United States Code), and 37 C.F.R. §1.47,[1] ¶a, Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated

---

[1] The regulations at 37 C.F.R. §1.47 provide:

§ 1.47 Filing when an inventor refuses to sign or cannot be reached.

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

(b) Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in §1.17(h), and the last known address of all of the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

© The Office will send notice of the filing of the application to all inventors who have not joined in the application at the address(es) provided in the petition under this section, and publish notice of the filing of the application in the *Official Gazette*. The Office may dispense with this notice provision in a continuation or divisional application, if notice regarding the filing of the prior application was given to the nonsigning inventor(s).

[47 Fed. Reg. 41275, Sept. 17, 1982, effective Oct. 1, 1982; 48 Fed. Reg. 2709, Jan. 20, 1983, effective Feb. 27, 1983; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997; revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000]

therein as inventor.

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

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733.

Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or toll-free: (800) 972-6382 (outside the Washington D.C. area).

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

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

Counsel of Record:
AGILENT TECHNOLOGIES, INC.
LEGAL DEPARTMENT, DL429
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 7599
LOVELAND CO 80537-0599

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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JUN 05 2007

OFFICE OF PETITIONS

In re Application of	:	
Billy W. Ward	:	
Application No. 10/966,243	:	DECISION GRANTING PETITION
Filed: October 15, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 21384-002001	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 22, 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 RCE and an previously filed IDS; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance of September 20, 2006, is accepted as having been unintentionally delayed.

Since the issue fee was not paid by the due date on December 20, 2006, the issue fee of $1400 will be charged to deposit account no. 06-1050 as authorized. **If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.**[1]

---

[1] The request to apply the issue fee to the new Notice 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).

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

The examiner of Technology Center AU 2881 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 07-30-08

TO SPE OF : ART UNIT 2881

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/966243** Patent No.: **7368727**

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

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

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

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

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

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

Comments: No new matter added, changes approved.

SPE _____ **Art Unit** 2881

UNITED STATES PATENT AND TRADEMARK OFFICE

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KEVIN L. RUSSELL
CHERNOFF, VILHAUER, MCCLUNG & STENZEL LLP
1600 ODSTOWER
601 SW SECOND AVENUE
PORTLAND, OR 97204

Mail Date: 04/21/2010

Applicant	: Xiao-fan Feng	: DECISION ON REQUEST FOR
Patent Number	: 7602369	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/966,257	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **932** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

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JUN 1 8 2007

OFFICE OF PETITIONS

In re Application of

STATA, Raymond P. et al.
Application No. 10/966,259
Filed: October 8, 2004
Attorney Docket No. **YHOO-0008**

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 26, 2005.

The request is **APPROVED.**

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

The request was signed by Thomas E. Watson on behalf of all attorneys of record who are associated. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **RAYMOND P. STATA**
3748 RAMBO DRIVE
PALTO ALTO, CA 94306

cc: **HICKMAN PALERMO TRUONG & BECKER, LLP**
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110

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WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE 46TH FLOOR
PHILADELPHIA, PA 19103

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JUN 2 9 2006
OFFICE OF PETITIONS

In re Application of	:	
Stata et al.	:	DECISION ON PETITION
Application No. 10/966,265	:	TO WITHDRAW
Filed: September 15, 2004	:	FROM RECORD
Attorney Docket No. YHOO-0006	:	

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 25, 2005.

The request is **APPROVED**.

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

The request was signed by Thomas E. Watson on behalf of all attorneys of record who are associated with Customer Number 23377.

All attorneys/agents associated with Customer Number 23377 have been withdrawn.

A Power of Attorney was submitted on June 27, 2005, by the assignee. However, it lacked the Statement under 37 CFR 3.73(b), which is required when an assignee wishes to take action in a matter pending before the Office. A Statement under 37 CFR 3.73(b) should be submitted. Petitioner may also submit any documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment).

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

All future correspondence will be directed to the first named inventor, Raymond P. Stata, at the first address indicated below until otherwise properly notified.

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:

RAYMOND P. STATA
3748 RAMBOW DRIVE
PALO ALTO, CA 94306

HICKMAN PALERMO TRUONG & BECKER, LLP
2055 GATEWAY PLACE
SUITE 550
SAN JOSE CA 95110

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HICKMAN PALERMO TRUONG & BECKER LLP/Yahoo! Inc.
2055 Gateway Place
Suite 550
San Jose, CA 95110-1083

Mail Date: 04/21/2010

Applicant	: Raymond P. Stata	: DECISION ON REQUEST FOR
Patent Number	: 7620624	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/966,265	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **552** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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MARGER JOHNSON & MCCOLLOM, P.C. - SHARP
210 SW MORRISON STREET, SUITE 400
PORTLAND, OR 97204

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APR 1 5 2008

OFFICE OF PETITIONS

In re Application of
HALLBERG, Bryans S. et al.
Application No. 10/966,277
Filed: October 15, 2004
Attorney Docket No. **8371-0177**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 21, 2008.

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

A review of the file record indicates that the power of attorney to MARGER JOHNSON & MCCOLLOM, P.C. has been revoked by the assignee of the patent application on February 15, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **STOLOWITZ FORD COWGER LLP**
621 SW MORRISON ST
SUITE 600
PORTLAND OR 97205

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OFFICE OF PETITIONS

STOLOWITZ FORD COWGER LLP/SHARP
621 SW MORRISON ST
SUITE 600
PORTLAND OR 97205

In re Application of

HALLBERG, Bryan S. et al.
Application No. 10/966,277
Filed: October 15, 2004
Attorney Docket No. **8371-0177**

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 12, 2008.

The request is **NOT APPROVED.**

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

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

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

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

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **MARGER JOHNSON & MCCOLLOM, P.C. - SHARP**
210 SW MORRISON STREET
SUITE 400
PORTLAND, OR 97204

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WILLIAM J. KOLEGRAFF
3119 TURNBERRY WAY
JAMUL CA 91935

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OFFICE OF PETITIONS

In re Application of	:	
Goldberg, Bar-Giora	:	
Application No. 10/966,281	:	ON PETITION
Filed: October 15, 2004	:	
Attorney Docket No. AVA-01	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 19, 2009, to revive the above-identified application.

The petition is **GRANTED**.

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

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

This matter is being referred to Technology Center AU 2618 for further processing of the Request for Continued Examination under 37 CFR 1.114 filed concurrently with the instant petition.

Liana Walsh
Petitions Examiner
Office of Petitions

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WILLIAM J. KOLEGRAFF
3119 TURNBERRY WAY
JAMUL CA 91935

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JUN 2 1 2010

OFFICE OF PETITIONS

In re Application of	:	
Goldberg, Bar-Giora	:	
Application No. 10/966,281	:	ON PETITION
Filed: October 15, 2004	:	
Attorney Docket No. AVA-01	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 20, 2010, to revive the above-identified application.

The petition is **GRANTED**.

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

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

This matter is being referred to Technology Center AU 2618 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

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30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

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JAN 23 2006

OFFICE OF PETITIONS

In re Application of :
Paul Sajda, et. al. :
Application No. 10/966,290 : ON PETITION
Filed: October 15, 2004 :
Attorney Docket No. A35205-PCT-USA-A 070050 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 16, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed January 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 an Oath/Declaration along with the surcharge of $65; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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KOHN & ASSOCIATES, PLLC
30500 NORTHWESTERN HWY, SUITE 410
FARMINGTON HILLS MI 48334

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OFFICE OF PETITIONS

In re Application of :
David **ROSMARIN, et al** :
Application No. 10/966,321 : ON PETITION
Filed: October 15, 2004 :
Attorney Docket No. 3190.00023 :

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 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 above-identified application became abandoned on August 16, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that the petitioner has supplied (1) the reply in the form of an amendment and arguments/remarks, (2) the petition fee of $ 770, and (3) a proper statement of unintentional delay. As authorized by the petitioner, the fees totaling $ 770 have been charged to the petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Lori Baker Amerson at (571) 272-6052 or in her absence to the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 1637 for appropriate action by the Examiner.

Chris Bottorff

for David Bucci
Petitions Examiner
Office of Petitions

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Paper No.

Paul D. Greeley, Esq.
Ohlandt, Greeley, Ruggiero &
Perle, L.L.P.
10th Floor
One Landmark Square
Stamford, CT 06901-2682

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DEC 15 2005

OFFICE OF PETITIONS

In re Application of	:	
Naiini et al.	:	DECISION ON
Application No. 10/966,349	:	PETITION
Filed: October 15, 2004	:	
Atty Docket No. 339.7949USU	:	

This is a decision on the PETITION TO CORRECT FILING DATE, filed November 21, 2005, requesting that the above-identified application be accorded a filing date of October 15, 2004, with figure 1 in the application.

Application papers in the above-identified application were deposited on October 15, 2004. However, on November 24, 2004, the Initial Patent Examination Division mailed a "Notice of Incomplete Nonprovisional Application," stating, *inter alia*, that the application had not been accorded a filing date because the application was deposited without drawings.

On February 18, 2005, applicants responded with a drawing sheet containing figure 1, and the outstanding filing fees. No petition or preliminary amendment accompanied this response.

Accordingly, on March 8, 2005, the Initial Patent Examination Division mailed a "Notice to File Corrected Application Papers" in which, it was noted that a filing date of February 18, 2005 had been accorded to the application. On April 28, 2005, applicants responded to this Notice with a One Sheet Replacement

Drawing. No petition or preliminary amendment accompanied this filing.

On November 21, 2005, applicants filed the instant petition, asserting that since Fig. 1 was supported by the original specification, it is believed that the filing date of February 18, 2005 is incorrect, and requesting a filing date of October 15, 2004.

The filing date of an application shall be the date on which the specification and any required drawing are received in the Patent and Trademark Office. 35 U.S.C. 111(a)(4). Petitioner does not assert that fig. 1 was received in the Office with the application papers deposited on October 15, 2004. Accordingly, figure 1 cannot be considered a part of the original application disclosure.

However, it is the practice of the Office to treat an application that contains at least one composition, 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). MPEP §601.01(f). (Petitioner is advised that in a situation in which the appropriate examining group later determines that drawings are necessary under 35 U.S.C. 113 (first sentence) the filing date issue will be reconsidered by the PTO.)

A review of the original application papers filed October 15, 2004, reveals that they contained composition claims, as well as, at least one process claim. Thus, the application, containing a specification and at least one claim, was complete within the meaning of §1.53(b), and entitled to a filing date of October 15, 2004.

Accordingly, the petition is granted to the extent that the application will be accorded the October 15, 2004 filing date with no drawings as a part of the original disclosure of the application.

Given the basis for granting this petition, the petition fee is subject to refund. Although authorized, no petition fee will be charged to petitioner's Deposit Account.

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

a filing receipt, with a filing date of October 15, 2004 and for indication in the image file wrapper that "0" sheets of drawings were present on filing. Applicants will receive appropriate notifications regarding any missing items or fees owed, 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Oct. 15, 2008

TO SPE OF : ART UNIT 1795

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/966349/7416830

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Magdalene Talley
Certificates of Correction Branch
703-308-9390 ext. 116

Thank You For Your Assistance

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

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

Comments: _____

Cynthia H Kelly SPE1795

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SUITE 203 BOX 900
BRONX NY 10471-0900

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DEC 17 2008

OFFICE OF PETITIONS

In re Application of
Brigitta Otto et al.
Application No. 10/966,352
Filed: October 14, 2004
Attorney Docket No: 22966

: DECISION GRANTING PETITION

This is a decision on the petition to allow original filing date with drawings included, filed October 23, 2008. This petition is treated under 37 CFR 1.53.

The application was deposited October 14, 2004. No drawings were found amongst the original application papers but it has been PTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).[1] Since the application was filed with at least one claim directed to a process or method, the application was accorded a filing date.

A non-Final Office Action was mailed July 24, 2008 noting that "No drawing has been made of record. Applicant is required to furnish a drawing under 37 CFR 1.81(c). No new matter may be introduced in the required drawing. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121 (d). "

In response thereof, the present petition was filed, accompanied by one (1) sheet of drawings. Petitioners argue that the application should be accorded a filing date of October 14, 2004 with the drawings included, because the application was deposited with drawings. In support of petitioner's contention that one (1) sheet of drawings was filed with the other application papers deposited on October 14, 2004, petitioner proffers a postcard receipt which shows an official USPTO date-stamp of October 14, 2004, and the above-identified application number, and acknowledges receipt of, *inter alia*, 1 sheet of drawings. The postcard receipt lacks any notation of non-receipt of any item listed.

---

[1] MPEP 601.01(f).

Upon review of the record, no sheets of drawings deposited on October 14, 2004, have been located among the application papers. However, the evidence is convincing that the application papers deposited on October 14, 2004 included 1 sheet of drawings. Therefore, the application, including the 1 sheet of drawings, was complete on filing and entitled to a filing date of October 14, 2004 with drawings.

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

This matter is being referred to the Office of Patent Application Processing for reprocessing with a filing date of October 14, 2004, using the application papers filed on October 14, 2004 and the 1 sheet of drawings supplied on October 23, 2008. Thereafter, this matter should be referred to Technology Center 1791 for further examination.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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TECHNOLOGY CENTER 2600

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

In re Application of :
Pravin BHAGWAT et al. :
Application No. 10/966,353 :
Filed: October 15, 2004 :
For: METHOD AND SYSTEM FOR MONITORING A SELECTED REGION OF AN AIRSPACE ASSOCIATED WITH LOCAL AREA NETWORKS OF COMPUTING DEVICES :

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition, filed May 9, 2005 and supplemented on May 31, 2005, under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

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

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

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

Doris To
Special Program Examiner
Technology Center 2600
Communications

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HONOLULU, HI 96813

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OFFICE OF PETITIONS

In re Application of	:	
Thomas M. Myrick	:	
Application No. 10/966,362	:	DECISION ON PETITION
Filed: October 15, 2004	:	
Attorney Docket No. HNY-P16	:	

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee and to submit corrected drawings on or before October 23, 2006, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed July 21, 2006. Accordingly, the date of abandonment of this application is October 24, 2006. A Notice of Abandonment was mailed on February 27, 2007, subsequent to the filing of the present petition to revive.

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

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

This application is being referred to Publishing Division for further processing in accordance with this decision on petition.

Frances Hicks
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:
Jung Huang	:DECISION ON
Application No.	:APPLICATION
10/966,371	:FOR PATENT TERM
Filed: October 15, 2004	:ADJUSTMENT
Attorney Docket No. 4052-1000 US1	:

This is a decision on the "REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705" filed August 4, 2009. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from two hundred forty-nine days (249) to two hundred fifty-seven (257) days.

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

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is two hundred fifty-seven **(257)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On July 14, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is two hundred forty-nine days. On August 4, 2009, applicants timely[1] submitted an application for patent term adjustment (with required fee), asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is two hundred fifty-seven (257) days.

The Office initially determined a patent term adjustment of two hundred forty-nine days (249) days based on an adjustment for PTO delay of four hundred sixty-nine (469) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1) reduced by applicants' delay of one hundred two (102), eighty-seven (87) and thirty-two (32) days for a total two hundred twenty days applicant delay, pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b). The adjustment of 469 days has been

[1] PALM records indicate that the Issue Fee was received in the Office on September 28, 2009.

reviewed and found to be correct. The reduction of two hundred twenty (220) days of applicant delay is at issue.

Applicants dispute the reduction of 102 days attributed to applicant for failing to respond within three months to the Restriction Requirement mailed March 29, 2007.
A review of the record reveals that the initial determination of patent term adjustment of 249 days is incorrect.

A response to a Restriction Requirement mailed March 29, 2007 was incorrectly listed as having been filed on October 9, 2007 instead of the receipt date of October 1, 2007 which was filed with a certificate of mail and a five month extension of time. Thus, instead of a 220 day total reduction for applicant delay pursuant to 37 C.F.R. §1.704(b), a total 212 days should have been accorded for applicant delay. Applicants specifically state that the patent issuing from the application is not subject to a terminal disclaimer.

In view thereof, the determination of Patent Term Adjustment at the time of the mailing of the notice of allowance should have been 257 days rather than 249 days listed on the notice of allowance.

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

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

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of Revised PTA calculation

Day : Wednesday

PALM INTRANET

Date: 5/12/2010
Time: 13:08:50

PTA Calculations for Application: 10/966371			
Application Filing Date:	10/15/2004	PTO Delay (PTO):	469
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	220
Post-Issue Petitions:	0	Total PTA (days):	257
PTO Delay Adjustment:	8		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
66	05/12/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	8		
57	07/14/2009	MAIL NOTICE OF ALLOWANCE			
56	07/13/2009	ISSUE REVISION COMPLETED			
55	07/13/2009	DOCUMENT VERIFICATION			
54	07/13/2009	EXAMINER'S AMENDMENT COMMUNICATION			
53	07/13/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
52	07/13/2009	NOTICE OF ALLOWABILITY			
49	05/16/2009	DATE FORWARDED TO EXAMINER			
48	04/15/2009	RESPONSE AFTER NON-FINAL ACTION		31	46
47	04/15/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			
46	12/15/2008	MAIL NON-FINAL REJECTION			
45	12/11/2008	NON-FINAL REJECTION			
44	12/03/2008	DATE FORWARDED TO EXAMINER			
43	11/21/2008	AMENDMENT AFTER FINAL REJECTION			
42	10/15/2008	MAIL FINAL REJECTION (PTOL - 326)			
41	10/14/2008	FINAL REJECTION			
40	08/06/2008	DATE FORWARDED TO EXAMINER			
39	06/30/2008	RESPONSE AFTER NON-FINAL ACTION		87	37
38	06/30/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
37	01/04/2008	MAIL NON-FINAL REJECTION			
36	12/26/2007	NON-FINAL REJECTION			
32	11/14/2007	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
31	11/07/2007	CORRESPONDENCE ADDRESS CHANGE			

30	10/16/2007	DATE FORWARDED TO EXAMINER			
29	10/09/2007	RESPONSE TO ELECTION / RESTRICTION FILED		102	25
28	10/09/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
25	03/29/2007	MAIL RESTRICTION REQUIREMENT	469		-1
24	03/28/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
23	03/14/2006	PRELIMINARY AMENDMENT			
22	03/23/2006	CORRESPONDENCE ADDRESS CHANGE			
21	02/14/2006	MAIL NON-COMPLIANT PRELIMINARY AMENDMENT			
20	02/10/2006	NON-COMPLIANT PRELIMINARY AMENDMENT			
19	11/17/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
18	07/15/2005	PRELIMINARY AMENDMENT			
17	11/16/2005	CASE DOCKETED TO EXAMINER IN GAU			
16	08/02/2005	APPLICATION DISPATCHED FROM OIPE			
15	08/02/2005	APPLICATION IS NOW COMPLETE			
14	07/12/2005	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
13	10/15/2004	CLAIM PRELIMINARY AMENDMENT			
12	07/12/2005	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
11	05/13/2005	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
8	01/25/2005	CLEARED BY L&R (LARS)			
7	11/18/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
6	11/18/2004	CASE CLASSIFIED BY OIPE			
4	11/03/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
3	11/01/2004	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
2	10/15/2004	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	10/15/2004	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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OFFICE OF PETITIONS

In re Application of Nagashima et al. :
Application No. 10/966,384 : Decision on Petition
Filing Date: October 15, 2004 :
For: Systems and Methods for :
Plasma Etching :

This is a decision on the petition under 37 CFR 1.137(b), filed September 19, 2005, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers mailed November 29, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the application became abandoned on January 30, 2005. A Notice of Abandonment was mailed on August 22, 2005.

The instant petition requests revival of the application.

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

37 CFR 1.137(b)(3) requires "a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) [was] unintentional." To the extent any statement of delay in the petition varies from this exact language, the statement will be construed as the equivalent of the statement above.

The Office of Initial Patent Examination will be informed of the instant decision and will prepare the application for examination in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Nagashima et al.	:	
Application No. 10/966,384	:	ON PETITION
Filed: October 15, 2004	:	
Attorney Docket No. GSN-004	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 18, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the Issue Fee Transmittal with payment of the issue and publication fees, (2) the petition fee, and (3) a proper statement of unintentional delay.

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

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

cc:

JOSEPH A. SAWYER, JR.
2465 E. BAYSHORE ROAD, SUITE 406
PALO ALTO, CA 94303

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OFFICE OF PETITIONS

In re Application of :
Nagashina et al. :
Application No. 10/966,385 : ON PETITION
Filed: October 15, 2004 :
Attorney Docket No. GSN-005 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 11, 2008, to revive the above-identified application.

The petition is **GRANTED**.

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

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

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

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

This matter is being referred to Technology Center 1795 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

cc:

JOSEPH A. SAWYER, JR.
2465 E. BAYSHORE ROAD, SUITE 406
PALO ALTO, CA 94303

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JJGJr:he06-06

Paper No: __

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SUITE 1600
PORTLAND OR 97204

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JUN 12 2006

OFFICE OF PETITIONS

In re Application of	:	
Sirivara, et al.	:	
Application No. 10/966,443	:	DECISION
Filed: 15 October, 2004	:	
Attorney Docket No.: KCX-1088A (21546A)	:	

This is a decision on the petition under 37 C.F.R. §1.10, filed on 12 December 2005, seeking for the above-identified application a filing date of 15 October, 2004, rather than the presently accorded filing date of 14 October, 2004.

The petition is **DISMISSED**.

BACKGROUND AND ANALYSIS

It is noted from the outset that the instant application was filed on 14 October, 2004, and the record reflects that the filing receipt was mailed on 5 January, 2005.

Nonetheless, it was not until 25 July, 2005–almost seven (7) months later that Petitioner first sought relief as to the filing date issue.

Moreover, when the Office responded on 3 August, 2005, Petitioner then waited more than four (4) more months to seek relief through the instant petition.

Because there was no copy of a date-stamped receipt card provided by Petitioner, at this writing it is not possible to ascertain how early Petitioner actually became or should have become aware of the contested filing date–however, should Petitioner seek to renew the instant petition, Petitioner must provide a copy of the date-stamped receipt card submitted

on deposit of the application in October 2004 or must certify to the Office that no such document exists.

The controlling regulations are set forth at under 37 C.F.R. §1.10.[1] A baseline requirement of any

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[1] The regulations at 37 C.F.R. §1.10 provide:

§ 1.10 Filing of papers and fees 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 § 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 toAddressee" 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 § 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.

[48 Fed. Reg. 2708, Jan. 20, 1983, added effective Feb. 27, 1983; 48 Fed. Reg. 4285, Jan. 31, 1983, paras. (a) & (c), 49 Fed. Reg. 552, Jan. 4, 1984, effective Apr. 1, 1984; paras. (a)-(c) revised and paras. (d) - (f) added, 61 Fed. Reg. 56439, Nov. 1, 1996, effective Dec. 2, 1996; paras.

petition under the Rule is that the petition "... is filed promptly after [Petitioner] becomes aware ..." that the filing date may not be correct.

The record reflects that:

- the instant application, averred to have been transmitted the package bearing US Postal Service (USPS) Express Mail Label No. EV352377541, was received by the Office on 18 December, 2004, and given a filing date of 14 October, 2004;

- as indicated above, the filing receipt was mailed on 5 January, 2005, nonetheless, it was not until 25 July, 2005–almost seven (7) months later that Petitioner first sought relief as to the filing date issue, and when the Office responded on 3 August, 2005, Petitioner then waited more than four (4) more months (i.e., until 7 December, 2005) to seek relief through the instant petition;

- with the instant petition, Petitioner provided, *inter alia*, (a) a copy of the USPS Express Mail label bearing USPS Express Mail Label No. EV352377541 with the hand-written "date in" of "10 14 04," which Petitioner contends is in error, and (b) a copy of the USPS Track & Confirm statement bearing USPS Express Mail Label No. EV352377541 and an indication of "ACCEPTANCE, October 15, 2004, 4:42 p.m., PORTLAND, OR 97205"; ing transmittal bearing the USPS Express Mail Label No. EV600644347US;

- further, Petitioner also provides a USPS billing record bearing, inter alia, USPS Express Mail Label No. EV352377541, and a reflected date of "10/15/04."

The remaining question, under the Rule, is why Petitioner delayed for seven months at one point and four months at another to address this matter properly before the Office.

Further correspondence with respect to this matter should be addressed as follows:[2]

By mail: Commissioner for Patents[3]
P.O. Box 1450
Alexandria, VA 22313-1450

(d) & (e) revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997]

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJr: 07-06

Paper No: __

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JUL 24 2006
OFFICE OF PETITIONS

KLARQUIST SPARKMAN LLP
121 S.W. SALMON STREET
SUITE 1600
PORTLAND OR 97204

In re Application of	:	
Sirivara, et al.	:	
Application No. 10/966,443	:	DECISION
Filed: 15 October, 2004	:	
Attorney Docket No.: KCX-1088A (21546A)	:	

This is a decision on the (renewed) petition under 37 C.F.R. §1.10, filed on 12 June, 2006, seeking for the above-identified application a filing date of 15 October, 2004, rather than the presently accorded filing date of 14 October, 2004.

The petition is **GRANTED**.

BACKGROUND AND ANALYSIS

The instant application was received by the Office and accorded a filing date of 14 October, 2004.

On 25 July, 2005, filed the original petition, herein, which was dismissed for additional averment as to the reasons underlying the delay in addressing the matter and documentary evidence in support of those and other averments of substance.

The record reflects that:

- the instant application, averred to have been transmitted the package bearing US Postal Service (USPS) Express Mail Label No. EV352377541, was received by the Office on 18 December, 2004, and given a filing date of 14 October, 2004;

- as indicated above, the filing receipt was mailed on 5 January, 2005,and on 25 July, 2005, Petitioner sought relief as to the filing date issue'

- after the Office responded on 3 August, 2005, Petitioner sought relief through the original petition on 7 December, 2005;

- at that time, Petitioner provided, *inter alia*, (a) a copy of the USPS Express Mail label bearing USPS Express Mail Label No. EV352377541 with the hand-written "date in" of "10 14 04," which Petitioner contends is in error, and (b) a copy of the USPS Track & Confirm statement bearing USPS Express Mail Label No. EV352377541 and an indication of "ACCEPTANCE, October 15, 2004, 4:42 p.m., PORTLAND, OR 97205"; ing transmittal bearing the USPS Express Mail Label No. EV600644347US;

- further, Petitioner also provided a USPS billing record bearing, inter alia, USPS Express Mail Label No. EV352377541, and a reflected date of "10/15/04."

The petition was dismissed on 12 June, 2006, for additional information, some of which was filed of record on 22 June, 2006.

By telephone on 19 July, 2006, Petitioner indicated that:

- he further was supplementing the record with an averment that there was in fact an unintended delay in observing the discrepancy at to filing date, and–under his duty of candor to the Office–he sought through the instant petition to bring this to the attention of the Office; and

- he would perpetuate that averment in a supplement to the instant petition.

Petitioner's candor in this averment is appreciated.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the

appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

The controlling regulations are set forth at under 37 C.F.R. §1.10.[2] A baseline requirement of

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

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

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

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

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

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

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

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

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

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

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

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

[2] The regulations at 37 C.F.R. §1.10 provide:
§ 1.10 Filing of papers and fees 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 § 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

any petition under the Rule is that the petition "... is filed promptly after [Petitioner] becomes aware ..." that the filing date may not be correct.

The petition is **granted**, however, the error was not that of the Office and the petition fee is not waived.

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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 toAddressee" 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 § 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.

[48 Fed. Reg. 2708, Jan. 20, 1983, added effective Feb. 27, 1983; 48 Fed. Reg. 4285, Jan. 31, 1983, paras. (a) & (c), 49 Fed. Reg. 552, Jan. 4, 1984, effective Apr. 1, 1984; paras. (a)-(c) revised and paras. (d) - (f) added, 61 Fed. Reg. 56439, Nov. 1, 1996, effective Dec. 2, 1996; paras. (d) & (e) revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997]

The instant file is released to OIPE to correct the filing date so as to accord to the instant application a filing date of 15 October, 2004, and to mail to Petitioner a corrected filing receipt reflecting a filing date of 15 October, 2004.

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

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

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.	: 10/966,457
Applicant	: Leonard D. Rood
Filed	: 10/16/2004
Tech. Center/Art Unit	: 1762
Examiner	: Katherine A. Bareford
Attorney File No.	: ROODF 106 CIP
Customer No.	: 002555
Confirmation Number	: 8229
For	: NEGATIVE STATIC ELECTRICALLY CHARGED COATING METHOD AND COMPOSITION FOR REPELLING DUST FROM GLASS

RECEIVED
CENTRAL FAX CENTER
JAN 13 2005

I hereby certify that this correspondence is being facsimile transmitted to the USPTO, Fax No. (703) 872-9306 on 01/13/2005.

Debra A. Bright

PETITION GRANTED

William Krynski
Special Program Examiner
TC 1700
FEB 18 2005

Fax Information
Number of pages faxed: 3
Faxed from Kremblas, Foster, Phillips & Pollick, Columbus Ohio
Telephone: 614/575-2100 Fax No.: 614/575-2149

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

PETITION TO MAKE SPECIAL

Applicant hereby petitions the Commissioner to make this application Special under 37 CFR 1.102 (c), so that the prosecution thereof may be expedited. No fee is due. The same petition and accompanying exhibit were filed and granted in the parent of the above-identified patent application. The parent was Serial Number 10/393,107

PAGE 1/3 * RCVD AT 1/13/2005 2:17:33 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-1/0 * DNIS:8729306 * CSID:614 575 2149 * DURATION (mm-ss):04-04

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

Janil W. Heart (Ms.)
563 Mile Branch Rd
Canton, GA 30114-7007

COPY MAILED

FEB 14 2006

OFFICE OF PETITIONS

In re Application of :
Janil W. Heart :
Application No. 10/966,458 : ON PETITION
Filed: October 16, 2004 :
Attorney Docket No. 28862

This is a decision on the petition under 37 CFR 1.181 filed on September 6, 2005, to withdraw the holding of abandonment.

The petition is **DISMISSED**.

The application became abandoned on January 25, 2005, after no response was received to the Notice to File Missing Parts of Nonprovisional Application. The non-final Office action set shortened period for reply of two months from its mailing date. No response was received within the allowable period, and the application became abandoned on January 25, 2005. A Notice of Abandonment was mailed on August 22, 2005.

In the instant petition, petitioner maintains that the Notice to File Missing Parts of Nonprovisional was never received.

When, as in this case petitioner is arguing that an Office communication was not received, petitioner must establish non-receipt of the Office communication in accordance with section 711.03(c) of the *Manual of Patent Examining Procedure* that requires the following:

> [t]he showing requires to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

Although petitioner has indicated that the notice was not received, petitioner is required to made a statement that petitioner's records where searched, but the Office communication was not found, and provide a copy of petitioner's logs showing where the Office communication would have been entered if it had been received. If petitioner does not keep a log, petitioner may file a copy of the contents of the incoming correspondence petitioner has received for this application. This documentation must accompany any renewed petition filed under 37 CFR 1.181(a). It is noted that the zip code listed on the Notice to File Missing Parts of Nonprovisional Application was incorrect, however, this, alone, does not

support petitioner's argument that the notice was not received. Petitioner make the evidentiary showing cited above. The zip code has been corrected in Office computer records.

Alternatively, petitioner may revive the application based on unintentional abandonment under 37 CFR 1.137(b) (enclosed). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply, the required petition fee ($1,500.00 for a large entity and $750.00 for a verified small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

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

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

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

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

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Form PTO/SB/64

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.

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

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature	Date
Typed or printed name	Registration Number, if applicable
Address	Telephone Number
Address	

Enclosures:
- ☐ Fee Payment
- ☐ Reply
- ☐ Terminal Disclaimer Form
- ☐ Additional sheets containing statements establishing unintentional delay
- ☐ Other: _____

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

I hereby certify that this correspondence is being:

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

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office 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.

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

Janil W. Heart (Ms.)
563 Mile Branch Rd
Canton, GA 30114-7007

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MAY 0 1 2006

OFFICE OF PETITIONS

In re Application of

Janil W. Heart

Application No. 10/966,458

Filed: October 16, 2004

Attorney Docket No. 28862

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), March 31, 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)."

The above-identified application became abandoned for failure to reply to the Notice to File Missing Parts of Nonprovisional Application mailed November 24, 2004, which set a shortened statutory period for reply of two(2) months from its mailing date. No response was received within the allowable period, and the application became abandoned on January 25, 2005. A Notice of Abandonment was mailed on August 22, 2005.

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

(1) the required reply, unless previously filed. In a non-provisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee, or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

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

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

The instant petition does not satisfy the requirements of items (1) and (2) above.

As to item (1), the required reply to the Notice to File Missing Parts of Nonprovisional Application was not found with the petition. It is noted that petitioner indicates that the notice was not received. A copy of the Notice to File Missing Parts of Nonprovisional Application is enclosed, accordingly. The reply as required by the notice must accompany any renewed petition filed.

As to item (2), the petition fee of $750.00 did not accompany the petition. The petition fee of $750.00 must accompany any renewed petition filed.

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

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy—Notice to File Missing Parts of Nonprovisional Application (November 24, 2004)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/966,458	10/16/2004	Janil W. Heart	28862

CONFIRMATION NO. 8221

FORMALITIES LETTER

OC000000014452447

Janil W. Heart (Ms.)
563 Mile Branch Rd
Canton, GA 30144-7007

Date Mailed: 11/24/2004

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

Items Required To Avoid Abandonment:

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The statutory basic filing fee is insufficient.
  Applicant must submit $ **10** *to complete the basic filing fee for a small entity.*
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of $65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is **$75** for a Small Entity

- **$10** Statutory basic filing fee.
- **$65** Late oath or declaration Surcharge.

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.

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

Janil W. Heart
563 Mile Branch Rd
Canton GA 30114-7007

COPY MAILED

JUL 30 2007

OFFICE OF PETITIONS

In re Application of HEART Application No. 10/966,458 Filed: October 16, 2004 Attorney Docket No. 28862	: : : : :	DECISION ON PETITION

This is a decision on a letter filed May 21, 2007, which is being treated as: (1) a renewed petition under 37 CFR 1.181(a) from decision mailed February 14, 2006, requesting withdrawal of the holding of abandonment in the above-identified application and (2) a petition under 37 CFR 1.102 to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition under 37 CFR 1.181 is **GRANTED**. The holding of abandonment is vacated, and this application restored to pending status.

The petition under 37 CFR 1.102 is **GRANTED.**

Petition Under 37 CFR 1.181

This application was held abandoned for failure to timely respond to the Notice To File Missing Parts of Nonprovisional Application (Notice) of November 24, 2004, which set a two (2) month shortened statutory period for reply. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application purportedly became abandoned on January 25, 2005.

In support of the petition, petitioner states that she never received the November 24, 2004 Notice. Normally, 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. In this instance, a review of the record shows an irregularity in the mailing of the Notice. As applicant noted, the Notice included an incorrect zip code (30144), when applicant provided the Office with the correct zip code (30114) on the Utility Patent Application Transmittal on October 16, 2004. Thus, because the zip code on the Notice was incorrect, there is evidence in the record that applicant never received the Notice. In light of the evidence, the previous decision mailed February 14, 2006 and the Notice of Abandonment mailed August 22, 2005 are vacated, and the holding of abandonment is withdrawn.

This application is being referred to the Office of Initial Patent Examination. Because the Office is in receipt of the missing fees ($75) itemized in the Notice and has fully responded to the Notice, the Notice To File Missing Parts of Nonprovisional Application does not need to be remailed.

The Office had noted the proper zip code (30114) and has corrected the Office's records. The Office regrets any inconvenience in this matter.

Petition Under 37 CFR 1.102

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement by the applicant, Janil W. Heart, that she is sixty-nine years old. Accordingly, the above-identified application has been accorded "special" status.

Petitioner included an individual tax return statement having her Social Security Number with the submission on May 21, 2007. This information was unnecessary in deciding the petition and has been removed from the file.

Petitioner 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 should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner 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).

Telephone inquiries concerning this decision should be directed to Denise Pothier at (571) 272-4787.

The application is being forwarded to the Office of Initial Patent Examination for further processing commensurate with this decision.

Charles Pearson
Director
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No.

LEVINE BAGADE HAN LLP
2483 EAST BAYSHORE ROAD, SUITE 100
PALO ALTO CA 94303

COPY MAILED
MAR 02 2009
OFFICE OF PETITIONS

In re Application of	:	
Amir J. Tehrani et al.	:	
Application No. 10/966,472	:	DECISION ON PETITION
Filed: October 15, 2004	:	PURSUANT TO
Attorney Docket No. RMXLNZ00104	:	37 C.F.R. § 1.181(A)
Title: SYSTEM AND METHOD FOR DIAPHRAGM STIMULATION	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.181(a) to withdraw the holding of abandonment, filed on December 30, 2008.

BACKGROUND

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R § 1.113 in a timely manner to the final Office action mailed June 19, 2008, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 C.F.R § 1.136(a) were obtained, and no response was received. Accordingly, the above-identified application became abandoned on September 20, 2008. A notice of abandonment was mailed on December 24, 2008.

ANALYSIS

With this petition, Petitioner has alleged that a response was timely filed on December 18, 2008. Petitioner has further included a copy of this response, along with an Electronic Acknowledgment Receipt dated December 18, 2008.

The electronic file has been reviewed, and a copy of this response has been located in the same. Moreover, Office records reflect the receipt of the fee that is associated with the filing of a petition for a three-month extension of time on December 18, 2008.

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 pursuant to 37 C.F.R. § 1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

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**.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the submission under 37 C.F.R. § 1.114 - the Amendment and the Information Disclosure Statement (each filed on December 18, 2008) - 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

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

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LEVINE BAGADE HAN LLP
2483 EAST BAYSHORE ROAD, SUITE 100
PALO ALTO CA 94303

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OFFICE OF PETITIONS

In re Application of	:	
Amir J. Tehrani	:	
Application No. 10/966487	:	
Filing or 371(c) Date: 10/15/2004	:	DECISION ON PETITION
Attorney Docket Number:	:	AND
RMXLNZ00105	:	NOTICE OF ABANDONMENT

This is a decision on the Petition to Withdraw Holding of Abandonment, filed December 30, 2008. The petition is properly treated under 37 CFR 1.181(a).

This Petition is hereby **granted to the extent indicated herein**.

The above-identified application became abandoned for failure to timely and properly reply to the Office action, mailed July 14, 2008. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No response having been received, the application became abandoned on September 15, 2008. A Notice of Abandonment was mailed December 10, 2008. The Notice of Abandonment indicated as the reason for abandonment Applicant's failure to reply to the Office action mailed on May 14, 2008, instead of the actual mail date of the Office action, July14, 2008.

Applicant's Assertion

Applicant files the instant petition and asserts that the reply period for filing a response to the Office action, including the maximum extensions of time, was January 14, 2009. Applicant notes that no Office action for this application, dated May 14, 2008, was mailed. Applicant does not include a response to the Office action with the present petition.

includes a request for a three (3) month extension of time and fee.

A review of Office records confirm that no Office action was mailed in this application on May 14, 2008. In view of the foregoing, the Notice of Abandonment mailed December 10, 2008 was mailed in error and is hereby withdrawn.

No petition fee has been charged and none is due.

The Application is Abandoned

Applicant is advised that the present application is not held abandoned for Applicant's failure to timely and properly reply to the Office action, mailed July 14, 2008. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See Lorenz v. Finkl, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); Krahn v. Commissioner, 15 USPQ2d 1823, 1824 (E.D. Va 1990); In re Application of Fischer, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988). Here, the Office action for which a response was due, mailed July 14, 2008, was not responded to by Applicant. The maximum period for reply to the office action, including any extensions of time, as set by statute, is six (6) months. 35 U.S.C.§ 133, Time for prosecuting application, states:

> Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Director in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Director that such delay was unavoidable.

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

Accordingly, the above-identified application is abandoned.

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

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

The application is being referred to Technology Center Art Unit 3762 for mailing of a Notice of Abandonment.

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

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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LEVINE BAGADE HAN LLP
2483 EAST BAYSHORE ROAD, SUITE 100
PALO ALTO CA 94303

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OFFICE OF PETITIONS

In re Application of	:	
Amir J. Tehrani	:	
Application No. 10/966487	:	CORRECTED
Filing or 371(c) Date: 10/15/2004	:	DECISION ON PETITION
Attorney Docket Number:	:	AND
RMXLNZ00105	:	NOTICE OF ABANDONMENT

This is a decision on the Petition to Withdraw Holding of Abandonment, filed December 30, 2008. The petition is properly treated under 37 CFR 1.181(a).

This Petition is hereby **granted to the extent indicated herein**.

The above-identified application became abandoned for failure to timely and properly reply to the Office action, mailed July 14, 2008. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No response having been received, the application became abandoned on September 15, 2008. A Notice of Abandonment was mailed December 10, 2008. The Notice of Abandonment indicated as the reason for abandonment Applicant's failure to reply to the Office action mailed on May 14, 2008, instead of the actual mail date of the Office action, July14, 2008.

Applicant's Assertion

Applicant files the instant petition and asserts that the reply period for filing a response to the Office action, including the maximum extensions of time, was January 14, 2009. Applicant notes that no Office action for this application, dated May 14, 2008, was mailed. Applicant does not include a response to the Office action with the present petition.

A review of Office records confirm that no Office action was mailed in this application on May 14, 2008. In view of the foregoing, the Notice of Abandonment mailed December 10, 2008 was mailed in error and is hereby withdrawn.

No petition fee has been charged and none is due.

The Application is Abandoned.

Applicant is advised that the present application is not held abandoned for Applicant's failure to timely and properly reply to the Office action, mailed July 14, 2008. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See Lorenz v. Finkl, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); Krahn v. Commissioner, 15 USPQ2d 1823, 1824 (E.D. Va 1990); In re Application of Fischer, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988). Here, the Office action for which a response was due, mailed July 14, 2008, was not responded to by Applicant. The maximum period for reply to the office action, including any extensions of time, as set by statute, is six (6) months. 35 U.S.C.§ 133, Time for prosecuting application, states:

> Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Director in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Director that such delay was unavoidable.

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

Accordingly, the above-identified application is abandoned for failure to timely and properly reply to the Office action mailed July14, 2008.

Applicant is strongly urged to file a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in was "unavoidable." An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required fee. The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revive under 37 CFR 1.137(b).

The application is being referred to Technology Center Art Unit 3762 for mailing of a Notice of Abandonment.

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

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO, CA 94303

Mail Date: 04/21/2010

Applicant	: David R. Alvarez	: DECISION ON REQUEST FOR
Patent Number	: 7641113	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/966,497	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **962** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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BAHRET & ASSOCIATES
320 NORTH MERIDIAN STREET
SUITE 510
INDIANAPOLIS IN 46204

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JAN 29 2007

OFFICE OF PETITIONS

In re Application of	:	
Robert D. Marks	:	
Application No. 10/966,501	:	DECISION ON PETITION
Filed: October 15, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 214-3	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 11, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a declaration statement signed by the applicant. 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 3765 for action on the merits commensurate with this decision.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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PVF -- ORACLE INTERNATIONAL CORPORATION
c/o PARK, VAUGHAN & FLEMING LLP
2820 FIFTH STREET
DAVIS, CA 95618-7759

Mail Date: 04/21/2010

Applicant	: Vikram Reddy Pesati	: DECISION ON REQUEST FOR
Patent Number	: 7657925	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/966,512	: 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 **1038** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8704

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APR 0 3 2008

OFFICE OF PETITIONS

In re Application of

JOKISCH, Phillipp T. et al.
Application No. 10/966,526
Filed: October 15, 2004
Attorney Docket No. **CF-94**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 19, 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 Jeffrey Laurence Rogers on behalf of all attorneys of record who are associated with customer No. 64558. All attorneys/agents associated with the Customer Number 64558 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **PHILIPP T. JOKISCH**
5 FULBROOK MEWS
LONDON, ENGLAND N195 EN
UNITED KINGDOM

cc: **DEAN P. ALDERUCCI**
CANTOR FITZGERALD, L.P.
110 EAST 59TH STREET (6TH FLOOR)
NEW YORK, NY 10022

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DAVIS WRIGHT TREMAINE, LLP
2600 CENTURY SQUARE
1501 FOURTH AVENUE
SEATTLE WA 98101-1688

AUG 10 2005

In re Application of:
Baron C. Dickey
Serial No.: 10/966,529
Filed: October 14, 2004
For: METHOD AND APPARATUS FOR SPATIALLY ENHANCING THE STEREO IMAGE IN SOUND REPRODUCTION AND REINFORCEMENT SYSTEMS

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed March 4, 2005, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.) § 708.02, Section IV: Applicant's Age.

A grantable petition to make special under 37 C.F.R. § 1.102, and in accordance with M.P.E.P. § 708.02, Section IV, must include evidence showing that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a statement from the applicants stating that Baron Dickey is over the age of sixty-five (65) years.

Accordingly, the petition is GRANTED.

If the examiner can make this application special without prejudice to any possible interfering applications, and s/he 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 become 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.

Inquiries regarding this decision should be directed to Edward Westin (571) 272-1638.

Edward Westin

Edward Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/966,529	10/14/2004	Baron C. Dickey	60399-3	8148

22504 7590 09/15/2005

DAVIS WRIGHT TREMAINE, LLP
2600 CENTURY SQUARE
1501 FOURTH AVENUE
SEATTLE, WA 98101-1688

EXAMINER
GRIER, LAURA A

ART UNIT	PAPER NUMBER
2644	

DATE MAILED: 09/15/2005

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

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DAVIS WRIGHT TREMAINE, LLP
2600 CENTURY SQUARE
1501 FOURTH AVENUE
SEATTLE WA 98101-1688

In re Application of	:	
Baron C. Dickey	:	
Application No. 10/966,529	:	DECISION ON PETITION
Filed: October 14, 2004	:	TO MAKE SPECIAL
For: **METHOD AND APPARATUS FOR SPATIALLY ENHANCING THE STEREO IMAGE IN SOUND REPRODUCTION AND REINFORCEMENT SYSTEMS**	:	

This is a decision on the petition to make special filed March 5, 2005 under 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 photocopy of the inventor's driver license that cannot be viewed, and a statement by inventor; Baron C. Dickey evidencing that he is over 65 years of age that is accepted.

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
(703) 305-4710

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IRELL & MANELLA LLP
840 NEWPORT CENTER DRIVE
SUITE 400
NEWPORT BEACH CA 92660

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MAY 23 2008

In re Application of	:	
Wang et al.	:	
Application No. 10/966,539	:	DECISION ON PETITION
Filed: October 15, 2004	:	
Attorney Docket No. 157438-0032 (P014)	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 28, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of the prior-filed nonprovisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

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

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

The petition fails to satisfy item (1) above. In this regard, the amendment submitted with the petition states, "This application is a continuation-in-part of Application No. 11/783,860, filed on February 20, 2004, pending..." However, it is believed that the amendment references the incorrect application number. It appears the correct application should be **10**/783,860.

Accordingly, a substitute amendment with the correct application number must be submitted, along with a renewed petition under 37 CFR 1.78(a)(3).

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

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window 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) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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IRELL & MANELLA LLP
840 NEWPORT CENTER DRIVE
SUITE 400
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NOV 0 6 2008

OFFICE OF PETITIONS

In re Application of	:
Wang et al.	:
Application No. 10/966,539	: DECISION GRANTING PETITION
Filed: October 15, 2004	: UNDER 37 CFR 1.78(a)(3) AND
Attorney Docket No. 157438-0032 (P014)	: UNDER 37 CFR 1.78(a)(6)

This is a decision on the renewed petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed October 27, 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 15, 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 2614 for appropriate action on the amendment submitted October 27, 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 applications, 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.

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
10/966,539	10/15/2004	2614	655	157438-0032 (P014)	27	6

CONFIRMATION NO. 7472

CORRECTED FILING RECEIPT

1622
IRELL & MANELLA LLP
840 NEWPORT CENTER DRIVE
SUITE 400
NEWPORT BEACH, CA 92660

OC000000032924388

Date Mailed: 11/03/2008

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)

Yulun Wang, Goleta, CA;
Charles S. Jordan, Santa Barbara, CA;
Jonathan Southard, Santa Barbara, CA;
Marco Pinter, Santa Barbara, CA;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CIP of 10/783,760 02/20/2004
which is a CIP of 10/206,457 07/25/2002 PAT 6,925,357
and claims benefit of 60/449,762 02/24/2003

Foreign Applications

If Required, Foreign Filing License Granted: 12/22/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/966,539**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

Tele-robotic videoconferencing in a corporate environment

Preliminary Class

348

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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WESTERN DIGITAL TECHNOLOGIES, INC.
20611 LAKE FOREST DR. - C205
LAKE FOREST CA 92630

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JUN 01 2005

OFFICE OF PETITIONS

In re Application of Buttar, Terrill, Davies, Ferrier and Che Application No.10/966,543 Filed: October 15, 2004 Attorney Docket No. K35R1854 Title of Invention: SPIN STAND TESTING SYSTEM WITH FINE POSITIONER FOR HEAD STACK ASSEMBLY	:	DECISION

This is in response to the petition under 37 CFR 1.47(a) filed April 1, 2005.

The petition is GRANTED.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. The declaration of Renee M. Franks attest a copy of the application was sent to non-signing inventor's last known address. The non-signing inventor's refusal and failure to respond to the application mailing sufficiently establishes that he refuses to execute the application papers.

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

The Office is in receipt of the $130.00 submitted towards the petition fee. However, effective November 22, 2004 the current petition fee is $200.00. Accordingly, deposit account no.23-1055 will be charged the $70.00 difference.

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

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

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Herman Ferrier
651 Worth Lane
Scotts Valley, California 95066

In re Application of
Buttar, Terrill, Davies, Ferrier and Che
Application No.10/966,543
Filed: October 15, 2004
Attorney Docket No. K35R1854
Title of Invention: SPIN STAND TESTING SYSTEM WITH FINE POSITIONER FOR HEAD STACK ASSEMBLY

LETTER

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JUN 01 2005

OFFICE OF PETITIONS

Dear Mr. Ferrier:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (571) 272-3215. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant
Petitions Attorney
Office of Petitions

JOSHUA C. HARRISON
WESTERN DIGITAL TECHNOLOGIES, INC.
20611 LAKE FOREST DR. - C205
LAKE FOREST CA 92630

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P.O. BOX 700640
SAN JOSE, CA 95170

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MAY 22 2008

OFFICE OF PETITIONS

ON PETITION

In re Application of	:
Arthur M. Howald et al	:
Application No. 10/966,549	:
Filed: October 15, 2004	:
Attorney Docket No. P0954C/LMRX-P003C	:

This is a decision on the petition under 37 CFR 1.137(b), filed January 15, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 14, 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 September 15, 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 2863 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : February 26, 2010

TO SPE OF : ART UNIT 3679

SUBJECT : Request for Certificate of Correction for Appl. No.: 10966557 Patent No.: 7407198

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square – 9D40-C
Palm Location 7580

Certificates of Correction Branch

703-756-1573

Thank You For Your Assistance

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

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

Comments: The changes correcting printer errors in the patent are approved.

/Daniel P. Stodola/ — **SPE**

3679 — **Art Unit**

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HICKMAN PALERMO TRUONG & BECKER LLP
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110

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OFFICE OF PETITIONS

In re Application of	:	
Raymond P. Stata et al	:	
Application No. 10/966,566	:	DECISION ON PETITION
Filed: October 15, 2004	:	TO WITHDRAW
Attorney Docket No. YHOO-0009	:	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 25, 2005.

The request is **APPROVED**.

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

The request was signed by Thomas E. Watson on behalf of all attorneys of record who are associated with Customer No. 23377. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record remains unchanged.

The Power of Attorney and Change of Correspondence Address submitted on June 27, 2005 is not accepted. In order for an assignee to take action in a case before the Office, compliance with 37 CFR 3.73(b) must be satisfied. More specifically, 37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment submitted for recording) or by specifying (*e.g.*, reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be

signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office. A blank 37 CFR 3.73(b) accompanies this decision.

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

David Bucci
Petitions Examiner
Office of Petitions

Attachment: blank 37 CFR 3.73(b)

cc: Woodcock Washburn LLP
One Liberty Place – 46th Floor
Philadelphia, PA 19103

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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COZEN O'CONNOR, P.C.
1900 MARKET STREET
PHILADELPHIA, PA 19103-3508

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JUN 16 2005

OFFICE OF PETITIONS

In re Application of
David B. Weiner, Joo-Sung Yang and
Karuppiah Muthumani
Application No. 10/966,576
Filed: October 14, 2004
For: COMPOSITIONS AND METHODS OF USING CAPSID PROTEIN FROM FLAVIVIRUSES AND PESTIVIRUSES

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is in response to the "Petition Under 37 CFR 1.47(a)," filed June 1, 2005.

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on October 14, 2004 without an executed oath or declaration and naming David B. Weiner, Joo-Sung Yang and Karuppiah Muthumani as joint inventors.

Accordingly, on February 1, 2005, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration, and a surcharge for its late filing.

In response, on June 1, 2005, the instant petition and a two (2) month extension of time were filed.

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

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

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

(3) the petition fee; and

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

Applicant lacks item (1), as set forth above.

As to item (1), applicant appears to demonstrate that the non-signing inventor was only presented with a declaration, power of attorney and assignment. Unless the non-signing inventor was presented with a copy of the application papers (specification, claims and drawings), the non-signing inventor could not attest that he has "reviewed and understands the application papers" and therefore could not sign the declaration which he was given. Accordingly, Rule 47 applicant failed to show or provide proof that the inventor has refused to sign the declaration. See MPEP 409.03(d). Petitioner should show that a copy of the application papers was presented to the non-signing inventor, but that he did not respond to, or refused, the request that he sign the oath/declaration in order to show that the inventor has refused to join in the application. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events.

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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COZEN O'CONNOR, P.C.
1900 MARKET STREET
PHILADELPHIA, PA 19103-3508

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AUG 2 6 2005

OFFICE OF PETITIONS

In re Application of
David B. Weiner, Joo-Sung Yang and
Karuppiah Muthumani
Application No. 10/966,576
Filed: October 14, 2004
Title: COMPOSITIONS AND METHODS OF USING CAPSID PROTEIN FROM FLAVIVIRUSES AND PESTIVIRUSES

DECISION GRANTING PETITION UNDER 37 CFR 1.47(a)

This is in response to the "Request For Reconsideration of Petition Under 37 CFR 1.47(a)," filed August 12, 2005.

The petition is **granted**.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The file is being forwarded to Technology Center 1600 for examination *in due course*.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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JOO-SUNG YANG, PH.D.
SUNGKYUNKWAN UNIVERSITY
ROOM 62207, DEPT. GENETIC ENGINEERING
300 CHUNCHUN-DONG, JANGAN-KU
SUWON-CITY, KYUNGGI-DO, 440-746
SOUTH KOREA

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AUG 2 6 2005

OFFICE OF PETITIONS

In re Application of
David B. Weiner, Joo-Sung Yang and
Karuppiah Muthumani
Application No. 10/966,576
Filed: October 14, 2004
Title: COMPOSITIONS AND METHODS OF USING CAPSID PROTEIN FROM FLAVIVIRUSES AND PESTIVIRUSES

Dear JOO-SUNG YANG, PH.D:

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

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

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

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

COZEN O'CONNOR, P.C.
1900 MARKET STREET
PHILADELPHIA, PA 19103-3508

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

In re Application of
Dominik Meier *et al.*
Serial No.: 10/966,588
Filed: October 14, 2004
For: **OVERLAY OF TINTED IMAGES FOR VISUALIZING CHANGE IN SERIAL RADIOLOGIC IMAGES**

DECISION ON PETITION
ACCEPTANCE OF COLOR DRAWINGS

This is a decision on the petition under filed October 14, 2004 which is being treated as a petition under 37 C.F.R. § 1.84(b)(2), requesting acceptance of photographs as drawings.

The petition requests that the color photographs for Figures 4 and 5 be accepted in lieu of black and white drawings.

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

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

The petition did not contain three (3) complete sets of color photographs for drawings. Currently there is only one set of colored photographs associated with the file. Furthermore, it appears that perhaps applicant might also like to consider for Figure 1 to be presented in color as it hasn't scanned clearly.

Therefore, the *petition* is **DISMISSED**.

The petitioner may submit a request for reconsideration within **TWO MONTHS** of the date of this decision. Any request for reconsideration should be complete, i.e., include three (3) sets of color drawings, color photographs and a black and white photocopy of the same.

/Krista Zele/

Krista Zele
Quality Assurance Specialist
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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JUL 18 2008

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

FISH & RICHARDSON PC
P. O. BOX 1022
MINNEAPOLIS, MN 55440-1022

In re Application of
Dominik Meier et al.
Serial No.: 10/966,588
Filed: October 14, 2004
For: **OVERLAY OF TINTED IMAGES FOR VISUALIZING CHANGE IN SERIAL RADIOLOGIC IMAGES**

DECISION ON PETITION
ACCEPTANCE OF COLOR DRAWINGS

This is a decision on the request for reconsideration of petition filed May 14, 2008 which is being treated as a petition under 37 C.F.R. §1.84(b)(2), requesting acceptance of photographs as drawings.

The petition requests that the color photographs for Figures 4 and 5 be accepted in lieu of black and white drawings.

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

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

The petition is **GRANTED**.

Eileen Lillis
Quality Assurance Specialist
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUN 30 2009

OFFICE OF PETITIONS

In re Patent No. 7,426,289	:	
MEIER et al.	:	
Issue Date: September 16, 2008	:	DECISION ON REQUEST FOR
Application No. 10/966,588	:	RECONSIDERATION OF
Filed: October 14, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 05311-026001	:	

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)", filed November 10, 2008, requesting that the patent term adjustment determination for the above-identified patent be corrected from five hundred thirteen (393) days to seven hundred twenty-three (723) days.

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

On September 16, 2008, the above-identified application matured into Patent No. 7,426,289 with a patent term adjustment of 393 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant to Wyeth, a PTO delay under 35 U.S.C. 154(b)(1)(A) overlaps with a delay under 35 U.S.C. 154(b)(1)(B) only if the delays "occur on the same day." Patentees maintain that a portion of the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR 1.703(b), 330 of 338 days, does not overlap with the 513-day period of adjustment due to examination delay, pursuant to 37 CFR 1.702(a), as these periods do not occur on the same days. Thus, patentees request that the determination

of patent term adjustment be increased by 330 days to a total of 723 days.

The 338-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on October 14, 2004, and the patent having been issued on September 16, 2008, three years and 338 days later. Patentees assert that in addition to this 338-day period, patentees are entitled to a period of adjustment due to examination delay, pursuant to 37 CFR 1.702(a), totalling 513 days. This 513-day period is the sum of:

- a period of delay of 505 days for the failure by the Office to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a), pursuant to § 1.702(a)(1); and,
- a period of delay of 8 days for the failure by the Office to respond to a reply under 35 U.S.C. 132 not later than four months after the date on which the reply was filed, pursuant to § 1.702(a)(2).

A Restriction Requirement was mailed May 3, 2007, 14 months and 505 days after the application was filed on October 14, 2004. Additionally, the Office did not respond to the reply of June 21, 2007, until October 29, 2007, 4 months and 8 days after the date on which the reply was filed.

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, patentees are entitled to the period of Office delay reduced by the period of applicant delay. Patentees do not disagree with the period of reduction of 120 days for applicant delay.

Patentees do not dispute that the total period of Office delay is the sum of the period of Three Years Delay (338 days) and the period of Examination Delay (513 days) to the extent that these periods of delay are not overlapping. Patentees contend that the period of delay of 8 days for the Office's failure to respond to a reply under 35 U.S.C. 132 not later than four months after the date on which the reply was filed, (October 22,

2007 to October 29, 2007) overlaps with the Three Year Delay period (October 15, 2007 to September 16, 2008).

Accordingly, patentees submit that the total period of Office Delay is 843 days, which is the sum of the period of Three Year Delay (338 days) and the period of Examination Delay (513 days), reduced by the period of overlap (8 days). Thus, patentees assert entitlement to a patent term adjustment of 723 days (338 + 513 reduced by 8 overlap - 120 for applicant delay).

The Office agrees that the actions detailed above were not taken within the specified time frames, and thus, the entry of period of adjustment for examination delay of 513 days is correct. At issue is whether patentees should accrue 330 days of patent term adjustment (adjusted for overlap, per patentees' calculations) for the Office taking in excess of three years to issue the patent, as well as 513 days for Office failure to take certain actions within specified time frames (or examination delay).

The Office contends that all of the 338 days overlap. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

Likewise, 37 CFR 1.703(f) provides that:

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

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent

term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

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

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of applicants. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during

which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding § 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than three-year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[1]

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

---

[1] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, from the filing date of the application on October 14, 2004, to the date the patent issued on September 16, 2008 (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). Prior to the issuance of the patent, 513 days of patent term adjustment were accorded for failure by the Office to take certain actions within specified time frames during the pendency of the application pursuant to 37 CFR 1.702(a). The 338 days of delay for the Office taking in excess of three years to issue the patent overlap with the 513 days of adjustment accorded pursuant to 37 CFR 1.702(a)(1) and (2). Thus, 513 days is determined to be the actual number of days that the issuance of the patent was delayed.

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment for the Office taking in excess of three years to issue the patent.

In view thereof, no adjustment to the patent term will be made. The revised determination of patent term adjustment at the time of the issuance of the patent will remain 393 days.

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

ORRICK HERRINGTON & SUTCLIFFE LLP
4 PARK PLAZA
SUITE 1600
IRVINE, CA 92614-2558

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JAN 27 2005

OFFICE OF PETITIONS

In re Application of	:	
Jon Knight	:	
Application No. 10/966,594	:	
Filed: October 14, 2004	:	ON PETITION
Attorney Docket No.	:	
701470.4110	:	

This is a decision in response to the Petition Under 37 CFR 1.17(h) (Petition to Accord This Application a Filing Date of October 14, 2004), filed October 28, 2004, requesting the application be accorded a filing date of October 14, 2004, instead of the presently accorded filing date of October 15, 2004.

This Petition is hereby **granted**.

Petitioner alleges that the application was deposited in Express Mail service on October 14, 2004. In support of this assertion, the petition is accompanied by a copy of Express Mail label No. EL978514949US. A review of the Express Mail label, No. EL978514949US, reveals that the "Date In" indicated on the Express Mail label is October 14, 2004. Moreover, the Express Mail label contains a United States Postal Service (USPS) stamp, also dated October 14, 2004. The same Express Mail label number was placed on the original application papers located in the official file.

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

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

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2700 MARKET TOWER
10 WEST MARKET STREET
INDIANAPOLIS IN 46204-4900

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OFFICE OF PETITIONS

In re Application of	:
Brow, et al.	: DECISION REFUSING
Application No. 10/966,614	: STATUS UNDER
Filed: October 15, 2004	: 37 CFR 1.47(a)
Attorney Docket No. 14982-57873	:
For: GLASS AND GLASS-CERAMIC SEALANT COMPOSITIONS	:

This decision is in response to the petition under 37 CFR 1.47(a), filed April 11, 2005 (certificate of mailing date April 8, 2005).

The petition is dismissed.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on October 15, 2004 without an executed oath or declaration. Accordingly, on February 9, 2005, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring, *inter alia*, an executed oath or declaration and a surcharge for its late filing.

In response, petitioners filed a declaration executed by two of three joint inventors, the surcharge, the petition fee, and the instant petition, *inter alia*, on April 11, 2005 (certificate of mailing date April 8, 2005). Attorney C. John Brannon signed the petition. Attorney Brannon sets forth the last known address of non-signing inventor Glen Benson and states that on October 15, 2004 he mailed a declaration for utility application form to Wayne C. McDaniel, working in the Office of Technolgoy and Special Projects for the University of Missouri, along with a request that Mr. McDaniel obtain the signatures of the three joint inventors on the declaration. Attorney Brannon

states that from February 2005 to April 2005, Margaret Floyd, Senior Secretary for the Office of Technology and Special Projects at the University of Missouri attempted to obtain Benson's signature on the declaration, but Benson did not send an executed declaration to the University of Missouri.

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;
(2) an acceptable oath or declaration;
(3) the petition fee of $200;
(4) a statement of the last known address of the non-signing inventor;

This petition lacks items(1) and (2).

As to item (1), applicants have failed to establish that the non-signing inventor has refused to sign the declaration. The Office requires that the non-signing inventor be provided with a complete copy of the application as filed. This includes the specification with claims, drawings, if any, and a declaration. See MPEP 409.03(d). The statement of facts does not establish that a complete copy of the application was mailed to Mr. Benson.

Mr. Benson must have the complete application in his possession in order to make an informed decision as to whether he joins in its filing. When petitioners can show that Mr. Benson was mailed or received the complete application and that he either refused to sign the declaration or would not respond to the request that he sign the declaration, petitioners will have satisfied this requirement.

Petitioners must send Mr. Benson a copy of the as filed above-identified application and request that the sign the declaration for utility application.

In addition, the statement of facts must be signed by a person having *firsthand knowledge* of the facts recited therein. Statements based on hearsay will not normally be accepted. Therefore, in any reconsideration petition, the Office requires a statement from the person who attempted to contact Mr. Benson with the application papers and the request that he sign the declaration for utility patent application. That individual should explain his/her efforts to gain Mr. Benson's cooperation. Any written refusal to sign the declaration should be included as documentary evidence in any reconsideration petition. If there is an oral refusal, the facts surrounding the refusal should be included in a declaration by a party with first hand knowledge of the refusal. If it is concluded by the 37 CFR 1.47 applicants that a non-signing inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration.

Regarding (2) above, an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. See MPEP 409.03(a). The declaration does not contain required information for non-signing inventor Glen Benson.

The pages of the declaration submitted with the instant petition are numbered, respectively, page 1 of 2 and page 2 of 2. Glen Benson is not listed as an inventor on the 2 page declaration executed by the other two joint inventors.

An oath or declaration in compliance with 37 CFR 1.63 and1.64 signed by the Rule 1.47 applicants on behalf of the non-signing inventor is REQUIRED. See MPEP 409.03(a).

The signing inventors must execute a new declaration that lists identifying information for all joint inventors, including Mr. Benson. Mr. Benson's signature block should be left blank.

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

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

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

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

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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In re Application of	:
Brow, et al.	: DECISION REFUSING
Application No. 10/966,614	: STATUS UNDER
Filed: October 15, 2004	: 37 CFR 1.47(a)
Attorney Docket No. 14982-57873	:
For: GLASS AND GLASS-CERAMIC SEALANT COMPOSITIONS	:

This decision is in response to the reconsideration petition under 37 CFR 1.47(a), filed August 2, 2005 (certificate of mailing date July 29, 2005).

The petition is dismissed.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on October 15, 2004 without an executed oath or declaration. Accordingly, on February 9, 2005, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring, *inter alia*, an executed oath or declaration and a surcharge for its late filing.

In response, petitioners filed a declaration executed by two of three joint inventors, the surcharge, the petition fee, and the instant petition, *inter alia*, on April 11, 2005 (certificate of mailing date April 8, 2005).

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;
(2) an acceptable oath or declaration;
(3) the petition fee of $200;
(4) a statement of the last known address of the non-signing inventor;

The petition under 37 CFR 1.47(a), filed April 11, 2005 (certificate of mailing date April 8, 2005) was dismissed on May 31, 2005 for failure to meet items(1) and (2) listed above.

With the instant reconsideration petition, applicants have met item (1) listed above. Applicants have established that the non-signing inventor, Glen Benson, has constructively refused to sign the declaration. Ms. Margaret Floyd, Senior Secretary working at the University of Missouri, has provided a statement that on December 21, 2004, the complete application, a declaration, and other documents pertaining to this application were mailed to Mr. Benson. A number of telephone messages were left for him over the course of several months. He did not respond to many. When he did respond, he made assurances that the signed declaration would be mailed/transmitted via facsimile the following day. He never followed through. Petitioners have shown that Mr. Benson has constructively refused to join in the filing of the above-identified patent application.

Regarding (2) above, an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 **still** has not been presented. See MPEP 409.03(a).

As stated in the previous decision (emphasis added), the declaration does not contain required information for non-signing inventor Glen Benson. The signing inventors must execute a new declaration that lists identifying information for all joint inventors, including Mr. Benson. Mr. Benson's signature block should be left blank.

An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicants on behalf of the non-signing inventor is REQUIRED. See MPEP 409.03(a).

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

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

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300 - ATTN: Office of Petitions

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

E Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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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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BINGHAM MCHALE LLP
2700 MARKET TOWER
10 WEST MARKET STREET
INDIANAPOLIS IN 46204-4900

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OCT 2 5 2005

OFFICE OF PETITIONS

In re Application of	:
Brow, et al.	: DECISION REFUSING
Application No. 10/966,614	: STATUS UNDER
Filed: October 15, 2004	: 37 CFR 1.47(a)
Attorney Docket No. 14982-57873	:
For: GLASS AND GLASS-CERAMIC SEALANT COMPOSITIONS	:

This decision is in response to the reconsideration petition under 37 CFR 1.47(a), filed September 22, 2005 (certificate of mailing date September 19, 2005).

The petition is dismissed.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on October 15, 2004 without an executed oath or declaration. Accordingly, on February 9, 2005, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring, *inter alia*, an executed oath or declaration and a surcharge for its late filing.

In response, petitioners filed a declaration executed by two of three joint inventors, the surcharge, the petition fee, and a Rule 47(a) petition, *inter alia*, on April 11, 2005 (certificate of mailing date April 8, 2005).

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;
(2) an acceptable oath or declaration;
(3) the petition fee of $200;
(4) a statement of the last known address of the non-signing inventor;

The petition under 37 CFR 1.47(a), filed April 11, 2005 (certificate of mailing date April 8, 2005) was dismissed on May 31, 2005 for failure to meet items(1) and (2) listed above.

A reconsideration petition, filed August 2, 2005 (certificate of mailing date July 29, 2005), was dismissed on September 22, 2005 for failure to meet (2) above.

Regarding (2) above, an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 **still** has not been presented. See MPEP 409.03(a).

Petitioners have merely submitted a copy of the declaration executed by the first two joint inventors in **December 2004** along with an additional sheet listing Mr. Benson and his information.

The attached sheet listing Mr. Benson and his information was NOT part of the declaration executed in December 2004.

As stated in the previous decision (additional emphasis added), "...The signing inventors must execute a **new** declaration that lists identifying information for all joint inventors, including Mr. Benson. Mr. Benson's signature block should be left blank."

An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicants on behalf of the non-signing inventor is REQUIRED. See MPEP 409.03(a).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300 - ATTN: Office of Petitions

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Brow, et al. :
Application No. 10/966,614 :
Filed: October 15, 2004 :
Attorney Docket No. 13229-640//14982-57873 :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed March 27, 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**.

The person signing the petition requested a change of correspondence address on June 12, 2007. There is, however, no indication that the person signing the request is empowered to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney documents must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on October 13, 2005. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The 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 and/or Notice of Foreign Filing accompanies this decision on petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

This application is being forwarded to Technology Center Art Unit 1746 for consideration of the amendment filed on April 12, 2007. The examiner is reminded that a publication fee will be required in this application, if it is eventually allowed.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing

CC: C. JOHN BRANNON
ONE INDIANA SQUARE, SUITE 3500
INDIANAPOLIS, IN 46204

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/966,614	10/15/2004	Richard K. Brow	14982-57873

CONFIRMATION NO. 9238

35973
BINGHAM MCHALE LLP
2700 MARKET TOWER
10 WEST MARKET STREET
INDIANAPOLIS, IN 46204-4900

Date Mailed: 09/14/2007

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 to be determined pending completion of Security Review..

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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10 WEST MARKET STREET
INDIANAPOLIS IN 46204-4900

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OCT 12 2007

OFFICE OF PETITIONS

In re Application of	:	
Brow, et al.	:	
Application No. 10/966,614	:	REVISED DECISION ON PETITION
Filed: October 15, 2004	:	UNDER 37 CFR 1.47(A)
Attorney Docket No. 13229-640//14982-57873	:	

This is a revised decision is in response to the reconsideration petition under 37 CFR 1.47(a), filed September 22, 2005 (certificate of mailing date September 19, 2005) and the supplemental petition filed October 24, 2005.

The October 25, 2005 decision crossed in the mail with the supplemental petition filed October 24, 2005. As such, it would equitable to revise the October 25, 2005 decision and set a new period for response in order to avoid abandonment.

The petition is dismissed.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

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;
(2) an acceptable oath or declaration;
(3) the petition fee of $200;
(4) a statement of the last known address of the non-signing inventor;

This petition is missing (2) above. Regarding (2) above, an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 **still** has not been presented. See MPEP 409.03(a).

The declaration filed on October 24, 2005 is an incomplete document. Glen Benson, the previously non-signing inventor, has executed a declaration. However, there is no identifying information for the application attached to the declaration. Therefore, the Office does not know what application Mr. Benson executed. In addition, all the joint inventors and their information, are not listed on the October 24, 2005 declaration.

Petitioners are requested to submit a complete copy of the declaration that Mr. Benson executed on October 4, 2005. If petitioners do not possess a full copy of the declaration that Mr. Benson executed on October 4, 2005, petitioners are required to file another declaration, newly executed by Mr. Benson, that lists identifying information for the application and lists all the joint inventors, as well as their full information.

Once a proper declaration executed by Mr. Benson is received in the Office, the joinder of Mr. Benson will be recognized. Until that point, Rule 47 status would be required for the application.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300 - ATTN: Office of Petitions

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: C. JOHN BRANNON
ONE INDIANA SQUARE, SUITE 3500
INDIANAPOLIS, IN 46204

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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2700 MARKET TOWER
10 WEST MARKET STREET
INDIANAPOLIS IN 46204-4900

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OFFICE OF PETITIONS

In re Application of	:	
Brow, et al.	:	
Application No. 10/966,614	:	
Filed: October 15, 2004	:	ON PETITION
Attorney Docket No. 13229-640//14982-57873	:	

Papers filed on November 6, 2007 in response to a "Decision Refusing Status Under 37 CFR 1.47(a)," mailed October 12, 2007, included a Declaration executed by a previously non-signing inventor, Glendon M. Benson. Petitioners request reconsideration under 37 CFR 1.47(a).

The petition under 37 CFR 1.47(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 Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

Unfortunately, the declaration filed November 6, 2007 is not acceptable because Mr. Benson's first name has been altered and a middle initial has been added.

37 CFR 1.63(a) (2) requires that each inventor be identified by full name, including the family name, and at least one given name without abbreviation together with any other given name or initial in the oath or declaration. Except for correction of an applicant's typographical or transliteration error in the spelling of an inventor's name, a request to have the name changed from the typewritten version to the signed version or any other corrections in the name of the inventor(s) will not be entertained, unless accompanied by a petition under 37 CFR 1.182 together with an appropriate petition fee ($400.00). MPEP 605.04(b)

The declaration filed on November 6, 2007 will not be accepted without a granted Rule 182 petition to have the inventor's name changed from the typewritten version to the signed version.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300 - ATTN: Office of Petitions

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: C. JOHN BRANNON
ONE INDIANA SQUARE, SUITE 3500
INDIANAPOLIS, IN 46204

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United States Patent and Trademark Office
P.O. Box 1450
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INDIANAPOLIS IN 46204-4900

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OFFICE OF PETITIONS

In re Application of	:	
Brow, et al.	:	
Application No. 10/966,614	:	
Filed: October 15, 2004	:	ON PETITION
Attorney Docket No. 13229-640//14982-57873	:	

This decision is in response to a request for reconsideration petition under 37 CFR 1.47(a), filed January 10, 2008. In addition, this decision addresses the petition under 37 CFR 1.182, filed in the same paper as the reconsideration petition under 37 CFR 1.47(a), to have Inventor Benson's name changed from the typewritten version to the signed version found on the declaration filed November 6, 2007.

The petition under 37 CFR 1.182 is **GRANTED**.

The petition under 37 CFR 1.47(a) is **DISMISSED AS MOOT.**

37 CFR 1.63(a) (2) requires that each inventor be identified by full name, including the family name, and at least one given name without abbreviation together with any other given name or initial in the oath or declaration. Except for correction of an applicant's typographical or transliteration error in the spelling of an inventor's name, a request to have the name changed from the typewritten version to the signed version or any other corrections in the name of the inventor(s) will not be entertained, unless accompanied by a petition under 37 CFR 1.182 together with an appropriate petition fee ($400.00). MPEP 605.04(b)

The declaration filed on November 6, 2007 differed from the originally filed declaration in that Mr. Benson's first name was altered and a middle initial was added. Petitioners filed the present petition under 37 CFR 1.182 to have Inventor Benson's name changed from the typewritten version to the signed version found on the declaration filed November 6, 2007.

The petition under 37 CFR 1.182 is granted. Inventor Benson's name has been changed to the signed version found on the November 6, 2007 declaration. A corrected filing receipt reflecting the change has been entered into Office databases.

Papers filed on November 6, 2007 in response to a "Decision Refusing Status Under 37 CFR 1.47(a)," mailed October 12, 2007, included a Declaration executed by a previously non-signing inventor, Glendon M. Benson. Since the present petition under 37 CFR 1.182 is granted, the November 6, 2007 declaration is acceptable and Mr. Benson's joinder is accepted.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is moot; this application does not have any rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

After the mailing of this decision, the application will be returned to Technology Center G.A.U. 1794.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: C. JOHN BRANNON
ONE INDIANA SQUARE, SUITE 3500
INDIANAPOLIS, IN 46204

UNITED STATES DEPARTMENT OF COMMERCE
COMMISSIONER FOR PATENTS
P. O. BOX 1450
ALEXANDRIA, VA 22313-1450

Date	: 3/6/2008
Patent No.	: 7,715,482 B2
Inventor(s)	: Zart et al.
Issue Date	: February 13, 2007
Title	: **CONNECTOR ASSEMBLY FOR AN IMPLANTABLE MEDICAL DEVICE AND PROCESS FOR MAKING**
Doc./File No.	: P-9476.03 DIV

Re: Certificate of Correction

Consideration has been given your request for a certificate of correction, for the above-identified patent under the provisions of Rule 1.322 and 1.323.

Respecting the alleged error in your request, It is the practice to exclude words such as "A", "IMPROVED", "IMPROVEMENTS IN," "NEW", or "NOVEL" as the first word in the title of the invention. Therefore, no correction is in order here under Rule 1.322 or 1.323.

In view of the foregoing, your request is hereby denied.

Ernest C. White, *LIE* (703) 308-9390 x122
Mary F. Diggs, *Supervisor* (703) 308-9390 x125
Decisions & Certificates of Correction Branch

Medtronic, Inc.
710 Medtronic Parkway NE
Minneapolis, MN 55432-9924

ecw

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Buchanan Ingersoll & Rooney PC
P.O. Box 1404
Alexandria, VA 22313-1404

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SEP 28 2007

OFFICE OF PETITIONS

In re Application of

Ramon Eritja
Application No. 10/966,672
Filed: October 14, 2004
Attorney Docket No. 040501

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 29, 2007.

The request is **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 Duane A. Stewart III 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 June 13, 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: **Ramon Eritja**
Viriato 43,5,1
Barcelona, E08014
Spain

cc: **Martin Munzer**
Cygene Laboratories, Inc.
7786 Wiles Road
Coral Springs, FL 33607

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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
10/966,672	10/14/2004	Ramon Eritja	040501

CONFIRMATION NO. 1645

OC000000026059208

23464
BUCHANAN INGERSOLL & ROONEY PC
P.O. BOX 1404
ALEXANDRIA, VA 22313-1404

Date Mailed: 09/27/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/13/2007.

- 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.

Terri Williams

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199

FORMER ATTORNEY/AGENT COPY

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CYGENE LABORATORIES, INC.
7786 WILES ROAD
CORAL SPRINGS, FL 33067

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OFFICE OF PETITIONS

In re Application of :
Eritja et al. :
Application No. 10/966,672 :
Filed: October 14, 2004 :
Attorney Docket No.040501 :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 5, 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 13, 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). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is September 14, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $770.00; and (3) a proper statement of unintentional delay.

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). 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.

Petitioner submitted a request for a three (3) month extension of time with the instant petition. However, pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988) Petitioner's six (6) month maximum extendable period expired on December 14, 2007. Petitioner is ineligible for any extensions of time. The $525.00 extension of time will be refunded.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

This application is being referred to Technology Center AU 1633for 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

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/966,676	10/14/2004	Joel Aaron Shrock	2502625-991132	8184

26379 7590 07/18/2008
DLA PIPER US LLP
2000 UNIVERSITY AVENUE
E. PALO ALTO, CA 94303-2248

EXAMINER
LOCKETT, KIMBERLY R

ART UNIT	PAPER NUMBER
2837	

MAIL DATE	DELIVERY MODE
07/18/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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DLA PIPER US LLP
2000 University Avenue
E. Palo Alto, CA 94303-2248

In re Application of:	:	
Joel Aaron Shrock et al.	:	DECISION *SUA SPONTE*
Serial No.: 10/966,676	:	WITHDRAWING THE HOLDING
Filed: October 14, 2004	:	OF ABANDONMENT
Attorney Docket No.: 2502625-991132	:	
Title: WATER MUSIC DEVICE		

This is a decision, sua sponte, withdrawing the holding of abandonment of the above-identified application.

A Notice of Abandonment was mailed on March 20, 2008. The application was held abandoned for failure to timely file a proper reply to the Office communication mailed on September 12, 2007. The Office communication set a three (3) month period for response.

A review of the application record reveals a response to the Office communication of September 12, 2007 was filed on March 17, 2008. The response was timely since it was filed with a petition and fee for a three month extension of time and included a Certificate of Mailing dated March 12, 2008.

Accordingly, the Notice of Abandonment mailed on March 20, 2008 is hereby VACATED and the holding of abandonment is withdrawn.

The Technical Support Staff of Technology Center 2800 will enter the response of March 17, 2008 and forward the application to the examiner for consideration of the response.

Any inquiries regarding this decision should be directed to Edward Westin at (571) 272-1638.

Janice A. Falcone, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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Klarquist Sparkman, LLP
121 S. W. Salmon Street
Portland, OR 97204

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AUG 2 2 2005

OFFICE OF PETITIONS

In re Application of	:	
Dmitri A. Klemeniev	:	
Application No. 10/966,678	:	DECISION GRANTING
Filed: October 15, 2004	:	PETITION
Attorney Docket No. 3382-69122-01	:	

This is a decision on the petition filed June 30, 2005, requesting that the above-identified application be accorded a filing date of October 15, 2004, rather than the presently accorded date of October 14, 2005. The petition is properly treated as a petition under 37 CFR 1.10(c).

The petition is **GRANTED**.

Petitioner requests the earlier filing date on the basis that the application was purportedly deposited with Express Mail Service on October 15, 2004 pursuant to 37 CFR 1.10. While the copy of the Express Mail label receipt no. EV352376909US bears a handwritten "date-in" of October 14, 2004, it also includes a USPS receipt date stamp of October 15, 2004. Petitioner is alleging that the date of mailing shown in the "date-in" is a U. S. Postal Service (USPS) error and the correct date of mailing pursuant to 37 CFR 1.10 is October 15, 2004. In support, petitioner has provided a copy of the search conducted on the USPS' Express Mail Track and Confirm database as well as a copy of petitioner's Express Mail Corporate Account, both of which show that the package in question was deposited with the USPS on October 15, 2004.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "date-in" on the Express Mail label, MPEP 513. However, in view of the evidence provided, it is confirmed that the package bearing Express Mail label No. EV352376909US was accepted on October 15, 2004.

This application file is being returned to the Office of Initial Patent Examination (OIPE) for **correction of the filing date to October 15, 2004 and issuance of a corrected filing receipt.**

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3223. Telephone inquiries related to OIPE processing should be directed to their hotline at (703) 308-1202.

Marianne E. Jenkins

Marianne E. Jenkins
Petitions Examiner
Office of Petitions

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300 S WACKER DRIVE
25TH FLOOR
CHICAGO, IL 60606

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AUG 1 0 2006
OFFICE OF PETITIONS

In re Application of	:
Yohei Nakanishi et al	:
Application No. 10/966,692	: DECISION GRANTING PETITION
Filed: October 15, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2803.71789	:

This is a decision on the petition, filed August 8, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 19, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 1756 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Aug9\966692.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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OFFICE OF PETITIONS

BUSKOP LAW GROUP, P.C.
4511 DACOMA STREET
HOUSTON TX 77092

In re Application of	:	
Joop ROODENBURG et al.	:	
Patent No. 6,988,459	:	NOTICE
Application No. 10/966,694	:	
Filed: October 15, 2004	:	
Attorney Docket No. **1141.27**		

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 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.

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.

Inquiries related to this communication should be directed to Tredelle Jackson at (571) 272-2783.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: **COMPUTER PACKAGES INC.**
414 HUNGERFORD DRIVE, THIRD FLOOR
ROCKVILLE MD 20850

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SOUTHPARK TOWERS
SUITE 1135
6100 FAIRVIEW ROAD
CHARLOTTE NC 28210

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SEP 1 2 2007

OFFICE OF PETITIONS

In re Application of	:	
Clifford McClain	:	
Application No. 10/966,696	:	DECISION ON PETITION
Filed: October 15, 2004	:	
Attorney Docket No. 217/4	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed June 6, 2007.

The petition is **GRANTED**.

The above-identified application was held abandoned for failure to timely file a response to the Notice of Allowance mailed August 4, 2006. A Notice of Abandonment was mailed on May 14, 2007, indicating that applicant did not submit the issue or publication fees.

A review of the application file reveals the presence of the issue and publication fees, filed on November 6, 2006. The fees were made timely due to the fact that November 4, 2006 fell on a Saturday. See 37 CFR 1.7(a)3, 2007. Accordingly, it is obvious that the Notice of Abandonment was mailed in error.

In view thereof, **the holding of abandonment is withdrawn.**

The matter is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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150 EAST 42ND STREET
5TH FLOOR – STOP 49
NEW YORK, NY 10017-5612

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OFFICE OF PETITIONS

In re Application of	:	
McHardy, et al	:	
Application No. 10/966,712	:	ON PETITION
Filed: October 15, 2004	:	
Attorney Docket No. PC26069A	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 11, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee and publication fee, if applicable, on or before June 15, 2006. Accordingly, this application became abandoned on June 16, 2006.

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) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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4845 PEARL EAST CIRCLE
SUITE 300
BOULDER CO 80301

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OFFICE OF PETITIONS

In re Application of	:	
Bodkin, W. Andrew	:	
Application No. 10/966,734	:	ON PETITION
Filed: October 15, 2004	:	
Attorney Docket No. 427994	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 10, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the Issue Fee Transmittal with payment of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to the Publishing Division for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh

Liana Chase Walsh
Petitions Examiner
Office of Petitions

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SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

Mail Date: 05/05/2010

Applicant	: Jan Boese	: DECISION ON REQUEST FOR
Patent Number	: 7641650	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/966,754	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1097** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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CHRISTENSEN, O'CONNOR, JOHNSON KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE, WA 98101-2347

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OFFICE OF PETITIONS

In re Application of	:	
SUESSERMAN, Michael F.	:	
Application No. 10/966,757	:	DECISION ON PETITION
Filed: October 14, 2004	:	TO WITHDRAW
Attorney Docket No. **EAXI123815**	:	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 09, 2007 and resubmitted March 26, 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 Maurico A. Uribe on behalf of all attorneys of record who are associated with customer No. 26389. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence address of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor.

There is an outstanding Office action mailed March 17, 2008 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **MICHAEL F. SUESSERMANN**
1415 SECOND AVENUE
#2502
SEATTLE, WASHINGTON 98101

cc: **eAXIS, INC.**
300 LENORA STREET
#257
SEATTLE, WASHINGTON 98121

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RUSSELL O. PAIGE
51 LOUISIANA AVENUE, N.W.
WASHINGTON, DC 20001-2113

Mail Date: 04/21/2010

Applicant	: Frederick Morello	: DECISION ON REQUEST FOR
Patent Number	: 7647737	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/966,760	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **973** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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14TH FLOOR
SAN FRANCISCO CA 94108

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OFFICE OF PETITIONS

In re Patent No. 7,543,273	:	
Chow et al.	:	LETTER REGARDING
Issue Date: 06/02/2009	:	PATENT TERM ADJUSTMENT
Application No. 10/966766	:	AND NOTICE OF INTENT
Filing or 371(c) Date: 10/15/2004	:	TO ISSUE
Attorney Docket Number	:	CERTIFICATE OF CORRECTION
ORACL-01604US1	:	

This letter is in response to the "REQUEST FOR CERTIFICATE OF CORRECTION," filed July 13, 2009. The Office thanks applicants for their good faith and candor in bringing this to our attention.

On June 2, 2009, the above-identified application matured into U.S. Patent No. 7,543,273 with a patent term adjustment of 406 days. The Request for Certificate of Correction states that the patent term should be 361 days, not 406 days.

As discussed herein, at the time of issuance, the adjustment of 406 days was properly reduced 78 days for applicant delay.

A review of the record reveals that the Office neglected to assess a reduction of 45 days in accordance with 37 CFR 1.704(c)(8) in connection with the IDS filed January 26, 2009. The reduction commenced December 13, 2008, the day after the date the initial reply (amendment) was filed, and ended January 26, 2009, the date that the supplemental reply (IDS) was filed.

Further review of the record reveals that the Office neglected to assess a reduction of 33 days in accordance with 37 CFR 1.704(c)(10) in connection with the IDS filed May 1, 2009. The reduction commenced May 1, 2009, the date that the IDS was filed, and ended June 2, 2009 in accordance with 37 CFR 1.704(c)(10)(i).

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **328 days**, (406 days of PTO delay less 78 days of applicant delay), subject to any terminal disclaimer.

Given the basis for granting this petition, no fee has been charged. The Office thanks applicants for their candor and good faith in bringing this matter to the attention of the Office.

Any request for reconsideration of this decision must be submitted within ONE MONTH of the mail date indicated herein. The time period for seeking reconsideration is not subject to extension under 37 CFR 1.136.

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 **328 DAYS**.

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods, at (571) 272-3232.

Alesia Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,543,273 B2

DATED : June 2, 2009

INVENTOR(S) : Chow 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 406 days.

Delete the phrase "by 406 days" and insert – by 328 days--

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ROPES & GRAY LLP
PATENT DOCKETING 39/41
ONE INTERNATIONAL PLACE
BOSTON MA 02110-2624

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MAY 19 2008

OFFICE OF PETITIONS

In re Application of	:	
Leveugle et al.	:	
Application No.: 10/966789	:	DECISION ON
Filing or 371(c) Date: 10/14/2004	:	PETITION
Attorney Docket Number: AREX-P02-008	:	

This is a decision in response to the Petition to Withdraw Holding of Abandonment Under 37 C.F.R. § 1.181(a)," filed March 18, 2008.

This Petition is hereby granted.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed June 27, 2007. The Office action set a three (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on September 28, 2007. A Notice of Abandonment was mailed February 14, 2008.

Applicant files the present petition and asserts that a timely reply to the Office action was filed, including a request for a three (3) month extension of time and fee, on December 20, 2007, using the certificate of mail procedures under 37 CFR 1.8. In support of this assertion, Applicant provides a copy of the reply. A review of the copy of the "Response to Non-Final Office Action," filed with the petition reveals that it includes a Certificate of Mailing dated September 20, 2007, executed by Scott Whittemore. Petitioner also includes a Statement Under 37 CFR 1.8(b) by Scott Whittemore, wherein Mr. Whittemore attests to placing the reply in an envelope addressed to this Office before the envelope was deposited with the U.S. Postal Service with sufficient postage on December 20, 2007.

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 or decided with prejudice, or the prosecution of a reexamination proceeding is terminated pursuant to § 1.550(d) or § 1.957(b) or limited pursuant to § 1.957(c), or a requester paper is refused consideration pursuant to §a), 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 that attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing, transmission or submission. 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. If the correspondence was transmitted via the Office electronic filing system, a copy of an acknowledgment receipt generated by the Office electronic filing system confirming submission may be used to support this statement.

(c) The Office may require additional evidence to determine if the correspondence was timely filed.

Applicant has complied with the requirements of 37 CFR 1.8(b). Additionally, Office records reveal that the fee for a three (3) month extension of time was received in this Office on December 26, 2007. A preponderance of the evidence demonstrates that a timely reply was filed.

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

The application will be referred to Technology Center Art Unit 1642 for processing of the Reply, and for continued examination in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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SUITE 710
SANTA CLARA CA 95050

In re Application of Homer Application No. 10/966,794 Filed: October 14, 2004 Attorney Docket No.: 22296-010310US Title: METHOD AND DEVICE FOR DERMAL RETRACTION AND COLLAGEN AND ELASTIN GENERATION	:	DECISION ON PETITION PURSUANT TO 37 C.F.R. § 1.137(B)

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed March 17, 2010, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed June 11, 2009, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on September 12, 2009. A notice of abandonment was mailed on December 30, 2009.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office

action or notice, unless previously filed;

(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;

(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has submitted an amendment, the petition fee, and the proper statement of unintentional delay.

As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[1]

The Technology Center will be notified of this decision, and jurisdiction over this application is transferred to the Technology Center, so that the application may receive further processing. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment that was received on March 17, 2010 can be processed in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival 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.[2] All other inquiries

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1 See Rule 1.137(d).

2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

concerning this application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Tsang-Hung Hsu
P.O. Box 55-846
Taipei 104 TW TAIWAN

COPY MAILED
JUL 17 2006
OFFICE OF PETITIONS

In re Application of :
Tsang-Hung Hsu :
Application No. 10/966,798 :
Filed: October 18, 2004 :
Title of Invention: WARMER FOR :
WARMING WIPER AND FLUID :
CONTAINER SIMULTANEOUSLY OR :
ALTERNATIVELY :

This is a decision in response to the petition under 37 CFR 1.137(b), filed February 6, 2006, to revive the above-identified application. The Petition is properly treated as a Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181(a) (no fee). The delay in treating this petition is regretted.

The petition is **dismissed.**

Petitioner is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.181". Any extensions of time will be governed by 37 CFR 1.136(a).

Background

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed June 29, 2005. The Office action set a three (3) 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 September 30, 2005. A Notice of Abandonment was mailed January 11, 2006.

The instant petition

Applicant files the instant petition and asserts that a timely reply to the Office action was filed on August 17, 2005 via

registered airmail, and in support of this assertion, Applicant encloses a receipt from the Taiwan Post office.

Applicable Law, Rules and MPEP

Applicant is advised that the best evidence of what was filed in this Office is applicant's postcard receipt. "If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the USPTO of all items listed thereon on the date stamped thereon by the USPTO.." MPEP § 503.

The second method wherein an Applicant may demonstrate timely filing of papers with this Office is under 37 CFR § 1.8, Certificate of mailing or transmission, which provides:

> (a) Except in the situations enumerated in paragraph (a)(2) of this section or as otherwise expressly excluded in this chapter, correspondence required to be filed in the U.S. Patent and Trademark Office within a set period of time will be considered as being timely filed if the procedure described in this section is followed. The actual date of receipt will be used for all other purposes.
> (1) Correspondence will be considered as being timely filed if:
> (i) The correspondence is mailed or transmitted prior to expiration of the set period of time by being:
> (A) Addressed as set out in § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail; or (B) Transmitted by facsimile to the Patent and Trademark Office in accordance with § 1.6(d); and
> (ii) The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

37 CFR 1.8

Analysis

The USPTO file is the official record of the papers filed in this application. A review of the official file reveals that no reply to the non-final Office action, mailed June 29, 2005, was filed, since no such reply is present in the file. An applicant alleging that a paper was filed in the USPTO and later misplaced has the burden of proving the allegation by a preponderance of the evidence.

Here, Applicant has provided neither a return-receipt postcard nor has Applicant demonstrated compliance with 37 CFR 1.8. Accordingly, Applicant's assertion - that a timely reply was filed - is unsupported by the record.

The petition is dismissed.

Alternative venue

Applicant is strongly urged to file a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317

(1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in was "unavoidable." An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required fee, currently $750.00.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revive under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Tsang-Hung Hsu
P.O. Box 55-846
Taipei 104 TW TAIWAN

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DEC 0 5 2006
OFFICE OF PETITIONS

In re Application of :
Tsang-Hung Hsu :
Application No. 10/966,798 :
Filing or 371(c) Date: 10/18/2004 :
Title of Invention: :
WARMER FOR WARMING WIPER AND :
FLUID CONTAINER SIMULTANEOUSLY :
OR ALTERNATIVELY : ON PETITION

This is a decision on the Request for Reconsideration of Petition, filed August 17, 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 non-final office action, mailed June 29, 2005. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No response having been received, the application became abandoned on September 30, 2005. A Notice of Abandonment was mailed January 11, 2006.

The February 6, 2006 Petition

Applicant filed a petition on February 6, 2006, wherein Applicant alleged that a rtimely response to the Office action was filed via registered airmail, and in support of the assertion, Applicant filed a copy of a receipt from the Taiwan Post Office.

The July 17, 2006 Decision dismissing the petition

The petition was dismissed in a Decision mailed July 17, 2006. The Decision dismissing the petition informed Applicant that the Official file failed to reveal that a reply to the Office action was filed. Applicant had also failed to provide a postcard receipt of the filing with this Office, nor had Applicant demonstrated compliance with 37 CFR 1.8.

The present Request for Reconsideration

Applicant files the present Request for Reconsideration and asserts that he has solid confidence in the Taiwan and USA postal system. Applicant also encloses a copy of the putatively-filed Response/amendment, and refers to other patents that Applicant has successfully prosecuted using airmail from Taiwan.

A review of Office records

A review of Office records reveals that the Office has located the Response/Amendment filed August 26, 2005. In view of the foregoing, the petition to withdraw the holding of abandonment is hereby granted, and the holding of abandonment is hereby withdrawn.

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.

The application will be referred to Technology Center Art Unit 3742 for processing of the Responmse/amendment.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MICHAEL BEST & FRIEDRICH, LLP
100 E WISCONSIN AVENUE
MILWAUKEE WI 53202

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JAN 28 2005

OFFICE OF PETITIONS

In re Application of
Brian David Sowards
Application No. 10/966,805
Filed: October 15, 2004
Attorney Docket Number: 065424-9113

ON PETITION

This is a decision on the petition filed January 6, 2005, requesting that the above-identified application be accorded a filing date of October 15, 2004, instead of the presently accorded filing date of October 14, 2005.

Petitioners request the later filing date on the basis that the application was deposited in Express Mail service on October 15, 2004, pursuant to the requirements of 37 CFR 1.10.

Petitioners acknowledge that the date of the deposit in Express Mail shown on petitioners' Express Mail receipt is October 14, 2004, but argue that the application was actually deposited with the USPS on October 15, 2004.

In support, petitioners have provided a copy of Express Mail Customer label No. ER698409990US (the same Express Mail number appearing on the itemized transmittal sheet accompanying the original application papers located in the Official file) showing a "date-in" of October 14, 2004, a copy of the register receipt with a postage date of October 15, 2004 and, a copy of information found in the USPS Internet Track & Confirm Database which also corroborates that an item bearing Express Mail Label No. ER698409990US was accepted by the USPS on October 15, 2004. In view thereof, it is concluded that the correct date of deposit in Express Mail service is October 15, 2004. Therefore, the application is entitled to a filing date of October 15, 2004.

The petition is **GRANTED**. In view thereof, no petition fee is due and none has been charged.

The application is being returned to Office of Initial Patent Examination for further processing with a filing date of October 15, 2004, <u>not October 14, 2004</u>.

Telephone inquiries related to this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

Robroy R. Fawcett
1576 Katella Way
Escondido, CA 92027

In re Application of	:	
Ahmad R. Shishegar et al.	:	
Application No. 10/966,826	:	DECISION ON PETITION
Filed: October 10, 2004	:	TO WITHDRAW
Attorney Docket No. ZM02	:	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 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 Robroy R. Fawcett on behalf of all attorneys of record who are associated with Customer No. 23394.

All attorneys/agents associated with the Customer No. 23394 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 Ahmad R. Shishegar 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.

David Bucci
Petitions Examiner
Office of Petitions

cc: Ahmad R. Shishegar
24130 Killion Street
Woodland Hills, CA 91367

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
10/966,826	10/15/2004	Ahmad R. Shishegar	ZM02

CONFIRMATION NO. 7618

OC000000020349293

OC000000020349293

23394
ROBROY R FAWCETT
1576 KATELLA WAY
ESCONDIDO, CA 92027

Date Mailed: 09/08/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 5/17/06 .

- 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.

T. Williams

TERRI S WILLIAMS
OP (571) 272-2991

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVENUE, SUITE 5400
SEATTLE, WA 98104-7092

Mail Date: 04/21/2010

Applicant	: Marcus Volp	: DECISION ON REQUEST FOR
Patent Number	: 7657034	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/966,833	: 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 **1420** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

ROPES & GRAY LLP
PATENT DOCKETING 39/41
ONE INTERNATIONAL PLACE
BOSTON, MA 02110-2624

Mail Date: 04/21/2010

Applicant	: Christine Power	: DECISION ON REQUEST FOR
Patent Number	: 7585840	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/966,845	: OF WYETH
Filed	: 10/15/2004	:
		:

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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JUN 18 2010

OFFICE OF PETITIONS

Ropes & Gray LLP
Patent Docketing
One International Place
Boston, MA 02110-2624

In re Patent No. 7,585,840	:
Power et al.	: DECISION UPON REMAND AND
Issue Date: September 8, 2009	: RECONSIDERATION OF
Application No. 10/966,845	: PATENT TERM ADJUSTMENT
Filed: October 15, 2004	: AND NOTICE OF INTENT
Attorney Docket No. SLII-PO2-001	: TO ISSUE CERTIFICATE OF
	: CORRECTION
Title: Use of Osteoprotegerin For The Treatment And/Or Prevention of Fibrotic Disease	:

This is a decision following remand from the District Court for the District of Columbia regarding the patent term adjustment indicated on the above-identified patent. The Court remanded this matter to the U.S. Patent and Trademark Office for recalculation of the patent term adjustment in accordance with the decision in Wyeth & Elan Pharma Int'l Ltd. v. Kappos, 591 F.3d 1364 (Fed. Cir. 2010).

The patent term adjustment indicated on the above-identified patent has been recalculated as directed by the Court. The term of the above-identified patent is extended or adjusted by nine hundred twenty-three (923) days.

The application is being forwarded to the Certificates Branch for issuance of a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by nine hundred twenty-three (923) days.

Telephone inquiries specific to this matter should be directed to Senior Legal Advisor, Kery A. Fries at (571) 272-7757.

/Kery A. Fries/

Kery A. Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration
Office of Associate Commissioner
For Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,585,840 B2

DATED : **September 8, 2009** **DRAFT**

INVENTOR(S) : Power 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 491 days

Delete the phrase "by 491 days" and insert – by 923 days--

Day : Tuesday
Date: 6/15/2010

PALM INTRANET

Time: 11:31:16

PTA Calculations for Application: 10/966845			
Application Filing Date:	10/15/2004	PTO Delay (PTO):	694
Issue Date of Patent:	09/08/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	203
Post-Issue Petitions:	0	Total PTA (days):	923
PTO Delay Adjustment:	432		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
92	06/15/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	432		
85.5	08/19/2009	PTA 36 MONTHS	262		
85	09/08/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
84	08/04/2009	EXPORT TO FINAL DATA CAPTURE			
82	08/03/2009	DISPATCH TO FDC			
81	08/01/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
80	07/30/2009	ISSUE FEE PAYMENT VERIFIED			
79	07/30/2009	RESPONSE TO REASONS FOR ALLOWANCE			
78	07/30/2009	ISSUE FEE PAYMENT RECEIVED			
77	07/24/2009	FINISHED INITIAL DATA CAPTURE			
76	06/23/2009	RECEIPT INTO PUBS			
75	06/17/2009	WORKFLOW - QUERY REQUEST - FINISH			
74	06/16/2009	TC RETURN TO PUBS			
73	06/10/2009	WORKFLOW - QUERY REQUEST - BEGIN			
72	05/18/2009	RECEIPT INTO PUBS			
71	05/18/2009	SEQUENCE FORWARDED TO PUBS ON TAPE			
70	05/08/2009	EXPORT TO INITIAL DATA CAPTURE			
67	05/05/2009	MAIL NOTICE OF ALLOWANCE			
66	05/04/2009	ISSUE REVISION COMPLETED			
65	05/04/2009	DOCUMENT VERIFICATION			
64	05/04/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
63	04/27/2009	EXAMINER'S AMENDMENT COMMUNICATION			
62	04/23/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			

61	04/27/2009	NOTICE OF ALLOWABILITY			
57	03/16/2009	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
56	03/18/2009	PARALEGAL TD ACCEPTED			
55	03/12/2009	TERMINAL DISCLAIMER FILED		0	53
54	03/17/2009	DATE FORWARDED TO EXAMINER			
53	03/12/2009	AMENDMENT AFTER FINAL REJECTION			
52	01/12/2009	MAIL FINAL REJECTION (PTOL - 326)			
51	01/08/2009	FINAL REJECTION			
50	11/14/2008	DATE FORWARDED TO EXAMINER			
49	10/17/2008	RESPONSE AFTER NON-FINAL ACTION		30	47
48	10/17/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
47	06/17/2008	MAIL NON-FINAL REJECTION			
46	06/16/2008	NON-FINAL REJECTION			
44	03/04/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
42	03/04/2008	REFERENCE CAPTURE ON IDS			
41	03/04/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	38
40	03/04/2008	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
39	04/09/2008	DATE FORWARDED TO EXAMINER			
38	03/04/2008	RESPONSE AFTER NON-FINAL ACTION		34	35
37	03/04/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
36	03/04/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
35	10/30/2007	MAIL NON-FINAL REJECTION			
34	10/29/2007	NON-FINAL REJECTION			
32	09/04/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
31	09/04/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		26	27
30	09/11/2007	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
29	09/04/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
28	08/22/2007	DATE FORWARDED TO EXAMINER			
27	08/09/2007	RESPONSE AFTER NON-FINAL ACTION		81	25

26	08/09/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
25	02/20/2007	MAIL NON-FINAL REJECTION	432		-1
24	02/15/2007	NON-FINAL REJECTION			
23	05/02/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
22	06/10/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
21	03/09/2005	PRELIMINARY AMENDMENT			
20	06/10/2005	CASE DOCKETED TO EXAMINER IN GAU			
19	05/02/2005	REFERENCE CAPTURE ON IDS			
18.7	05/02/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	05/02/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	03/23/2005	APPLICATION RETURN FROM OIPE			
16	03/23/2005	APPLICATION RETURN TO OIPE			
15	03/23/2005	APPLICATION DISPATCHED FROM OIPE			
14	03/23/2005	APPLICATION IS NOW COMPLETE			
13	03/09/2005	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM		32	6
12	10/15/2004	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	01/25/2005	CLEARED BY L&R (LARS)			
8	11/18/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
7	11/18/2004	CASE CLASSIFIED BY OIPE			
6	11/05/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	11/03/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
3	11/01/2004	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
2	10/15/2004	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	10/15/2004	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Paper No.

SCHACHT LAW OFFICE, INC.
SUITE 202
2801 MERIDIAN STREET
BELLINGHAM, WA 98225-2412

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NOV 25 2005
OFFICE OF PETITIONS

In re Application of	:	
Brown et al.	:	
Application No. 10/966,848	:	DECISION ON PETITION
Filed: October 14, 2004	:	
Atty Docket No. P214669	:	

This is a decision on the "Petition to Change Filing Date of Patent Application under 37 CFR 1.182," filed August 5, 2005, requesting that the above-identified application be accorded a filing date of October 14, 2004.

The petition is **GRANTED** to the extent indicated herein.

Application papers in the above-identified application were deposited on October 14, 2004. However, on November 29, 2004, the Office of Initial Patent Examination mailed applicants a "Notice of Omitted Item(s) in a Nonprovisional Application." Applicants were thereby notified that the application papers had been accorded a filing date of October 14, 2004; however, figure 8 described in the specification appeared to have been omitted. In addition, applicants were advised that the declaration was unsigned.

In response, on January 28, 2005, applicants filed an executed declaration, the surcharge for its late filing and omitted figure 8. No preliminary amendment accompanied this submission.

In turn, the Office accorded the application the later filing date of submission of the omitted figure, January 28, 2005.

In response, applicants filed the instant petition, requesting the original filing date of January 28, 2005. Applicants acknowledge that the application as originally filed did not include Figure 8.

As stated in the "Notice of Omitted Items," this application was originally accorded a filing date of October 14, 2004. The mailing of a "Notice of Omitted Items," asserting that figures described in the specification appear to have been omitted from the application, permits the 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 of Omitted Items" (37 CFR 1.181(f)).

Thus, upon submission of the omitted figure in response to the Notice, the Office properly accorded the application the later filing date of January 28, 2005. Applicants now indicate that they only sought to amend the application to include the drawing figure. However, no petition under 37 CFR 1.182 is necessary for that purpose. New drawings may be entered by the primary examiner without petition so long as the new drawings contain no new matter. See MPEP § 608.02(a).

A preliminary amendment requesting entry of the drawing figure should be filed before the first Office action on the merits.

The petition fee will not be refunded, as the petition was not necessitated by any Office error.

The Office of Initial Patent Examination (OIPE) has been advised of this decision. The application is, thereby, forwarded for **correction of the filing date to October 14, 2004**, using the application papers received on that date (without figure 8).

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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ROY-G-BIV CORP.
2801 MERIDIAN STREET
SUITE 202
BELLINGHAM, WA 98225

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OFFICE OF PETITIONS

In re Application of
Stephen J. Brown et al
Application No. 10/966,848
Filed: October 14, 2004
Attorney Docket No. P214669

ON PETITION

This is a decision on the petition filed October 10, 2008 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and Publication fee in a timely manner in reply to the Notice of Allowance mailed April 7, 2008, which set a statutory period for reply of three (3) months. The Request for Continued Examination (RCE) filed July 7, 2008 is improper for failure to submit a submission which is required under 37 CFR 1.114. Accordingly, the above-identified application became abandoned on July 8, 2008.

Since the application is abandoned for failure to submit the Issue fee and Publication fee, payment of there fees are required. With the authorization to charge, the Office is charging the $1510 Issue fee and $300 Publication fee to the petitioner' deposit account.

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.

There is no indication that petitioner has submitted an Issue Fee Transmittal Form (PTOL-85b). Accordingly, if petitioner desires to have the information normally found thereon printed on the patent, the attached blank Issue Fee Transmittal Form should be completed and returned to Mail Stop Issue Fee, within ONE MONTH from the mail date of this decision.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This matter is being referred to the Office of Data Management for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ——

DATE : 5/7/09

TO SPE OF : ART UNIT 1644

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/966849 Patent No.: 7423126 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9D62-B
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
703-756-1591

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: _____

RAM R. SHUKLA, PH.D.
SUPERVISORY PATENT EXAMINER
SPE

1644
Art Unit

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PORTLAND, OR 97204

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OFFICE OF PETITIONS

In re Application of	:	
Dmitri A. Klementiev	:	
Application No. 10/966,855	:	DECISION GRANTING
Filed: October 15, 2004	:	PETITION
Attorney Docket No. 3382-69123-01	:	

This is a decision on the petition filed June 30, 2005, requesting that the above-identified application be accorded a filing date of October 15, 2004, rather than the presently accorded date of October 14, 2004. The petition is properly treated as a petition under 37 CFR 1.10(d).

The petition is **GRANTED**.

Applicant requests the filing date on the basis that the application was purportedly deposited with Express Mail Service on October 15, 2004 pursuant to 37 CFR 1.10. While the copy of the Express Mail label receipt no. EV514606023US bears a handwritten "date-in" of October 14, 2004, petitioner has provided a copy of the results from the USPS Express Mail Track and Confirm database, which shows that the package in question was deposited on October 15, 2004. Applicants are alleging that the date of mailing shown in the "date-in" is a USPS error and the correct date of mailing pursuant to 37 CFR 1.10 is October 15, 2004. The same Express Mail number appears on the originally filed application papers.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "date-in" on the Express Mail label, MPEP 513. However, in view of the results from the USPS Track and Confirm database, it is confirmed that the package bearing Express Mail label No. EV514606023US was accepted on October 15, 2004.

This application file is being returned to the Office of Initial Patent Examination Division for **correction of the filing date to October 15, 2004.**

Telephone inquiries concerning this matter may be directed Irvin Dingle at (571) 272-3210.

Marianne E. Jenkins

Marianne E. Jenkins
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
Buchonok, Munro, Peklo, and Blake
Application No. 10/966,857
Filed: October 14, 2004
Attorney Docket No. 47171-00420USPT
For: COIN BIN HAVING SECURITY FEATURE FOR USE WITH A COIN PROCESSING DEVICE

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a) filed November 7, 2005 (certificate of mailing dated November 4, 2005.)

The petition under 37 CFR 1.47(a) is **dismissed.**

Any request for reconsideration under this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Failure to respond will result in the abandonment of this application. Any response should be titled "Request for Reconsideration of Petition Under 37 CFR 1.47(a).

The above-identified application was filed on October 14, 2004, without a properly executed oath or declaration. A Notice to File Missing Parts of Nonprovisional Application was mailed on May 4, 2005, requiring a proper oath or declaration and surcharge and allowing an extendable period for reply of two months from its mailing date. The instant petition was filed on November 7, 2005, with a request for an extension of time within the fourth month.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee,

(4) a statement of the last known address of the non-signing inventor,

The instant petition lacks item (1) as set forth above.

As to item (1), the instant petition does not provide sufficient evidence that a complete copy of the application papers was sent to the non-signing inventors and not just the dcelartion. Further to this point, Section 409.03(d) of the *Manual of Patent Examining Procedure* (MPEP) provides, in pertinent part, that:

> [a] refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application paper should be sent to the last known address of the non-signing inventor . . .
>
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Proof that a *bona fide* attempt was made to present **a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature**, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

While the instant petition makes clear that the non-signing inventors have refused to join the prosecution of the application, it is not clear whether the non-signing inventors were provided a complete copy of the application papers or whether they refused to accept the same. In order for the non-signing inventors refusals to have merit relative to the instant petition, it must be clear that they were provided with a copy of the application papers or an effort was made to provide him with the same and they refused. The renewed petition must clarify this point.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents,
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
Buchonok, Munro, Pelko, and Blake
Application No.: 10/966,857
Filed: October 14, 2004
Attorney Docket No: 47171-00420USPT
For: COIN BIN HAVING SECURITY FEATURE FOR USE WITH A COIN PROCESSING DEVICE

: DECISION ACCORDING RULE 47(a) STATUS

This is in response to the renewed petition under 37 CFR 1.47(a), filed February 21, 2006 (certificate of mailing dated February 14, 2006.)

The renewed petition is **GRANTED**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

The above-identified application was filed on October 14, 2004, without a properly executed oath or declaration. A Notice to File Missing Parts of Nonprovisional Application was mailed on May 4, 2005, requiring a proper oath or declaration and surcharge and allowing an extendable period for reply of two months from its mailing date. A petition under 37 CFR 1.47(a) was filed on November 7, 2005, with a request for an extension of time within the fourth month. The petition was dismissed by a decision mailed November 15, 2005.

Petitioner has shown that inventor Munro has refused to execute the declaration and join the above-identified application. Petitioner has also demonstrated that Mr. Pelko has also refused to join the prosecution of the subject application. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

It is noted that petitioner indicates that Mr. Pelko wishes to be removed as an inventor on the subject application because he does not believe that he made a material contribution to the invention claimed. It is noted that 37 CFR 1.48(f)(1) provides that, "[i]f the correct inventor or inventors are not named on filing a nonprovisional application under 73 CFR 1.53(b) without an executed oath or declaration under 37 CFR 1.63 by any of the inventors, the first submission of an executed oath or declaration under 1.63 by any of the inventors, during the pendency of the application will act to correct the earlier identification of inventorship." While the first declaration filed on October 14, 2001, listed Mr. Pelko as a joint inventor and was not executed by any inventor, the declaration filed on November 7, 2005, also

listed Mr. Pelko, but was executed by inventors Buchonok and Blake. Accordingly, the inventorship for the application must remain as provided on the declaration filed November 7, 2005. Petitioner may file a petition under 37 CFR 1.48(a) to remove Mr. Pelko as a joint inventor.

This application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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CUMMINS-ALLISON CORP.
C/O NIXON PEABODY LLP
300 S. Riverside Plaza
16th Floor
CHICAGO, IL 60606

Mail Date: 04/21/2010

Applicant	: Steve Bochonok	: DECISION ON REQUEST FOR
Patent Number	: 7658270	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/966,857	: 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 **961** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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CHRISTIE, PARKER & HALE, LLP
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PASADENA CA 91109-7068

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OFFICE OF PETITIONS

In re Application of	:	
Mest et al.	:	
Application No. 11/966,899	:	ON PETITION
Filed: December 28, 2007	:	
Attorney Docket No. 61117/W112	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 10, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to a complete reply to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed January 23, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. In view of the 5-month extension of time filed August 25, 2008, the date of abandonment of this application is August 26, 2008

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.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an abstract, (2) the petition fee of $1,620, and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

This matter is being referred to Technology Center 3739 for further examination on the merits.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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COOLEY GODWARD KRONISH, LLP
ATTN: PATENT GROUP
875 15TH STREET NW, SUITE 800
WASHINGTON, DC 20005-2221

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OFFICE OF PETITIONS

In re Application of	:	
MAUCK, et al.	:	
Application No. 10/966,904	:	DECISION ON PETITION
Filed: October 15, 2004	:	TO WITHDRAW
Attorney Docket No. **ADEN-022/00US/AE2004037**	:	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 6, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to **COOLEY GODWARD KRONISH. LLP** has been revoked by the assignee of the patent application on July 24, 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: **NEUGEBOREN LAW FIRM, PC**
1035 PEARL STREET, SUITE 400
BOULDER, CO 80302

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CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA, CA 91109-7068

Mail Date: 04/21/2010

Applicant	: Jurgen Harms	: DECISION ON REQUEST FOR
Patent Number	: 7621912	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/966,921	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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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William D. Hall
10850 Stanmore Drive
Potomac MD 20854

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In re Application of :
Meyermann : DECISION ON PETITION
Application No. 10/966,923 :
Filed: October 15, 2004 :
Atty. Dkt. No.: METHOD OF AND :
APPARATUS FOR CLEANING RUNOFF :
WATER :

The above-identified application has been forwarded to the Office of Petitions for consideration of the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed April 7, 2008.

The Notice of Abandonment mailed March 31, 2008 indicated that the application was abandoned because applicant failed to submit a proper reply to the non-final Office action mailed June 20, 2007. The Notice of Abandonment further stated that replies were filed September 20, 2007 and September 26, 2007, but that the replies did not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. The Notice of Abandonment indicated that the replies did not constitute a proper reply to the non-final Office action because applicant did not respond to the Notice of Non-Compliance mailed December 6, 2007.

A review of the record reveals that the Notice of Non-Compliant Amendment was withdrawn on April 7, 2008. The letter withdrawing the Notice of Non-Compliant Amendment indicated that the instant application would be directed to the examiner of record for appropriate action.

In view of the withdrawal of the Notice of Non-Compliant Amendment, the petition to withdraw the holding of abandonment is **GRANTED**.

The Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

This application is being forwarded to Group Art Unit 1797 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Smith et al.	:	DECISION ON PETITION
Application No. 10/966,932	:	TO WITHDRAW
Filed: October 15, 2004	:	FROM RECORD
Attorney Docket No. BELL-0348/00350C1	:	

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 **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to the attorneys/agents associated with Customer Number 38952 has been revoked by the assignee of the entire interest of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicants.

This matter is being referred to Technology Center 2600 for further examination on the merits.

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at 571-272- 3206.

David Bucci
Petitions Examiner
Office of Petitions

cc:

LEE & HAYES, PLLC
421 W. RIVERSIDE AVE.
SUITE 500
SPOKANE WA 99201

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

COOK, ALEX, McFARRON, MANZO,
CUMMINGS & MEHLER LTD.
200 WEST ADAMS STREET, SUITE 2850
CHICAGO, IL 60606

COPY MAILED

APR 20 2007

OFFICE OF PETITIONS

In re Application of	:
Shunpei Yamazaki et al	:
Application No. 10/966,942	: DECISION GRANTING PETITION
Filed: October 15, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 0553-0195.01	:

This is a decision on the petition, filed April 19, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 7, 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 2815 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Apr10\966942.wpd

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment.*

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THE OLLILA LAW GROUP LLC
2060 BROADWAY
SUITE 300
BOULDER, CO 80302

COPY MAILED

JUN 15 2007

OFFICE OF PETITIONS

In re Application of :
John Michael Morris :
Application No. 10/966,953 : DECISION ON PETITION
Filed: October 15, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. GTDV123315 :

This is a decision on the petition, filed December 20, 2006, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on October 17, 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 20, 2007 accompanies this decision on petition.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This application is being referred to Technology Center Art Unit 3753 for examination in due course.

Irvin Dingle
Petition Examiner
Office of Petitions

cc: Christensen, O'Connor, Johnson, Kindness, PLLC
1420 Fifth Avenue
Suite 2800
Seattle, WA 98101-2347

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/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/966,953	10/15/2004	John Michael Morris	GTDV123315

CONFIRMATION NO. 8065

26389
CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE, WA 98101-2347

Date Mailed: 06/14/2007

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 09/20/2007.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/966,953	10/15/2004	John Michael Morris	GTDV123315

CONFIRMATION NO. 8065

OC000000024367263

36122
THE OLLILA LAW GROUP LLC
2060 BROADWAY
SUITE 300
BOULDER, CO 80302

Date Mailed: 06/14/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/08/2007.

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.

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
ATTORNEY/APPLICANT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/966,953	10/15/2004	John Michael Morris	GTDV123315

CONFIRMATION NO. 8065

OC000000024367218

26389
CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE, WA 98101-2347

Date Mailed: 06/14/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/08/2007.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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HICKMAN PALERMO TRUONG & BECKER/ORACLE
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110-1083

Mail Date: 04/21/2010

Applicant	: Wanli Yang	: DECISION ON REQUEST FOR
Patent Number	: 7571173	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/966,961	: OF WYETH
Filed	: 10/15/2004	:
		:

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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JJGJR.: 07-06

Paper No: __

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JUL 24 2006
OFFICE OF PETITIONS

FINA TECHNOLOGY INC
PO BOX 674412
HOUSTON TX 77267-4412

In re Application of	:	
Butler, et al.	:	
Application No. 10/966,969	:	DECISION
Filing Date: 15 October, 2004	:	
Attorney Docket No.: COS 976 (31223/00042)	:	

This is a decision on the petition filed on 14 March, 2004, seeking withdrawal of the holding of abandonment under 37 C.F.R. §1.181.

The petition was received by the attorneys in the Office of Petitions only at this writing.

For the reasons set forth below, the petition considered under 37 C.F.R.§1.181 is **DISMISSED**.

NOTES:

It is noted that the mail address on the instant petition is other than that of record.

If Petitioner desires to receive future correspondence regarding this application, the appropriate Notice of Change of Address documentation must be submitted.

A courtesy copy of this decision will be mailed to Petitioner.

However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

(1) Any petition (and fee) for reconsideration of this decision must be submitted within two (2) months from the mail date of this decision. Extensions of time

under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.181."

(If Petitioner is unable to present even a satisfactory showing to support a petition under 37 C.F.R. §1.137(a), and Petitioner's only alternative will be to file a petition under 37 C.F.R. §1.137(b).)

(2) Thereafter, there will be no further reconsideration of this matter.[1]

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice of Missing Parts mailed on 24 November, 2004 (the November 2004 Notice) , with reply due absent extension of time on or before 24 January, 2005;
- the instant application went abandoned after midnight 24 January, 2005;
- on 25 April, 2005, Petitioner filed of record a one-page transmittal sheet indicating transmittal of/and a one-page Power of Attorney from the averred assignee Fina Technology Inc.;
- the Office mailed a Notice of Abandonment on 22 August, 2005;
- on 12 September, 2005, Petitioner filed an Information Disclosure Statement (IDS);
- on 14 March, 2006–nearly fourteen (14) months after abandonment and nearly seven (7) months after Notice thereof,–Petitioner filed the instant petition alleging timely reply over certificate of mailing, and providing what are averred to be true copies of, *inter alia*:

  –an oath/declaration

[1] For more than a century, punctuality and due diligence, equally with good faith, have been deemed essential requisites to the success of those who seek to obtain the special privileges of the patent law, and they are demanded in the interest of the public and for the protection of rival inventors. See: Porter v. Louden, 7 App.D.C. 64 (C.A.D.C. 1895), citing Wollensak v. Sargent, 151 U.S. 221, 228, 38 L. Ed. 137, 14 S. Ct. 291 (1894). An invention benefits no one unless it is made public, and the rule of diligence should be so applied as to encourage reasonable promptness in conferring this benefit upon the public. Automatic Electric Co. v. Dyson, 52 App. D.C. 82; 281 F. 586 (C.A.D.C. 1922). Generally, 35 U.S.C. §6; 37 C.F.R.§§1.181, 182, 183.

–a receipt card (see: MPEP §503[2]) bearing no date stamp; and

–a statement by a former secretary.

While the Office does not doubt that Petitioner intended to file a reply to the November, 2004 Notice, at this writing there appears to be no evidence of record that the Office received any reply to the November, 2004 Notice from Petitioner. If a reply was submitted, Petitioner apparently did not observe that:

- no evidence of that receipt was returned to him; or
- the August 2005 alerted him to what the Office found to be his failure of reply.

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

---

[2] MPEP §503 provides in pertinent part:

§503 Application Number and Filing Receipt

* * *

A return postcard should be attached to *each* patent application for which a receipt is desired. It is important that the return postcard itemize all of the components of the application. If the postcard does not itemize each of the components of the application, it will not serve as evidence that any component which was not itemized was received by the United States Patent and Trademark Office (USPTO). It should be recognized that the identification of an application by application number does not necessarily signify that the USPTO has accepted the application as complete (37 C.F.R. §1.53(a)).

* * *

RETURN POSTCARD

If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

The identifying data on the postcard should be so complete as to clearly identify the item for which receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., and the number of pages being submitted. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).

The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as *prima facie* evidence of receipt of those items.

The person receiving the item(s) in the USPTO will check the listing on the postcard against the item(s) being filed to be sure they are properly identified and that all the items listed on the postcard are presently being submitted to the USPTO. If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the post-card initialed by the person receiving the items. Upon return of a postcard receipt from the USPTO, the postcard receipt should be promptly reviewed by the person who filed the items to ensure that every item specifically denoted on the postcard was received by the USPTO. If the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as *prima facie* evidence of receipt of that item in the USPTO. (Emphasis supplied.)

make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[3]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the

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[3] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[4]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[5]

Delays in responding properly raise the question whether delays are unavoidable.[6] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[7] And the Petitioner must be diligent in attending to the matter.[8] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and of a holding of abandonment.[9]

The commentary at MPEP §711.03(c) provides:

* * *

B. Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed

37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as

---

[4] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[5] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[6] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[7] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[8] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[9] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), * (e), or (g) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. §1.8(b) and MPEP § 512. As stated in 37 C.F.R §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).

37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP § 512.

* * *

And the regulation requires that relief be sought within two (2) months of the act complained of.

Thus, as of this writing Petitioner appears not to have satisfied and not to be able to satisfy the showing or timing requirements described above.

CONCLUSION

Because it appears that Petitioner has not satisfied the burdens set forth in Delgar v. Schulyer, the petition as considered under 37 C.F.R. §1.181 hereby is **dismissed**.

ALTERNATIVE VENUE

Petitioner's only alternative to irretrievable abandonment may be petition alleging unintentional delay under 37 C.F.R. §1.137(b).[10]

Petitioner may wish to file such a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay. (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply (the amendment), the petition fee, and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form available online.)

Further correspondence with respect to this matter should be addressed as follows:[11]

By mail: Commissioner for Patents[12]
P.O. Box 1450
Alexandria, VA 22313-1450

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[10] The regulations at 37 C.F.R. §1.183 sets forth that waiver of the rules is "subject to such other requirements as may be imposed."

[11] On July 15, 2005, the Central Facsimile (FAX) Number changed to (571) 273-8300. The old FAX number no longer is in service and (571) 273-8300 will be the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognoticc/cfax062005.pdf .)

[12] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

By hand: Mail Stop: Petition
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

cc:
William D. Jackson
Schultz & Associates PC
One Lincoln Centre
5400 LBJ Freeway/Ste. 1200
Dallas, TX 75240

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JJGJR.: 09-07

Paper No: __

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OFFICE OF PETITIONS

FINA TECHNOLOGY INC
PO BOX 674412
HOUSTON TX 77267-4412

In re Application of	:	
Butler, et al.	:	
Application No. 10/966,969	:	DECISION
Filing Date: 15 October, 2004	:	
Attorney Docket No.: COS 976 (31223/00042)	:	

This is a decision on the petition filed on 11 September, 2006, supplemented on 19 September, 2007, seeking to revive the instant application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

The supplemented petition was received by the attorneys in the Office of Petitions only at this writing.[1]

For the reasons set forth below, the petition under 37 C.F.R.§1.137(b) is **GRANTED**.

NOTE: **It is noted that the mail address on the instant petition is other than that of**

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[1] NOTES:

Monitoring of the status of applications on PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected.

Moreover, Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181.

record. If Petitioner desires to receive future correspondence regarding this application, the appropriate Notice of Change of Address documentation must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice of Missing Parts mailed on 24 November, 2004 (the November 2004 Notice) , with reply due absent extension of time on or before 24 January, 2005;
- the instant application went abandoned after midnight 24 January, 2005;
- on 25 April, 2005, Petitioner filed of record a one-page transmittal sheet indicating transmittal of/and a one-page Power of Attorney from the averred assignee Fina Technology Inc.;
- the Office mailed a Notice of Abandonment on 22 August, 2005;
- on 12 September, 2005, Petitioner filed an Information Disclosure Statement (IDS);
- on 14 March, 2006–nearly 14 months after abandonment and nearly 7 months after Notice thereof–Petitioner filed the original petition alleging timely reply over certificate of mailing, and providing what are averred to be true copies of, *inter alia*: an oath/declaration, a receipt card (see: MPEP §503[2]) bearing no date stamp; and a statement

---

[2] MPEP §503 provides in pertinent part:

§503 Application Number and Filing Receipt

* * *

A return postcard should be attached to *each* patent application for which a receipt is desired. It is important that the return postcard itemize all of the components of the application. If the postcard does not itemize each of the components of the application, it will not serve as evidence that any component which was not itemized was received by the United States Patent and Trademark Office (USPTO). It should be recognized that the identification of an application by application number does not necessarily signify that the USPTO has accepted the application as complete (37 C.F.R. §1.53(a)).

* * *

RETURN POSTCARD

If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

The identifying data on the postcard should be so complete as to clearly identify the item for which receipt is requested. For example, the

by a former secretary.

- while the Office did not doubt that Petitioner intended to file a reply to the November, 2004 Notice, there appeared at the time the petition was considered no evidence of record that the Office received any reply to the November, 2004 Notice from Petitioner. If a reply was submitted, Petitioner apparently did not observe that: no evidence of that receipt was returned to him; or the August 2005 Notice of Abandonment alerted him to what the Office found to be his failure of reply–and so the petition was dismissed on 24 July, 2006;

- Petitioner has filed the instant petition with fee, made the statement of unintentional delay, supplemented the record to satisfy the last of the reply requirements in the form of the surcharge for the late-filed oath/declaration.

Petitioners are cautioned to make explicit their requests for extensions of time and other such filing elements and other such Notices/Requests to the Office–rather than "bury" such requests in other papers and/or expect Office staff to presume such elements.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate

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postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., and the number of pages being submitted. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).

The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as *prima facie* evidence of receipt of those items.

The person receiving the item(s) in the USPTO will check the listing on the postcard against the item(s) being filed to be sure they are properly identified and that all the items listed on the postcard are presently being submitted to the USPTO. If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the post-card initialed by the person receiving the items. Upon return of a postcard receipt from the USPTO, the postcard receipt should be promptly reviewed by the person who filed the items to ensure that every item specifically denoted on the postcard was received by the USPTO. If the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as *prima facie* evidence of receipt of that item in the USPTO. (Emphasis supplied.)

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]

---

[3] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[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.

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[5]

Delays in responding properly raise the question whether delays are unavoidable.[6] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[7] And the Petitioner must be diligent in attending to the matter.[8] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and of a holding of abandonment.[9]

Allegations as to
Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee if the application was filed before 8 June, 1995.

Petitioner appears now to have satisfied the requirements under the regulation.

CONCLUSION

The petition as considered under 37 C.F.R. §1.137(b) is **granted**.

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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] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

The instant application is released to OIPE for further processing in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[10]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions
cc:
William D. Jackson
Schultz & Associates PC
One Lincoln Centre
5400 LBJ Freeway/Ste. 1200
Dallas, TX 75240

[10] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

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

FINA TECHNOLOGY INC
PO BOX 674412
HOUSTON TX 77267-4412

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OCT 07 2008

OFFICE OF PETITIONS

In re Application of	:	
Butler et al.	:	
Application No. 10/966,969	:	DECISION ON PETITION
Filed: October 15, 2004	:	
Attorney Docket No. COS 976 (31223.00042)	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 25, 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 November 23, 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 February 24, 2008. A Notice of Abandonment was mailed August 12, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $1,540.00 (charged to petitioner's deposit account as authorized on September 25, 2008), and (3) an adequate statement of unintentional delay.

The address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

This application is being referred to Technology Center AU 1796 for appropriate action by the Examiner in the normal course of business on the reply received.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: Tenley R. Krueger, P.C.
P.O. Box 16356
Sugar Land, Texas 77476

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of Boris M. Khudenko)
Serial No. 10/966,972)
Filed: October 16 2004)
For: "Batch-Continuous Process and Reactor")

1724
C. Barry
10-16-04 C

PETITION TO MAKE SPECIAL UNDER 37 C.F.R. 1.102

Honorable Commissioner of
Patents and Trademarks
BOX PATENT APPLICATION
Washington, D.C. 20231

Boris M. Khudenko
744 Moores Mill Rd.
Atlanta, GA 30327

October 13, 2004

Sir:

Applicant hereby petitions to accord the above-identified application "special" status.

This invention relates to ENVIRONMENTAL QUALITY and is believed to materially enhance the quality of the environment of mankind by contributing to the restoration of the basic life-sustaining elements - air, water, and soil. The invention is directed to waste elimination and reduction in many industries thus precluding air, water and soil pollution with organics, heavy metals and other contaminants. A supporting declaration of Dr. Boris M. Khudenko under 37 C.F.R. 1.102 is enclosed.

Respectfully submitted,

Boris Khudenko

Boris M. Khudenko
744 Moores Mill Rd.
Atlanta, GA 30327
(404) 261-4452

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC 1700

SEP 2 8 2005

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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JUL 0 2 2007

OFFICE OF PETITIONS

MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO CA 92130-2040

In re Application of	:	
Chong-Sheng Yuan	:	
Application No. 10/966,983	:	ON PETITION
Filed: October 15, 2004	:	
Attorney Docket No. 466992001700	:	

This is a decision on the petition, filed June 29, 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 June 1, 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 1657 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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

CHALKER FLORES, LLP
2711 LBJ FRWY
Suite 1036
DALLAS, TX 75234

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OCT 28 2008

OFFICE OF PETITIONS

In re Application of	:	
Kabseog Kim, et. al.	:	
Application No. 10/966,987	:	ON PETITION
Filed: October 15, 2004	:	
Attorney Docket No. UTDA:1099	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 10, 2008, to revive the above-identified application.

The application became abandoned for failure to respond to the non-final Office action mailed April 10, 2007. A Notice of Abandonment was mailed on November 14, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $770; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Office acknowledges receipt of $525 for a three months extension of time filed on April 10, 2008. However, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r. Pats. 1988). Since, the $525 extension of time was subsequent to the maximum extendable period for reply, this fee is unnecessary and Petitioner may request that the fee be credited back to the credit card 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.

This application file is being referred to Technology Center Art Unit 3726 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
www.uspto.gov

WOODARD, EMHARDT, MORIARTY, MCNETT & HENRY LLP
111 MONUMENT CIRCLE, SUITE 3700
INDIANAPOLIS, IN 46204-5137

COPY MAILED
DEC 09 2009
OFFICE OF PETITIONS

In re Patent No. 7,015,817	:	
Issue Date: March 21, 2006	:	
Application No. 10/967,005	:	NOTICE
Filed: October 15, 2004	:	
Attorney Docket No. 5631-6	:	

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 April M. Wise at (571) 272-1642.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

MAILED FROM
DIRECTORS OFFICE

MAY 12 2006

TECHNOLOGY CENTER 2800

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WHITEFORD, TAYLOR & PRESTON, LLP
ATTN: GREGORY M STONE
SEVEN SAINT PAUL STREET
BALTIMORE MD 21202-1626

In re Application of:
BEVAN *et al.*
Serial No.: 10/967,010
Filed: October 15, 2004
Attorney Docket Number: 003976/00007
For: **COMPACT EMISSIVITY AND TEMPERATURE MEASURING INFRARED DETECTOR**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed February 13, 2006, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.) § 708.02, Section IV: Applicant's Age.

A grantable petition to make special under 37 C.F.R. § 1.102, and in accordance with M.P.E.P. § 708.02, Section IV, must include evidence showing that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a declaration from the applicant stating that Edward Bevan is sixty-five (65) years of age or more. In addition, a copy of his driver's license is included as evidence.

Accordingly, the petition is GRANTED.

If the examiner can make this application special without prejudice to any possible interfering applications, and s/he should make a rigid search for such, s/he 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, s/he should consider such application simultaneously with this application and should state in the official letter of such application that s/he is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application become 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.

Inquiries regarding this decision should be directed to Jose Dees at (571) 272-1569.

Jose Dees, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

haynesboone

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Haynes and Boone, LLP
Attorneys and Counselors
2505 N Plano Road, Suite 4000
Richardson, Texas 75082-4101
Phone: (972) 680-7550
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Date: Wednesday, May 11, 2005 3:13:20 PM

Total Pages Including Cover: 06

To: U. S. Patent Office

Company:

Fax: 1-703-872-9306

Telephone:

Client/Matter: 35207. 30

From: Kelly Moreau

Direct Telephone: 972-680-7573

Direct Fax: 972-692-9073

Should you have any problem with this transmission, please call: 972-680-7573

Message:

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Douglas L. Peckover, et al.	§	Attorney Docket No.: 35207.30
Serial No.: 10/967,019	§	Customer No. 27683
Filed: October 15, 2004	§	Group Art Unit: 3628
For: METHOD AND APPARATUS FOR HANDLING PSEUDO IDENTITIES	§	Examiner: Unknown
	§	Confirmation No.: 5877

Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

I hereby certify that this correspondence (including any listed enclosures) is being facsimile transmitted (703-872-9306) to the United States Patent and Trademark Office on May 11, 2005.
Kelly A. Moreau
Kelly A. Moreau

Sir:

LETTER TRANSMITTING COPY OF DECISION ON PETITION IN PARENT APPLICATION

On April 22, 2005, Applicants filed in the present application a Letter to the PTO entitled "Letter Regarding Use of Copy of Declaration from Prior Application Under 37 CFR §§1.63 and 1.47(a)". As discussed in detail in that Letter, the provisions of 37 CFR §1.63(d)(3) and MPEP 201.06(c)(VI) specify that Applicants must file in the present application a copy of a Decision issued the PTO in response to a Petition filed in a parent application (U.S. Serial No. 10/965,700). At that time, the PTO had not yet issued a Decision on the Petition. However, Applicants have just received a Decision issued by the PTO on the Petition filed in the parent application. Accordingly, a courtesy copy of that Decision is enclosed for use in the present application by the Office of Initial Patent Examination.

If there is any question regarding the enclosed Decision, the OIPE is invited to telephone the undersigned at (972) 739-8647 so that the question can be promptly addressed and resolved.

Respectfully submitted,

T. Murray Smith

T. Murray Smith
Registration No. 30,222
(972) 739-8647

Date: May 11, 2005

HAYNES AND BOONE, LLP
901 Main Street, Suite 3100
Dallas, Texas 75202-3789
Telephone: (972) 739-8647
Facsimile: (214) 200-0853
File: 35207.30

Enclosures: Copy of Decision on Petition, with enclosure

R-106093.1

PAGE 3/6 * RCVD AT 5/11/2005 4:12:08 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-1/0 * DNIS:8729306 * CSID:Haynes and Boone,LLP * DURATION (mm-ss):02-00

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HAYNES & BOONE LLP
901 MAIN STREET, SUITE 3100
DALLAS, TX 75202-3789

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In re Application of
Douglas L. Peckover et al.
Application No. 10/965,700
Filed: October 14, 2004
Attorney Docket No. 35207.22

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition filed April 19, 2005 under 37 CFR 1.47(a).

The petition is **GRANTED**.

The above-identified application was filed on October 14, 2004, naming Douglas L. Peckover, Thomas L. Allen and Benjamin Wright as joint inventors but without a signed Oath or Declaration. Accordingly, on November 23, 2004, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration.

In response, the instant petition under 37 CFR 1.47(a) and a request for a three month extension of time was filed. The petition argues that joint inventor Peckover refuses to sign the oath or declaration and thus by his actions, to cooperate with the filing of the instant application.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The petition bears proof that the application papers were sent to Mr. Peckover and that he has acknowledged receiving same. Petitioner shows that to date, Mr. Peckover has failed to return an executed oath or declaration, in spite of his claim that he would in a conversation with Attorney T. Murray Smith. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). In view thereof, this application is hereby accorded Rule 1.47(a) status.

Thus, as provided in Rule 1.47c, this Office will forward notice of this application's filing

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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.

As well, please be advised that effective November 22, 2004, the petition fee has been increased to $200.00. Therein, deposit account no. 08-1394 has been charged in the amount of $70.00 to make up the difference between that which was paid and that which is due pursuant to 37 CFR 1.17(g). See the Notice published in the Federal Register on September 21, 2004 and in the Official Gazette of the United States Patent and Trademark Office on October 12, 2004.

This matter is being referred to Technology Center 3624 to be examined in due course.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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DOUGLAS L. PECKOVER
7122 BROOKSHIRE CIRCLE
DALLAS, TX 75230

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OFFICE OF PETITIONS

In re Application of
Douglas L. Peckover et al.
Application No. 10/965,700
Filed: October 14, 2004
For: METHOD AND APPARATUS FACILITATING ELECTRONIC TRANSACTIONS

Dear Mr. Peckover:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned Petitions Attorney at (571) 272-3212. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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cc:
HAYNES & BOONE LLP
901 MAIN STREET, SUITE 3100
DALLAS, TX 75202-3789

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HAYNES AND BOONE, LLP
901 MAIN STREET, SUITE 3100
DALLAS, TX 75202

In re Application of

Douglas L. Peckover et al
Application No. 10/967,019
Filed: October 15, 2004
Attorney Docket No. 35207.30

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 23, 2005.

The request is **APPROVED**.

A review of the file record indicates that David L. McCombs: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, David L. McCombs, along with all of the other attorneys associated with Customer No. **27683**, has been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.36(b).

All future communications from the Office will be directed to the below address until otherwise properly notified by the applicant/assignee or the current attorneys of record.

The application is being referred to Technology Center AU 3628 for examination in due course.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-3208.

Karen Creasy
Petitions Examiner
Office of Petitions

[Conferee:

cc:

JERRY W. MILLS, ESQ.
BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS TX 75201-2980

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : June 22, 2006

TO SPE OF : ART UNIT 2891

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/967035 Patent No.: 7,037,819 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: _____

B. WILLIAM BAUMEISTER
SUPERVISORY PATENT EXAMINER

SPE

2891
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : US 7,037,819 B2

DATED : May 2, 2006

INVENTOR(S): Gosselin et al.

It is certified that errors appear in the above-identified patent and that said Letters Patent are hereby corrected as shown below:

Please amend FIG. 3 number 56 to read as follows:

POSITIONING A SOLDER MEMBER ON THE FIRST LAYER OF SOLDER ENHANCING MATERIAL

Column 7, line 5, change "1" to --2--.

Docket No. IEN-10-5871-D1

MAILING ADDRESS OF SENDER: PATENT NO. US 7,037,819 B2

William N. Hogg, Reg. No. 20,156
Driggs, Hogg & Fry Co., L.P.A.
38500 Chardon Road
Willoughby Hills, Ohio 44094
(440) 391-5100

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Woodcock, Washburn, LLP
Cira Centre, 12th Floor
2929 Arch Street
Philadelphia, PA 19104-2891

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OFFICE OF PETITIONS

In re Application of	:	
William H. Berkman et al.	:	
Application No. 10/967,049	:	DECISION ON PETITION
Filed: October 14, 2004	:	TO WITHDRAW
Attorney Docket No. CRNT-0230	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 8, 2005.

The request is **moot because a revocation of power of attorney has been filed**.

A review of the file record indicates that the power of attorney to Vincent J. Roccia and all attorneys/agents of record has been revoked by the assignee of the patent application on April 8, 2005. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Capital Legal Group, LLC
1100 River Bay Road
Annapolis, MD 21409

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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

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OFFICE OF PETITIONS

In re Application of	:	
Westphal et al.	:	
Application No. 10/967,057	:	
Filed: October 15, 2004	:	ON APPLICATION FOR
Attorney Docket No.	:	PATENT TERM ADJUSTMENT
031599/270163	:	
Title: PAPERBOARD CONTAINER	:	
HAVING CURVILINEAR PORTION	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED ON ALLOWED OF PATENT APPLICATION (37 C.F.R § 1.705)" filed January 18, 2010. This petition is properly treated under 37 CFR 1.705(b). Applicants submit that the correct patent term adjustment to be indicated on the patent is nine hundred fifty-nine (959) days, not four hundred eighty-six (486) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required. The fee set forth in 37 CFR 1.18(e) is required and will not be refunded.

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].

---

[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

any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Charlema Grant at (571) 272-3215.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

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the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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BANNER & WITCOFF, LTD.
TEN SOUTH WACKER DRIVE
SUITE 3000
CHICAGO, IL 60606

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OFFICE OF PETITIONS

In re Patent No. 7,513,712	:	
Alv Hanstvedt	:	DECISION DISMISSING
Application No. 10/967,069	:	REQUEST FOR
Issue Date: April 7, 2009	:	RECONSIDERATION OF
Filed: October 15, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No.	:	UNDER 37 CFR 1.705
006628.00001	:	

This is in response to the APPLICTAION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION UNDER 37 CFR § 1.705(b), filed March 25, 2009, which is properly treated under 37 CFR 1.705(d). Patentee requests that the determination of patent term adjustment be corrected from three hundred eighty (380) days to a minimum of eight hundred twenty (820) 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 380 days.

BACKGROUND

This application was filed on October 15, 2004. On November 3, 2008, a request for continued examination (RCE) was filed. On April 7, 2009, the application matured into U.S. Patent No. 7,513,712, with a revised patent term adjustment of 380 days. The Office determined that the 385 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b)[1,2] overlaps with

[1] Pursuant to 35 U.S.C. 154(b)(1)(B), 37 CFR 1.702(b) provides, in pertinent part, that:

the 565 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1)[3,4] accorded prior to the filing of the request for continued examination. As such, the Office allowed only entry of the adjustment of 565 days. No additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the applicant delay of 185 days, the patent issued with a revised patent term adjustment of 380 (565 - 185) days.

On March 25, 2009, patentee timely[5] submitted this request for reconsideration of patent term adjustment (with required fee),

---

Failure to issue a patent within three years of the actual filing date of the application. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b).

[2] As of the filing of the RCE on November 3, 2008, the application was pending three years and 385 days.

[3] 37 CFR § 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

(a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:

(1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application;

[4] A first Office action was not mailed until July 3, 2007, fourteen months and 565 days after the application filing date, October 15, 2004.

[5] It is noted that the instant request for reconsideration of the patent term adjustment is timely pursuant to 37 CFR 1.705(d). The request for reconsideration of the patent term adjustment would have been untimely if treated under 37 CFR 1.705(b) which requires that any request for reconsideration of the patent term adjustment be filed no later than the payment of issue fee. The instant request was not filed until after payment of the issue fee. Accordingly, this decision will only address reductions and adjustments that occurred after the mailing of the notice of allowance

asserting that the correct number of days of Patent Term Adjustment is a minimum of 820 days. Specifically, patentee states:

> As set forth in 37 CFR 1.703(f), Applicants are entitled to a period of patent term adjustment equal to the period of examination delays based on the ground set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which Applicants failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704(hereinafter "Applicant Delay"). With respect to the above-referenced application, the total period of examination delays is the sum of the period of 14 Month Delay (between December 15, 2005 and July 3, 2007), i.e., 565 days and a minimum period of Three Years Delay (540 days), or 1,105 days to the extent these periods of delay are not overlapping. As the period of 14 Month Delay ended on July 3, 2007, prior to the first day of the period of Three Years Delay, i.e., October 15, 2007, Applicants submit that these periods are not overlapping. To calculate the period of patent term adjustment, the total period of examination delay is reduced by the period of Applicant Delay, which the USPTO has calculated as a period of 185 days (see Exhibit A).
>
> Accordingly, Applicants submit that the correct patent term adjustment for the above-referenced application is at least **820 days**, which is the difference between the total period of examination delay (1105 days) and the period of Applicant Delay (185 days).

Statement under 37 CFR 1.705(b)(2), filed March 25, 2009, p. 2.

OPINION

Initially, the Office notes that the patentees incorrectly calculated the period of adjustment under 37 CFR 1.702(b) as a minimum of 540 days. Furthermore, patentees used the incorrect number of 540 days in calculating the requested patent term determination of a minimum of 820 (565 + 540 - 185) days.

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and arguments directed toward the over three year delay in issuing the patent.

Pursuant to 37 CFR 1.703(b), the period of adjustment is 385 days, counting the number of days in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a), October 15, 2007, and ending on the date the RCE was filed November 3, 2008.

Patentee's interpretation of the period of overlap has been considered, but found inconsistent with the Office's interpretation of the overlap provision, 35 U.S.C. 154(b)(2)(A). 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f)*[6] *and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 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

---

[6] Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

> 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, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the application filing date under 35 U.S.C. 111(a), October 15, 2004, and ending on the date of filing of a request for continued examination (RCE), November 3, 2008, (not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). The relevant period ends with the filing of the RCE as the three-year time frame specified in 35 U.S.C. 154(b)(1)(B) does not include the period subsequent to the filing of the RCE. 35 U.S.C. 154(b)(1)(B)(i).

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), 565 days of patent term adjustment were accorded during the pendency of the application for Office delay prior to the filing of the request for continued examination. There were no Office delays subsequent to the filing of the request for continued examination. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 385 days of patent term adjustment accrued for Office issuance of the patent more than 3 years after the filing date of the application.

All of the 385 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 565 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 565 days and the 385 days is neither permitted nor warranted. 565 days is the actual number of days issuance of the patent was delayed.

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment.

CONCLUSION

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 380 days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

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P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

In re Patent No. 7,420,317	:	
Andreas Bibl et al.	:	DECISION ON
Issue Date: September 2, 2008	:	REQUEST FOR RECONSIDERATION
Application No. 10/967,073	:	OF
Filed: October 15, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 09991-155001	:	
/ DISCLOSURE	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)," filed November 3, 2008, requesting that the patent term adjustment determination for the above-identified patent be changed from three hundred thirty-six (336) days to four hundred and five (405) days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On September 2, 2008, the above-identified application matured into US Patent No. 7,420,317 with a patent term adjustment of 336 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent.[1] See 37 C.F.R. § 1.705(d).

The Office acknowledges submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e). No additional fees are required.

Patentees request recalculation of the patent term adjustment to include a 323-day period of adjustment pursuant to 37 C.F.R. §1.703(b). Patentees maintain entitlement to a period of adjustment due to the Three Year Delay by the Office, pursuant

[1] It is noted that November 2, 2008 fell on a Sunday.

to 37 CFR § 1.703(b), of 323 days and the period of adjustment due to other examination delay, pursuant to 37 CFR §1.702(a), of 494 days.

The 323-day period is calculated based on the application having been filed under 35 U.S.C. §111(a) on October 15, 2004, and the instant patent issued on September 2, 2008, which is 3 years and 323 days after its filing date.

Under 37 CFR § 1.703(f), Patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR § 1.702 reduced by the period of time equal to the period of time during which Patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR § 1.704. In other words, the period of Office delay reduced by the period of applicant delay. The period of reduction of 158 days for applicant delay is not in dispute.

Patentees do not dispute that the total period of Office delay is the sum of the period of Three Years Delay (323 days) and the period of Examination Delay (494 days)[2] to the extent that these periods of delay are not overlapping. However, Patentees contend that 254 days of the Three Year Delay period overlaps with the period of 14-month examination delay. Accordingly, Patentees submit that the total period of adjustment for Office delay is 563 days, which is the sum of the period of Three Year Delay (323 days) and the period of Examination Delay (494 days), reduced by the period of overlap (254 days).

As such, Patentees assert entitlement to a patent term adjustment of 405 days (494 + 323 reduced by 254 overlap - 158 (applicant delay)).

The Office agrees that the application issued 3 years and 323 days after its filing date. The Office agrees that the action detailed above was not taken within the specified time frame, and thus, the entry of a period of adjustment of 494 days for Office delay is correct. At issue is whether Patentees should

---

[2] It is noted that Petitioner fails to account for the single day of Office delay attributed to the fact that an after-final response was received on February 5, 2007, and a notice of allowance was not mailed until June 6, 2007, which is four months and one day later. However, Petitioner correctly indicates that the total period of examination delay is 494 days, and as such, it appears that the failure to list this delay in the itemization contained on pages 1-2 of the petition was an inadvertent omission.

accrue 69 days of patent term adjustment for the Office taking in excess of three years to issue the patent (323 days less the 254 days of overlap), as well as 494 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the entire 323-day period overlaps, and thus, no additional days of patent term adjustment accrue. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years

> after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of Patentees. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding 37 C.F.R. § 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3 year application pendency, and C) guarantee or

adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[3]

As such, the period for over 3 year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, October 15, 2004 to September 2, 2008. 494 days of patent term adjustment were accorded prior to the issuance of the patent for the Office failing to respond within a specified time frame during the pendency of the application. All of the 323 days for Office delay in issuing the patent overlap with the 494 days of Office delay prior to issuance of the patent. Given the initial 494 days of Office delay and the 158 days of applicant delay and the time allowed within the time frames for processing and examination, the patent issued three years and 323 days after its filing date. The Office did not delay 494 days and then an additional 69 days. Entry of both periods is not warranted. 494 days is determined to be the actual number of days that the

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[3] 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).

issuance of the patent was delayed, considering the 323 days over three years to the issuance of this patent.

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment for the Office taking in excess of 3 years to issue the patent.

In view thereof, no adjustment to the patent term will be made.

Telephone inquiries specific to this matter should be directed to Paul Shanoski, Senior Attorney, at (571) 272-3225.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

STATUTE AND REGULATION

35 U.S.C. § 154(b) as amended by § 4402 of the American Inventors Protection Act of 1999[4] (AIPA) provides that:

> ADJUSTMENT OF PATENT TERM. –
>
> (1) PATENT TERM GUARANTEES. –
>
> (A) GUARANTEE OF PROMPT PATENT AND TRADEMARK OFFICE RESPONSES. – Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the Patent and Trademark Office to –
>
> (i) provide at least one of the notifications under section 132 of this title or a notice of allowance under section 151 of this title not later than 14 months after –
>
> (I) the date on which an application was filed under section 111(a) of this title; or
>
> (II) the date on which an international application fulfilled the requirements of section 371 of this title;
>
> (ii) respond to a reply under section 132, or to an appeal taken under section 134, within 4 months after the date on which the reply was filed or the appeal was taken;
>
> (iii) act on an application within 4 months after the date of a decision by the Board of Patent Appeals and Interferences under section 134 or 135 or a decision by a Federal court under section 141, 145, or 146 in a case in which allowable claims remain in the application; or
>
> (iv) issue a patent within 4 months after the date on which the issue fee was paid under section 151 and all outstanding requirements were satisfied, the term of the patent shall be extended 1 day for each day after the end of the period specified in clause (i), (ii), (iii), or (iv), as the case may be, until the action described in such clause is taken.
>
> (B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY. – Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including –

[4] Public Law 106-113, 113 Stat. 1501, 1501A-557 through 1501A-560 (1999).

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

(ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or

(iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

(C) GUARANTEE OR ADJUSTMENTS FOR DELAYS DUE TO INTERFERENCES, SECRECY ORDERS, AND APPEALS. — Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to —

(i) a proceeding under section 135(a);

(ii) the imposition of an order under section 181; or

(iii) appellate review by the Board of Patent Appeals and Interferences or by a Federal court in a case in which the patent was issued under a decision in the review reversing an adverse determination of patentability, the term of the patent shall be extended 1 day for each day of the pendency of the proceeding, order, or review, as the case may be.

(2) LIMITATIONS. —

(A) IN GENERAL. — To the extent that periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

The implementing regulation, 37 CFR § 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

(a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be

adjusted if the issuance of the patent was delayed due to the failure of the Office to:

(1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application;

(2) Respond to a reply under 35 U.S.C. 132 or to an appeal taken under 35 U.S.C. 134 not later than four months after the date on which the reply was filed or the appeal was taken;

(b) Failure to issue a patent within three years of the actual filing date of the application. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including[5]:

In pertinent part, 37 CFR § 1.703 provides for calculation of the periods, as follows:

Period of adjustment of patent term due to examination delay.

(a) The period of adjustment under § 1.702(a) is the sum of the following periods:

(1) The number of days, if any, in the period beginning on the day after the date that is fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first;

(b) The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day

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[5] (1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);

(2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);

(3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;

(4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or

(5) Any delay in the processing of the application by the Office that was requested by the applicant.

after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of the following periods[6]:

37 CFR 1.703(f) provides that:

The adjustment will run from the expiration date of the patent as set forth in 35 U.S.C. 154(a)(2). To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed. The term of a patent entitled to adjustment under § 1.702 and this section shall be adjusted for the sum of the periods calculated under paragraphs (a) through (e) of this section, to the extent that such periods are not overlapping, less the sum of the periods calculated under § 1.704. The date indicated on any certificate of mailing or transmission under § 1.8 shall not be taken into account in this calculation.

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[6] (1) The number of days, if any, in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued;

(2)(i) The number of days, if any, in the period beginning on the date an interference was declared or redeclared to involve the application in the interference and ending on the date that the interference was terminated with respect to the application; and (ii) The number of days, if any, in the period beginning on the date prosecution in the application was suspended by the Office due to interference proceedings under 35 U.S.C. 135(a) not involving the application and ending on the date of the termination of the suspension;

(3)(i) The number of days, if any, the application was maintained in a sealed condition under 35 U.S.C. 181; (ii) The number of days, if any, in the period beginning on the date of mailing of an examiner's answer under § 41.39 of this title in the application under secrecy order and ending on the date the secrecy order was removed; (iii) The number of days, if any, in the period beginning on the date applicant was notified that an interference would be declared but for the secrecy order and ending on the date the secrecy order was removed; and (iv) The number of days, if any, in the period beginning on the date of notification under § 5.3(c) of this chapter and ending on the date of mailing of the notice of allowance under 35 U.S.C. 151; and,

(4) The number of days, if any, in the period beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and § 41.31 of this title and ending on the date of the last decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145, or on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first, if the appeal did not result in a decision by the Board of Patent Appeals and Interferences.

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MAR 29 2010

OFFICE OF PETITIONS

In re Patent No. 7,629,355	: DECISION ON REQUEST
John A. Lawson	: FOR
Issue Date: December 8, 2009	: RECONSIDERATION OF
Application No.10/967,098	: PATENT TERM ADJUSTMENT
Filed: October 14, 2004	: and
Atty Docket No. 7590-0001	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on January 13, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand, four hundred and fifty-three (1,453) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand, four hundred and fifty-three (1,453) days is **GRANTED**.

The Office acknowledges receipt of $200.00 for the fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand, four hundred and fifty-three (1,453) days.**

Telephone inquiries specific to this matter should be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

for

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,629,355 B2

DATED : Dec. 8, 2009

INVENTOR(S) : Lawson

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 (974) days

Delete the phrase "by 974 days" and insert – by 1,453 days--

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Mail Date: 04/20/2010

Applicant	: Ashok K. Santra	: DECISION ON REQUEST FOR
Patent Number	: 7642223	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/967,121	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/18/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **593** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Mail Date: 04/21/2010

Applicant	: Kevin Miller	: DECISION ON REQUEST FOR
Patent Number	: 7630468	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/967,201	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/19/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1365** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Jagtiani+Guttag
10363-A Democracy Lane
Fairfax, VA 22030

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AUG 2 6 2008

OFFICE OF PETITIONS

In re Application of	:	
Mirela Pufulescu, et al.	:	
Application No. 10/967,223	:	DECISION ON PETITION
Filed: October 19, 2004	:	TO WITHDRAW
Attorney Docket No. 22409-00348-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 assignee of the patent application on November 26, 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: **Connolly Bove Lodge & Hutz LLP**
1875 Eye Street, N.W.
Suite 1100
Washington, DC 20036

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OCT 0 7 2009

B.J. Sadoff
NIXON & VANDERHYE P.C.
901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808

In re Application of	:
Smith et al.	:
Serial No.: 10/967,254	:DECISION ON PETITION
Filed: October 19, 2004	:
Attorney Docket No.: 2551-160	:

This letter is in response to the Petition under 37 C.F.R. 1.181 filed on April 27, 2009 to request reconsideration of the restriction requirement mailed December 18, 2007. The delay in acting upon this petition is regretted.

BACKGROUND

This application was filed under 35 USC 111(a) and as such, is considered for restriction following the practice set forth in Chapter 800 of the MPEP.

On December 18, 2007, the examiner restricted claims 24-40 into four groups directed to a method to detect *Aspergillus flavus* using SEQ ID NO: 18-27, 40-43; a method to detect *Cryptococcus neoformans* using SEQ ID NO: 14-17; a method to detect *Pneumocystis carinii* Using SEQ ID NO: 28-32; and an isolated oligonucleotide molecule. The examiner also required election of a single oligonucleotide or a single combination of oligonucleotides, explaining how the different combinations of oligonucleotides and different detection methods were related as combinations and subcombinations.

On May 19, 2008, applicants elected Group I and SEQ ID NO: 26 with traverse.

On August 18, 2008, the examiner considered the traversal and found it persuasive in part. SEQ ID NO: 41 was rejoined to elected SEQ ID NO: 26. The examiner withdrew claims 27, 28, 30-32, and 35-40 in full, and claims 24-26, 29, 33, and 34 in part. The examiner made the restriction requirement FINAL. Claims 26, 29, 33, and 34 were rejected under the judicially created doctrine of obviousness-type double patenting. The examiner indicated that claims 26

and the dependent claims requiring use of SEQ ID NO: 26 or 41 would be allowable upon the filing of a terminal disclaimer. The examiner also indicated that an isolated oligonucleotide molecule consisting of SEQ ID NO: 26 or 41, or RNA equivalents thereof wherein T is replaced by U, or the complements were free of the prior art.

On February 18, 2009, applicants filed an amendment comprising claim amendments and remarks.

On April 27, 2009, applicants filed this petition to reconsider the restriction requirement, a supplemental amendment, and a terminal disclaimer, which has been approved.

DISCUSSION

The file history and petition have been considered carefully.

In the petition, Applicants request that the restriction requirement between Groups I, II and III be withdrawn using two following reasons. First, applicant argue that the methods of Groups I-III share the same classification and filed of search, and thus no burden exists for the examiner to examine all claims of Groups I-III in one patent application. This is not found to be persuasive. The methods of Groups I-III are directed to the detection of distinct microorganisms using distinct reagents. Prior art relevant to Group I's method of identification of *Aspergillus flavus* would not likely be applicable to Group III's method of identification of *Pneumocystis carinii*, for example, since the target microorganism is distinct, and separate oligonucleotides are required to carry out each method. Similar reasoning is applicable for the distinction between Group I and II and between Group II and III.

Applicants also argue that multiple sequences were searched in the parent application, now U.S. 6,858,387, thus allegedly evidencing a lack of search burden. This has been fully considered but is not found to be persuasive. An Official Gazette Notice published March 27, 2007 rescinded the 1996 Official Gazette Notice that provided for a partial waiver of the requirements for restriction practice by permitting examination of a reasonable number, up to ten, independent and distinct polynucleotide molecules in a single 35 USC § 111(a) or 35 USC § 371 application. The 2007 Notice indicated that the standard of independence and distinctness would be applied to polynucleotide claims filed in an application under 35 USC § 111(a). Additionally, the March 27, 2007 OG Notice specifically spoke to the issue of burden of searching more than one independent and distinct invention. Here a search of all of the sequences to each of the species would require separate searches which would be a serious burden on the examiner.

Claims 24 and 26 of the elected invention are reproduced here.

> 24. (Previously Presented) An isolated oligonucleotide molecule consisting of SEQ ID NO: 26, 41, or the RNA equivalents of said SEQ IDs wherein T is replaced by U, or the complements thereof.

26. (Previously Presented) A method to detect and identify at least one Aspergillus species in one single assay, including

(i) releasing, isolating and / or concentrating the nucleic acids of the fungal pathogens possibly present in the sample,

(ii) optionally, amplifying the Internal Transcribed Spacer region (ITS) of said nucleic acids with at least one fungal universal primer pair,

(iii) hybridising the nucleic acids of step (i) or (ii) with at least one oligonucleotide molecule of claim 24,

(iv) detecting the hybridisation complexes formed in step (iii), and

(v) identifying the Aspergillus species present in said sample, based on the hybridisation complex formed.

The non-final Office action mailed August 18, 2008 indicates that claims of the scope of present claims 24 and 26 would be allowable in view of the filing of a terminal disclaimer. The terminal disclaimer was submitted April 27, 2009. Accordingly, the withdrawn claims are now considered for rejoinder. MPEP § 821.04 states:

> In order to be eligible for rejoinder, a claim to a nonelected invention must depend from or otherwise require all the limitations of an allowable claim. A withdrawn claim that does not require all the limitations of an allowable claim will not be rejoined.

Previously withdrawn claims 35-38 depend from and require all of the limitations from allowable claims 24 or 26. Therefore, these claims are appropriately rejoined at this time.

Because new claims 41-56 do not require all the limitations of an allowable claim, they may not be not eligible for rejoinder.

DECISION

The petition is **GRANTED-IN-PART** for the reasons set forth above.

The restriction required between Groups I, II and III is maintained.

Because previously withdrawn claims 35-38 depend from or otherwise require all the limitations of allowable claims 24 or 26, the restriction required between the elected claims and claims 35-38 is hereby withdrawn.

The application will be forwarded to the examiner for consideration of the papers filed April 27, 2009 and for preparation of an Office action consistent with this decision, following the guidance in MPEP 821.04 with respect to rejoinder practice.

Any request for reconsideration must be mailed within 2 (TWO) months of the mail date of this decision.

Should there be any questions about this decision, please contact Quality Assurance Specialist Julie Burke, by letter addressed to Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-0512 or by facsimile sent to the general Office facsimile number, 571-273-8300.

John LeGuyader
Director, Technology Center 1600

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FROM DIRECTORS OFFICE

SEP 23 2005

TECHNOLOGY CENTER 3600

In re Application of :
David Garren et al. :
SERIAL NO.: 10/968,298 :
FILED: October 19, 2004 :
FOR: METHOD FOR DEVELOPING AND USING AN IMAGE RECONSTRUCTION ALGORITHM...

DECISION ON PETITION

This is a decision on the request filed October 19, 2004 to waive the requirements of 37 CFR 1.84(a) so as to permit the application to include a color drawing. Applicant has shown that the use of color is an essential element in the representation of the drawing.

Petition Granted.

Thomas H. Tarcza
SPE, Art Unit 3662
571-272-6979

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ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS, LLP
1725 K STREET, NW
SUITE 1000
WASHINGTON DC 20006

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APR 1 1 2005

OFFICE OF PETITIONS

In re Application of	:
Cordes & Widmer	: DECISION REFUSING
Application No. 10/967,303	: STATUS UNDER
Filed: October 19, 2004	: 37 CFR 1.47(b)
Attorney Docket No. 040537	:
For: MACHINE FOR WET TREATMENT OF TEXTILE FABRIC IN ROPED FORM	:

This is in response to the petition under 37 CFR 1.47(b), filed March 10, 2005.

The petition under 37 CFR 1.47(b) is dismissed.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)." Failure to respond will result in abandonment of the application.

The above-identified application was filed on October 19, 2004 without an executed oath or declaration. Accordingly, on March 2, 2005, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring, *inter alia*, an executed oath or declaration, filing fees, and a surcharge for their late filing.

In response, on March 10, 2005, *inter alia*, an unexecuted oath, the surcharge, filing fees, the petition fee, and the instant petition were filed. A declaration of facts by Rene Vis, insolvency administrator of Scholl-Then AG (hereinafter "Scholl"), accompanies the petition. Mr. Vis states that to the best of his knowledge that Scholl originally owned the above-identified patent application and that Scholl sold its rights in the application to Then Maschinen (B.V.I.) Limited (hereinafter "Maschinen"). Mr. Vis explains that non-signing inventors Cordes and Widmer

refused to join in the filing of the above-identified application after receiving a declaration and an assignment for the above-identified application.

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.

Petitioner lacks items (1), (2), and (5) set forth above.

As to item(1), an acceptable refusal to join on the part of the non-signing inventors has not been established. In a January 6, 2005 e-mail from Mr. Vis to Inventor Cordes, Mr. Vis states that he did not mail the application papers to Inventor Cordes because he does not have them in his possession. The undersigned assumes that the other joint inventor did not receive a copy of the application as filed, either.

The Office requires that the non-signing inventors be provided with a complete copy of the application as filed. This includes the specification with claims, drawings,, and a declaration. See MPEP 409.03(d). Inventors Cordes and Widmer must have the complete application in their possession in order to make an informed decision as to whether they join in its filing. The inventors cannot make the necessary statements found in the declaration-- i.e. "I have reviewed and understand..." -- without having examined the patent application. Their signature on the declaration would obligate them, under penalty of "fine or imprisonment, or both" to particulars to which they can only attest after having had the opportunity to review the subject patent application.

When petitioner can show that the inventors were mailed or received the complete application and that they either refused to sign the declaration or would not respond to the request that they sign the declaration, petitioner will have satisfied this requirement.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented.

First, each inventor's citizenship is not included on the oath or declaration. The citizenship of each inventor must be included on the oath or declaration. As listing the citizenship for each inventor is a statutory requirement under 35 U.S.C. 115, it cannot be waived.

Second, the declaration has not been signed by a properly empowered representative of the Rule 1.47 applicant. **No one** has signed the declaration. An oath or declaration in compliance with 37 CFR 1.63 and 1.64 listing the inventors' identifying information, signed by the Rule 1.47 applicant on behalf of the inventors is REQUIRED. See MPEP 409.03(b).

MPEP 409.03(b) states that typically when a corporation is the Rule 47 applicant, an officer should sign the declaration and provide his/her title. Where an oath is signed by a registered attorney on behalf of a corporation, either proof of the attorney's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney may simply state that he is authorized to sign on behalf of the corporation. The Rule 47 applicant must state his/her relationship to the inventor as required by 37 CFR 1.64.

An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicant on behalf of the non-signing inventors is REQUIRED. See MPEP 409.03(b).

As to item (5), Rule 47 applicant has failed to show that Maschinen has sufficient proprietary interest in the subject matter to justify the filing of the application for the non-signing inventors (see MPEP 409.03(f)). The executed 2004 Intellectual Property Rights Purchase Agreement between Scholl and Maschinen establishes that Maschinen purchased Scholl's rights in the above-identified application. However, it has not been shown what Scholl's rights are. Petitioner must prove via documentary evidence that Scholl had proprietary interest in the application.

Acceptable proof of Scholl's proprietary interest in the application could include a copy of the employment agreement between the non-signing inventors and Scholl, a copy of an assignment agreement showing that the invention disclosed in the application was assigned to Scholl, or a legal memorandum signed by an attorney familiar with the law of the jurisdiction stating that a court of competent jurisdiction would by the weight of authority in that jurisdiction award the title of the invention to Scholl/ the company that bought Scholl's interests in the patent application.

Regarding finances, the current fee due for filing a petition under 37 CFR 1.47(b) is $200.00. Petitioner paid $130.00 by check. Pursuant to petitioner's authorization, deposit account no. 01-2340 was charged the balance due, or $70.00 on March 11, 2005.

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

Inquiries may be directed to the undersigned at (571)272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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1725 K STREET, NW
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WASHINGTON DC 20006

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SEP 13 2005

OFFICE OF PETITIONS

In re Application of	:
Cordes & Widmer	: DECISION REFUSING
Application No. 10/967,303	: STATUS UNDER
Filed: October 19, 2004	: 37 CFR 1.47(b)
Attorney Docket No. 040537	:
For: MACHINE FOR WET TREATMENT OF TEXTILE FABRIC IN ROPED FORM	:

This is in response to the reconsideration petition under 37 CFR 1.47(b), filed August 1, 2005.

The petition under 37 CFR 1.47(b) is dismissed.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)." Failure to respond will result in abandonment of the application.

The above-identified application was filed on October 19, 2004 without an executed oath or declaration. Accordingly, on March 2, 2005, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring, *inter alia*, an executed oath or declaration, filing fees, and a surcharge for their late filing.

In response, on March 10, 2005, *inter alia*, an unexecuted oath, the surcharge, filing fees, the petition fee, and the instant petition were filed.

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration;

(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.

The March 10, 2005 petition was dismissed on April 11, 2005 for failure to meet requirements (1), (2), and (5) set forth above.

Petitioner filed a reconsideration petition on August 1, 2005.

As to (1) above, petitioner has shown that the non-signing inventors have refused to join in the filing of the application. Petitioner has filed a declaration by Rene Vis, insolvency administrator of the Swiss company Scholl-Then AG that is currently in bankruptcy liquidation. Mr. Vis explains that non-signing inventors Carl Cordes and Thomas Widmer both received the application papers for the above-identified application, but Mr. Cordes e-mailed Mr. Vis his refusal to join in the filing of the application on July 10, 2005 and Mr. Widmer refused to join in the filing of the application on June 9, 2005 in a letter addressed to the Insolvency Administrator's Office of the District of Zofingen. Copies of the refusals were submitted with the instant reconsideration petition.

As to item (5), Rule 47 applicant has provided a legal memorandum signed by an attorney familiar with the law of the jurisdiction, Dr. -Ing. Rudolf Ruger, stating that a court of competent jurisdiction would by the weight of authority in that jurisdiction award the title of the invention to Scholl-Then AG and the companies that subsequently bought its interest in the patent application.

However, the reconsideration petition still lacks item (2) above. The declaration submitted with the instant reconsideration petition is not acceptable. The declaration is signed by Lee Che Keung. The title or position of the person signing must be stated if signing on behalf of a corporation under 37 CFR 1.47(b). Mr. Keung has not provide his title. It has not been established that Mr. Keung has the authority to bind the company.

The declaration should normally be signed by an officer of the corporation (President, Vice-President, Secretary, Treasurer of Chief Executive Officer).

A corporation may authorize any person to sign the application on its behalf. A registered attorney/agent may sign the declaration. However, he/she must either state that he/she is authorized to sign on behalf of the company, **OR** provide evidence of his/her authority in the form of a statement signed by an appropriate corporate officer.

If Mr. Keung is not an officer of the company or a registered practitioner, then proof of his authority to bind the company in the form of a statement signed by an appropriate corporate officer must be submitted.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300 - ATTN: Office of Petitions

Inquiries may be directed to the undersigned at (571)272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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WASHINGTON DC 20006

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OFFICE OF PETITIONS

In re Application of	:
Cordes & Widmer	: DECISION ACCORDING
Application No. 10/967,303	: STATUS UNDER
Filed: October 19, 2004	: 37 CFR 1.47(b)
Attorney Docket No. 040537	:
For: MACHINE FOR WET TREATMENT OF TEXTILE FABRIC IN ROPED FORM	:

This is in response to the reconsideration petition under 37 CFR 1.47(b), filed November 14, 2005.

The petition under 37 CFR 1.47(b) is **GRANTED**.

Petitioner has shown that the non-signing inventors have refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of Rene Vis, insolvency administrator of the Swiss company Scholl-Then AG that is currently in bankruptcy liquidation, explains that non-signing inventors Carl Cordes and Thomas Widmer both received the application papers for the above-identified application, but Mr. Cordes refused to join in the filing of the application in an e-mail to Mr. Vis dated July 10, 2005 and Mr. Widmer refused to join in the filing of the application on June 9, 2005 in a letter addressed to the Insolvency Administrator's Office of the District of Zofingen. Copies of the express refusals have been submitted. In addition, petitioner has shown that Scholl-Then AG has a proprietary interest in the above-identified application with the legal memorandum signed by an attorney familiar with the law of the jurisdiction, Dr. -Ing. Rudolf Ruger, stating that a court of competent jurisdiction would by the weight of authority in that jurisdiction award the title of the invention to Scholl-Then AG and the companies that subsequently bought its interest in the patent application. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64 and petitioner has shown that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

As provided in Rule 1.47(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.

Regarding fees, petitioner submitted the Rule 47 petition fee twice. Only one petition fee is required. One $200.00 petition fee will be credited to deposit account no 01-2340.

After this decision is mailed, the above-identified application will be forwarded to the Office of Initial Patent Examination for further processing.

Inquiries 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

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CARL CORDES
AUF DEM KLINGENBERG 26
D-74523 SCHWABISH HALL
GERMANY

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NOV 2 1 2005

OFFICE OF PETITIONS

In re Application of :
Cordes and Widmer : LETTER
Application No. 10/967,303 :
Filed: October 19, 2004 :
Attorney Docket No. 040537 :
For: MACHINE FOR WET TREATMENT OF :
TEXTILE FABRIC IN ROPED FORM

Dear Mr. Cordes:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS, LLP
1725 K STREET, NW
SUITE 1000
WASHINGTON DC 20006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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THOMAS WIDMER
MUHLENMATTSTR. 25
CH-6004 LUZERN
SWITZERLAND

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OFFICE OF PETITIONS

In re Application of :
Cordes and Widmer : LETTER
Application No. 10/967,303 :
Filed: October 19, 2004 :
Attorney Docket No. 040537 :
For: MACHINE FOR WET TREATMENT OF :
TEXTILE FABRIC IN ROPED FORM

Dear Mr. Widmer:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS, LLP
1725 K STREET, NW
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OFFICE OF PETITIONS

In re Application of	:
Cordes & Widmer	: DECISION REFUSING
Application No. 10/967,312	: STATUS UNDER
Filed: October 19, 2004	: 37 CFR 1.47(b)
Attorney Docket No. 040536	:
For: PROCESS AND EQUIPMENT FOR UNIFORM COATING MEDIUM OF TREATMENT ON MATERIALS IN THE FORM OF ROPE	:

This is in response to the petition under 37 CFR 1.47(b), filed March 10, 2005.

The petition under 37 CFR 1.47(b) is dismissed.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)." Failure to respond will result in abandonment of the application.

The above-identified application was filed on October 19, 2004 without an executed oath or declaration. Accordingly, on January 13, 2005, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring, *inter alia*, an executed oath or declaration, filing fees, and a surcharge for their late filing.

In response, on March 10, 2005, *inter alia*, an unexecuted oath, the surcharge, filing fees, the petition fee, and the instant petition were filed. A declaration of facts by Rene Vis, insolvency administrator of Scholl-Then AG (hereinafter "Scholl"), accompanies the petition. Mr. Vis states that to the best of his knowledge that Scholl originally owned the above-identified patent application and that Scholl sold its rights in the application to Then Maschinen (B.V.I.) Limited

(hereinafter "Maschinen"). Mr. Vis explains that non-signing inventors Cordes and Widmer refused to join in the filing of the above-identified application after receiving a declaration and an assignment for the above-identified application.

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.

Petitioner lacks items (1), (2), and (5) set forth above.

As to item(1), an acceptable refusal to join on the part of the non-signing inventors has not been established. In a January 6, 2005 e-mail from Mr. Vis to Inventor Cordes, Mr. Vis states that he did not mail the application papers to Inventor Cordes because he does not have them in his possession. The undersigned assumes that the other joint inventor did not receive a copy of the application as filed, either.

The Office requires that the non-signing inventors be provided with a complete copy of the application as filed. This includes the specification with claims, drawings,, and a declaration. See MPEP 409.03(d). Inventors Cordes and Widmer must have the complete application in their possession in order to make an informed decision as to whether they join in its filing. The inventors cannot make the necessary statements found in the declaration-- i.e. "I have reviewed and understand..." -- without having examined the patent application. Their signature on the declaration would obligate them, under penalty of "fine or imprisonment, or both" to particulars to which they can only attest after having had the opportunity to review the subject patent application.

When petitioner can show that the inventors were mailed or received the complete application and that they either refused to sign the declaration or would not respond to the request that they sign the declaration, petitioner will have satisfied this requirement.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented.

First, each inventor's citizenship is not included on the oath or declaration. The citizenship of each inventor must be included on the oath or declaration. As listing the citizenship for each inventor is a statutory requirement under 35 U.S.C. 115, it cannot be waived.

Second, the declaration has not been signed by a properly empowered representative of the Rule 1.47 applicant. **No one** has signed the declaration. An oath or declaration in compliance with 37 CFR 1.63 and 1.64 listing the inventors' identifying information, signed by the Rule 1.47 applicant

on behalf of the inventors is REQUIRED. See MPEP 409.03(b).

MPEP 409.03(b) states that typically when a corporation is the Rule 47 applicant, an officer should sign the declaration and provide his/her title. Where an oath is signed by a registered attorney on behalf of a corporation, either proof of the attorney's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney may simply state that he is authorized to sign on behalf of the corporation. The Rule 47 applicant must state his/her relationship to the inventor as required by 37 CFR 1.64.

An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicant on behalf of the non-signing inventors is REQUIRED. See MPEP 409.03(b).

As to item (5), Rule 47 applicant has failed to show that Maschinen has sufficient proprietary interest in the subject matter to justify the filing of the application for the non-signing inventors (see MPEP 409.03(f)). The executed 2004 Intellectual Property Rights Purchase Agreement between Scholl and Maschinen establishes that Maschinen purchased Scholl's rights in the above-identified application. However, it has not been shown what Scholl's rights are. Petitioner must prove via documentary evidence that Scholl had proprietary interest in the application.

Acceptable proof of Scholl's proprietary interest in the application could include a copy of the employment agreement between the non-signing inventors and Scholl, a copy of an assignment agreement showing that the invention disclosed in the application was assigned to Scholl, or a legal memorandum signed by an attorney familiar with the law of the jurisdiction stating that a court of competent jurisdiction would by the weight of authority in that jurisdiction award the title of the invention to Scholl/ the company that bought Scholl's interests in the patent application.

Regarding finances, the current fee due for filing a petition under 37 CFR 1.47(b) is $200.00. Petitioner submitted $130.00. Pursuant to petitioner's authorization, deposit account no. 01-2340 was charged the $70.00 balance owed on March 11, 2005.

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

Inquiries may be directed to the undersigned at (571)272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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1725 K STREET, NW
SUITE 1000
WASHINGTON DC 20006

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SEP 13 2005

OFFICE OF PETITIONS

In re Application of	:
Cordes & Widmer	: DECISION REFUSING
Application No. 10/967,312	: STATUS UNDER
Filed: October 19, 2004	: 37 CFR 1.47(b)
Attorney Docket No. 040536	:
For: PROCESS AND EQUIPMENT FOR UNIFORM COATING MEDIUM OF TREATMENT ON MATERIALS IN THE FORM OF ROPE	:

This is in response to the reconsideration petition under 37 CFR 1.47(b), filed August 1, 2005.

The petition under 37 CFR 1.47(b) is dismissed.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)." Failure to respond will result in abandonment of the application.

The above-identified application was filed on October 19, 2004 without an executed oath or declaration. Accordingly, on January 13, 2005, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring, *inter alia*, an executed oath or declaration, filing fees, and a surcharge for their late filing.

In response, on March 10, 2005, *inter alia*, an unexecuted oath, the surcharge, filing fees, the petition fee, and the instant petition were filed.

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath

or declaration;
(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.

The March 10, 2005 petition was dismissed on March 31, 2005 for failure to meet requirements (1), (2), and (5) set forth above.

Petitioner filed a reconsideration petition on August 1, 2005.

As to (1) above, petitioner has shown that the non-signing inventors have refused to join in the filing of the application. Petitioner has filed a declaration by Rene Vis, insolvency administrator of the Swiss company Scholl-Then AG that is currently in bankruptcy liquidation. Mr. Vis explains that non-signing inventors Carl Cordes and Thomas Widmer both received the application papers for the above-identified application, but Mr. Cordes e-mailed Mr. Vis his refusal to join in the filing of the application on July 10, 2005 and Mr. Widmer refused to join in the filing of the application on June 9, 2005 in a letter addressed to the Insolvency Administrator's Office of the District of Zofingen. Copies of the refusals were submitted with the instant reconsideration petition.

As to item (5), Rule 47 applicant has provided a legal memorandum signed by an attorney familiar with the law of the jurisdiction, Dr. -Ing. Rudolf Ruger, stating that a court of competent jurisdiction would by the weight of authority in that jurisdiction award the title of the invention to Scholl-Then AG and the companies that subsequently bought its interest in the patent application.

However, the reconsideration petition still lacks item (2) above. The declaration submitted with the instant reconsideration petition is not acceptable. The declaration is signed by Lee Che Keung. The title or position of the person signing must be stated if signing on behalf of a corporation under 37 CFR 1.47(b). Mr. Keung has not provide his title. It has not been established that Mr. Keung has the authority to bind the company.

The declaration should normally be signed by an officer of the corporation (President, Vice-President, Secretary, Treasurer of Chief Executive Officer).

A corporation may authorize any person to sign the application on its behalf. A registered attorney/agent may sign the declaration. However, he/she must either state that he/she is authorized to sign on behalf of the company, **OR** provide evidence of his/her authority in the form of a statement signed by an appropriate corporate officer.

If Mr. Keung is not an officer of the company or a registered practitioner, then proof of his authority to bind the company in the form of a statement signed by an appropriate corporate

officer must be submitted.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300 - ATTN: Office of Petitions

Inquiries may be directed to the undersigned at (571)272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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1725 K STREET, NW
SUITE 1000
WASHINGTON DC 20006

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NOV 2 1 2005

OFFICE OF PETITIONS

In re Application of
Cordes & Widmer
Application No. 10/967,312
Filed: October 19, 2004
Attorney Docket No. 040536

For: PROCESS AND EQUIPMENT FOR UNIFORM COATING MEDIUM OF TREATMENT ON MATERIALS IN THE FORM OF ROPE

: DECISION ACCORDING
: STATUS UNDER
: 37 CFR 1.47(b)

This is in response to the reconsideration petition under 37 CFR 1.47(b), filed November 14, 2005.

The petition under 37 CFR 1.47(b) is **GRANTED**.

Petitioner has shown that the non-signing inventors have refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of Rene Vis, insolvency administrator of the Swiss company Scholl-Then AG that is currently in bankruptcy liquidation, explains that non-signing inventors Carl Cordes and Thomas Widmer both received the application papers for the above-identified application, but Mr. Cordes refused to join in the filing of the application in an e-mail to Mr. Vis dated July 10, 2005 and Mr. Widmer refused to join in the filing of the application on June 9, 2005 in a letter addressed to the Insolvency Administrator's Office of the District of Zofingen. Copies of the express refusals have been submitted. In addition, petitioner has shown that Scholl-Then AG has a proprietary interest in the above-identified application with the legal memorandum signed by an attorney familiar with the law of the jurisdiction, Dr. -Ing. Rudolf Ruger, stating that a court of competent jurisdiction would by the weight of authority in that jurisdiction award the title of the invention to Scholl-Then AG and the companies that subsequently bought its interest in the patent application. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64 and

petitioner has shown that such action is necessary to prevent irreparable damage.
This application and papers have been reviewed and found in compliance with 37 CFR 1.47(b).
This application is hereby accorded Rule 1.47(b) status.

As provided in Rule 1.47(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.

Regarding fees, petitioner submitted the Rule 47 petition fee twice. Only one petition fee is required. One $200.00 petition fee will be credited to deposit account no 01-2340.

After this decision is mailed, the above-identified application will be forwarded to the Office of Initial Patent Examination for further processing.

Inquiries may be directed to the undersigned at (571)272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CARL CORDES
AUF DEM KLINGENBERG 26
D-74523 SCHWABISH HALL
GERMANY

COPY MAILED

NOV 2 1 2005

OFFICE OF PETITIONS

In re Application of
Cordes and Widmer
Application No. 10/967,312
Filed: October 19, 2004
Attorney Docket No. 040536
For: PROCESS AND EQUIPMENT FOR UNIFORM COATING MEDIUM OF TREATMENT ON MATERIALS IN THE FORM OF ROPE

: LETTER

Dear Mr. Cordes:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS, LLP
1725 K STREET, NW
SUITE 1000
WASHINGTON DC 20006

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

THOMAS WIDMER
MUHLENMATTSTR. 25
CH-6004 LUZERN
SWITZERLAND

COPY MAILED

NOV 2 1 2005

OFFICE OF PETITIONS

In re Application of :
Cordes and Widmer : LETTER
Application No. 10/967,312 :
Filed: October 19, 2004 :
Attorney Docket No. 040536 :
For: PROCESS AND EQUIPMENT FOR :
UNIFORM COATING MEDIUM OF
TREATMENT ON MATERIALS IN THE FORM
OF ROPE

Dear Mr. Widmer:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS, LLP
1725 K STREET, NW
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WASHINGTON DC 20006

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P.O. Box 1450
Alexandria, VA 22313-1450
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JACOBSON HOLMAN PLLC
400 SEVENTH STREET N.W.
SUITE 600
WASHINGTON DC 20004

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OCT 04 2007

OFFICE OF PETITIONS

In re Application of	:
Ralf Wolleschensky, et al.	:
Application No. 10/967,318	: DECISION GRANTING PETITION
Filed: October 19, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. P70127US0	:

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 2, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 11, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to April Wise at (571) 272-1642.

This application is being referred to Technology Center AU 2878 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statements.

Frances M. Hicks
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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P.O. Box 1450
Alexandria, VA 22313-1450
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JACOBSON HOLMAN PLLC
400 SEVENTH STREET N.W.
SUITE 600
WASHINGTON DC 20004

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OCT 03 2007
OFFICE OF PETITIONS

In re Application of	:	
Ralf Wolleschensky, et al.	:	
Application No. 10/967,318	:	DECISION GRANTING PETITION
Filed: October 19, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. P70127US0	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 2, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 11, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to April Wise at (571) 272-1642.

This application is being referred to Technology Center AU 2878 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statements.

Frances M. Hicks
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 12/3/09 **Paper No.:** ——

TO SPE OF : ART UNIT 2878

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/967318 Patent No.: 7488931 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

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: _____

Seneyan Y Eyre AU 2878
12/18/09

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS, LLP
1725 K STREET, NW
SUITE 1000
WASHINGTON DC 20006

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MAR 3 1 2005

OFFICE OF PETITIONS

In re Application of	:
Cordes	: DECISION REFUSING
Application No. 10/967,319	: STATUS UNDER
Filed: October 19, 2004	: 37 CFR 1.47(b)
Attorney Docket No. 040534	:
For: DEVICE OR EQUIPMENT FOR THE TREATMENT OF TEXTILE FABRIC IN THE SHAPE OF ROPE	:

This is in response to the petition under 37 CFR 1.47(b), filed March 10, 2005.

The petition under 37 CFR 1.47(b) is dismissed.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)." Failure to respond will result in abandonment of the application.

The above-identified application was filed on October 19, 2004 without an executed oath or declaration. Accordingly, on March 2, 2005, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring, *inter alia*, an executed oath or declaration, filing fees, and a surcharge for their late filing.

In response, on March 10, 2005, *inter alia*, an unexecuted oath, the surcharge, filing fees, the petition fee, and the instant petition were filed. A declaration of facts by Rene Vis, insolvency administrator of Scholl-Then AG (hereinafter "Scholl"), accompanies the petition. Mr. Vis states that to the best of his knowledge that Scholl originally owned the above-identified patent application and that Scholl sold its rights in the application to Then Maschinen (B.V.I.) Limited

(hereinafter "Maschinen"). Mr. Vis explains that non-signing inventor Cordes refused to join in the filing of the above-identified application after receiving a declaration and an assignment for the above-identified application.

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.

Petitioner lacks items (1), (2), and (5) set forth above.

As to item(1), an acceptable refusal to join on the part of the non-signing inventor has not been established. In a January 6, 2005 e-mail from Mr. Vis to Inventor Cordes, Mr. Vis states that he did not mail the application papers to Inventor Cordes because he does not have them in his possession.

The Office requires that the non-signing inventor be provided with a complete copy of the application as filed. This includes the specification with claims, drawings,, and a declaration. See MPEP 409.03(d). Inventor Cordes must have the complete application in his possession in order to make an informed decision as to whether he joins in its filing. The inventor cannot make the necessary statements found in the declaration-- i.e. "I have reviewed and understand..." -- without having examined the patent application. Their signature on the declaration would obligate him, under penalty of "fine or imprisonment, or both" to particulars to which he can only attest after having had the opportunity to review the subject patent application.

When petitioner can show that the inventor was mailed or received the complete application and that he either refused to sign the declaration or would not respond to the request that he sign the declaration, petitioner will have satisfied this requirement.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented.

First, the inventor's citizenship is not included on the oath or declaration. The citizenship of the inventor must be included on the oath or declaration. As listing the citizenship for the inventor is a statutory requirement under 35 U.S.C. 115, it cannot be waived.

Second, the declaration has not been signed by a properly empowered representative of the Rule 1.47 applicant. **No one** has signed the declaration. An oath or declaration in compliance with 37 CFR 1.63 and 1.64 listing the inventor's identifying information, signed by the Rule 1.47 applicant on behalf of the inventor is REQUIRED. See MPEP 409.03(b).

MPEP 409.03(b) states that typically when a corporation is the Rule 47 applicant, an officer should sign the declaration and provide his/her title. Where an oath is signed by a registered attorney on behalf of a corporation, either proof of the attorney's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney may simply state that he is authorized to sign on behalf of the corporation. The Rule 47 applicant must state his/her relationship to the inventor as required by 37 CFR 1.64.

An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicant on behalf of the non-signing inventor is REQUIRED. See MPEP 409.03(b).

As to item (5), Rule 47 applicant has failed to show that Maschinen has sufficient proprietary interest in the subject matter to justify the filing of the application for the non-signing inventor (see MPEP 409.03(f)). The executed 2004 Intellectual Property Rights Purchase Agreement between Scholl and Maschinen establishes that Maschinen purchased Scholl's rights in the above-identified application. <u>However, it has not been shown what Scholl's rights are</u>. Petitioner must prove via documentary evidence that Scholl had proprietary interest in the application.

Acceptable proof of Scholl's proprietary interest in the application could include a copy of the employment agreement between the non-signing inventor and Scholl, a copy of an assignment agreement showing that the invention disclosed in the application was assigned to Scholl, or a legal memorandum signed by an attorney familiar with the law of the jurisdiction stating that a court of competent jurisdiction would by the weight of authority in that jurisdiction award the title of the invention to Scholl/ the company that bought Scholl's interests in the patent application.

Regarding finances, the current fee due for filing a petition under 37 CFR 1.47(b) is $200.00. Petitioner submitted $130.00. Pursuant to petitioner's authorization, deposit account no. 01-2340 will be charged the $70.00 balance owed

Further correspondence with respect to this matter should be addressed as follows:

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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

Inquiries may be directed to the undersigned at (571)272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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WASHINGTON DC 20006

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SEP 13 2005

OFFICE OF PETITIONS

In re Application of	:
Cordes	: DECISION REFUSING
Application No. 10/967,319	: STATUS UNDER
Filed: October 19, 2004	: 37 CFR 1.47(b)
Attorney Docket No. 040534	:
For: DEVICE OR EQUIPMENT FOR THE TREATMENT OF TEXTILE FABRIC IN THE SHAPE OF ROPE	:

This is in response to the reconsideration petition under 37 CFR 1.47(b), filed August 1, 2005.

The petition under 37 CFR 1.47(b) is dismissed.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)." Failure to respond will result in abandonment of the application.

The above-identified application was filed on October 19, 2004 without an executed oath or declaration. Accordingly, on March 2, 2005, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring, *inter alia*, an executed oath or declaration, filing fees, and a surcharge for their late filing.

In response, on March 10, 2005, *inter alia*, an unexecuted oath, the surcharge, filing fees, the petition fee, and the instant petition were filed.

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration;
(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.

The March 10, 2005 petition was dismissed on March 31, 2005 for failure to meet requirements (1), (2), and (5) set forth above.

Petitioner filed a reconsideration petition on August 1, 2005.

As to (1) above, petitioner has shown that the non-signing inventor has refused to join in the filing of the application. Petitioner has filed a declaration by Rene Vis, insolvency administrator of the Swiss company Scholl-Then AG that is currently in bankruptcy liquidation. Mr. Vis explains that non-signing inventor Carl Cordes received the application papers for the above-identified application, but Mr. Cordes e-mailed Mr. Vis his refusal to join in the filing of the application on July 10, 2005. A copy of the refusal was submitted with the instant reconsideration petition.

As to item (5), Rule 47 applicant has provided a legal memorandum signed by an attorney familiar with the law of the jurisdiction, Dr. -Ing. Rudolf Ruger, stating that a court of competent jurisdiction would by the weight of authority in that jurisdiction award the title of the invention to Scholl-Then AG and the companies that subsequently bought its interest in the patent application.

However, the reconsideration petition still lacks item (2) above. The declaration submitted with the instant reconsideration petition is not acceptable. The declaration is signed by Lee Che Keung. The title or position of the person signing must be stated if signing on behalf of a corporation under 37 CFR 1.47(b). Mr. Keung has not provide his title. It has not been established that Mr. Keung has the authority to bind the company.

The declaration should normally be signed by an officer of the corporation (President, Vice-President, Secretary, Treasurer of Chief Executive Officer).

A corporation may authorize any person to sign the application on its behalf. A registered attorney/agent may sign the declaration. However, he/she must either state that he/she is authorized to sign on behalf of the company, **OR** provide evidence of his/her authority in the form of a statement signed by an appropriate corporate officer.

If Mr. Keung is not an officer of the company or a registered practitioner, then proof of his authority to bind the company in the form of a statement signed by an appropriate corporate officer must be submitted.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300 - ATTN: Office of Petitions

Inquiries may be directed to the undersigned at (571)272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS, LLP
1725 K STREET, NW
SUITE 1000
WASHINGTON DC 20006

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NOV 21 2005

OFFICE OF PETITIONS

In re Application of Cordes Application No. 10/967,319 Filed: October 19, 2004 Attorney Docket No. 040534 For: DEVICE OR EQUIPMENT FOR THE TREATMENT OF TEXTILE FABRIC IN THE SHAPE OF ROPE	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(b)

This is in response to the reconsideration petition under 37 CFR 1.47(b), filed November 14, 2005.

The petition under 37 CFR 1.47(b) is **GRANTED**.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of Rene Vis, insolvency administrator of the Swiss company Scholl-Then AG that is currently in bankruptcy liquidation, explains that non-signing inventor Carl Cordes received the application papers for the above-identified application, but Mr. Cordes refused to join in the filing of the application in an e-mail to Mr. Vis dated July 10, 2005. A copy of the express refusal has been submitted. In addition, petitioner has shown that Scholl-Then AG has a proprietary interest in the above-identified application with the legal memorandum signed by an attorney familiar with the law of the jurisdiction, Dr. -Ing. Rudolf Ruger, stating that a court of competent jurisdiction would by the weight of authority in that jurisdiction award the title of the invention to Scholl-Then AG and the companies that subsequently bought its interest in the patent application. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64 and petitioner has shown that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

As provided in Rule 1.47(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.

Regarding fees, petitioner submitted the Rule 47 petition fee twice. Only one petition fee is required. One $200.00 petition fee will be credited to deposit account no 01-2340.

After this decision is mailed, the above-identified application will be forwarded to the Office of Initial Patent Examination for further processing.

Inquiries may be directed to the undersigned at (571)272-3230.

E Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CARL CORDES
AUF DEM KLINGENBERG 26
D-74523 SCHWABISH HALL
GERMANY

COPY MAILED

NOV 2 1 2005

OFFICE OF PETITIONS

In re Application of :
Cordes : LETTER
Application No. 10/967,319 :
Filed: October 19, 2004 :
Attorney Docket No. 040534 :
For: DEVICE OR EQUIPMENT FOR THE :
TREATMENT OF TEXTILE FABRIC IN THE
SHAPE OF ROPE

Dear Mr. Cordes:

You are named as the sole inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as the sole inventor.

As the named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS, LLP
1725 K STREET, NW
SUITE 1000
WASHINGTON DC 20006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

Timothy J. Klima
Harbin King & Klima
500 Ninth Street, SE
Washington DC 20003

MAILED

MAY 04 2009

OFFICE OF PETITIONS

In re Application of	:	
Leif Rackwitz	:	
Application No. 10/967,320	:	DECISION ON PETITION
Filed: October 19, 2004	:	PURSUANT TO
Attorney Docket No.: 2560-0450	:	37 C.F.R. § 1.137(B)
Title: FUEL INJECTION NOZZLE WITH FILM-TYPE FUEL APPLICATION	:	

This is a decision on the petition filed July 22, 2008, pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application.

The petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R § 1.113 in a timely manner to the final Office action mailed September 24, 2007, which set a shortened statutory period for reply of three months. An after-final amendment was received on February 25, 2008 along with a two-month extension of time,[1] and an advisory action was mailed on April 8, 2008. No additional extensions of time under the provisions of 37 C.F.R § 1.136(a) were obtained, and no further

1 It is noted that February 24, 2008 fell on a Sunday.

responses were received. Accordingly, the above-identified application became abandoned on February 25, 2008. A notice of abandonment was mailed on May 23, 2008.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has submitted the petition fee, a Request for Continued Examination (RCE) along with the associated fee, an amendment, and the proper statement of unintentional delay.

The first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[2]

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the submission under 37 C.F.R. § 1.114 - the amendment received on July 22, 2008 - can be processed.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival 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.**

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2 See Rule 1.137(d).

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[3] All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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3 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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JACOBSON HOLMAN PLLC
400 SEVENTH STREET N.W.
SUITE 600
WASHINGTON, DC 20004

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AUG 0 8 2007

OFFICE OF PETITIONS

In re Application of :
Ralf Wolleschensky, et al. :
Application No. 10/967,326 :
Filed: October 19, 2004 :
Attorney Docket No. P70142US0 :

ON PETITION

This is a decision in response to the petition, filed March 22, 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 final Office action mailed July 31, 2006. A Notice of Abandonment was mailed on March 15, 2007. In response, on March 22, 2007, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment (2) the petition fee of $1,500; and (3) the requisite statement of unintentional delay.

This application is being referred to Technology Center AU 2878 for appropriate action by the Examiner in the normal course of business on the reply received March 22, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

JACOBSON HOLMAN PLLC
400 SEVENTH STREET N.W.
SUITE 600
WASHINGTON, DC 20004

Mail Date: 04/21/2010

Applicant	: Frank Hecht	: DECISION ON REQUEST FOR
Patent Number	: 7593581	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/967,332	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/19/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1269** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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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JACOBSON HOLMAN PLLC
400 SEVENTH STREET N.W.
SUITE 600
WASHINGTON DC 20004

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OFFICE OF PETITIONS

In re Application of Wolleschensky et al. Application No. 10/967,335 Filed: 10/19/2004 Attorney Docket No. P70126US0	: : : : :	DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed on March 21, 2006, to withdraw the holding of abandonment.

On April 15, 2005, the Office mailed a Notice to File Corrected Application Papers, which set a two-month extendable period to reply. In the apparent absence of a timely and proper response, the Office mailed a Notice of Abandonment on January 5, 2006.

Petitioner asserts that a reply was filed timely. In support of the petition, petitioner submits a copy of a returned, date-stamped postcard receipt, acknowledging receipt of "Response to Notice to File Corrected Application Papers and Substitute Specification" in the USPTO on June 14, 2005. Copies of these documents are included with this petition.

The Office has not located the original reply. Nevertheless, Section 503 of the MPEP states, "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the response was filed timely in the USPTO on June 14, 2005, but was not matched with the application.

For the reasons stated above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is **granted.**

This matter is being referred to the Office of Initial Patent Examination for further processing.

Telephone inquiries specifically concerning this decision should be directed to the undersigned at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

C. T. 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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ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS, LLP
1725 K STREET, NW
SUITE 1000
WASHINGTON DC 20006

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MAR 3 1 2005

OFFICE OF PETITIONS

In re Application of	:
Cordes & Widmer	: DECISION REFUSING
Application No. 10/967,336	: STATUS UNDER
Filed: October 19, 2004	: 37 CFR 1.47(b)
Attorney Docket No. 040533	:
For: METHOD AND DEVICE FOR FLUSHING TEXTILE FABRICS IN ROPED FORM	:

This is in response to the petition under 37 CFR 1.47(b), filed March 10, 2005.

The petition under 37 CFR 1.47(b) is dismissed.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)." Failure to respond will result in abandonment of the application.

The above-identified application was filed on October 19, 2004 without an executed oath or declaration. Accordingly, on January 10, 2005, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring, *inter alia*, an executed oath or declaration, filing fees, and a surcharge for their late filing.

In response, on March 10, 2005, *inter alia*, an unexecuted oath, the surcharge, filing fees, the petition fee, and the instant petition were filed. A declaration of facts by Rene Vis, insolvency administrator of Scholl-Then AG (hereinafter "Scholl"), accompanies the petition. Mr. Vis states that to the best of his knowledge that Scholl originally owned the above-identified patent application and that Scholl sold its rights in the application to Then Maschinen (B.V.I.) Limited (hereinafter "Maschinen"). Mr. Vis explains that non-signing inventors Cordes and Widmer

refused to join in the filing of the above-identified application after receiving a declaration and an assignment for the above-identified application.

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.

Petitioner lacks items (1), (2), and (5) set forth above.

As to item(1), an acceptable refusal to join on the part of the non-signing inventors has not been established. In a January 6, 2005 e-mail from Mr. Vis to Inventor Cordes, Mr. Vis states that he did not mail the application papers to Inventor Cordes because he does not have them in his possession. The undersigned assumes that the other joint inventor did not receive a copy of the application as filed, either.

The Office requires that the non-signing inventors be provided with a complete copy of the application as filed. This includes the specification with claims, drawings,, and a declaration. See MPEP 409.03(d). Inventors Cordes and Widmer must have the complete application in their possession in order to make an informed decision as to whether they join in its filing. The inventors cannot make the necessary statements found in the declaration-- i.e. "I have reviewed and understand..." -- without having examined the patent application. Their signature on the declaration would obligate them, under penalty of "fine or imprisonment, or both" to particulars to which they can only attest after having had the opportunity to review the subject patent application.

When petitioner can show that the inventors were mailed or received the complete application and that they either refused to sign the declaration or would not respond to the request that they sign the declaration, petitioner will have satisfied this requirement.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented.

First, each inventor's citizenship is not included on the oath or declaration. The citizenship of each inventor must be included on the oath or declaration. As listing the citizenship for each inventor is a statutory requirement under 35 U.S.C. 115, it cannot be waived.

Second, the declaration has not been signed by a properly empowered representative of the Rule 1.47 applicant. **No one** has signed the declaration. An oath or declaration in compliance with 37 CFR 1.63 and 1.64 listing the inventors' identifying information, signed by the Rule 1.47 applicant on behalf of the inventors is REQUIRED. See MPEP 409.03(b).

MPEP 409.03(b) states that typically when a corporation is the Rule 47 applicant, an officer should sign the declaration and provide his/her title. Where an oath is signed by a registered attorney on behalf of a corporation, either proof of the attorney's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney may simply state that he is authorized to sign on behalf of the corporation. The Rule 47 applicant must state his/her relationship to the inventor as required by 37 CFR 1.64.

An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicant on behalf of the non-signing inventors is REQUIRED. See MPEP 409.03(b).

As to item (5), Rule 47 applicant has failed to show that Maschinen has sufficient proprietary interest in the subject matter to justify the filing of the application for the non-signing inventors (see MPEP 409.03(f)). The executed 2004 Intellectual Property Rights Purchase Agreement between Scholl and Maschinen establishes that Maschinen purchased Scholl's rights in the above-identified application. <u>However, it has not been shown what Scholl's rights are</u>. Petitioner must prove via documentary evidence that Scholl had proprietary interest in the application.

Acceptable proof of Scholl's proprietary interest in the application could include a copy of the employment agreement between the non-signing inventors and Scholl, a copy of an assignment agreement showing that the invention disclosed in the application was assigned to Scholl, or a legal memorandum signed by an attorney familiar with the law of the jurisdiction stating that a court of competent jurisdiction would by the weight of authority in that jurisdiction award the title of the invention to Scholl/ the company that bought Scholl's interests in the patent application.

Regarding finances, the current fee due for filing a petition under 37 CFR 1.47(b) is $200.00. Pursuant to petitioner's authorization, deposit account no. 01-2340 was charged $200.00 on March 11, 2005.

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

Inquiries may be directed to the undersigned at (571)272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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1725 K STREET, NW
SUITE 1000
WASHINGTON DC 20006

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NOV 21 2005

OFFICE OF PETITIONS

In re Application of :
Cordes & Widmer : ON PETITION
Application No. 10/967,336 :
Filed: October 19, 2004 :
Attorney Docket No. 040533 :
For: METHOD AND DEVICE FOR FLUSHING :
TEXTILE FABRICS IN ROPED FORM

This is in response to (1) the reconsideration petition under 37 CFR 1.47(b), filed August 1, 2005 which was resubmitted and supplemented on November 14, 2005 and (2) the petition under 37 CFR 1.137(a), filed November 14, 2005, to revive the above-identified application. The petition under 37 CFR 1.137(a) will be treated as a feeless petition under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 is GRANTED.

The petition under 37 CFR 1.137(a) is DISMISSED AS MOOT.

The petition under 37 CFR 1.47(b) is GRANTED.

The above-identified application was filed on October 19, 2004 without an executed oath or declaration. Accordingly, on January 10, 2005, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring, *inter alia*, an executed oath or declaration, filing fees, and a surcharge for their late filing.

In response, on March 10, 2005, *inter alia*, an unexecuted oath, the surcharge, filing fees, the petition fee, and a Rule 47(b) petition were filed. A declaration of facts by Rene Vis, insolvency administrator of Scholl-Then AG (hereinafter "Scholl"), accompanied the petition. Mr. Vis states

that to the best of his knowledge that Scholl originally owned the above-identified patent application and that Scholl sold its rights in the application to Then Maschinen (B.V.I.) Limited (hereinafter "Maschinen"). Mr. Vis explains that non-signing inventors Cordes and Widmer refused to join in the filing of the above-identified application after receiving a declaration and an assignment for the above-identified application.

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.

The petition was dismissed on March 31, 2005 for failure to satisfy items (1), (2), and (5) set forth above. A two month extendable period for response was set in the March 31, 2005 dismissal.

The Office contended that no reconsideration petition was timely filed. Therefore, the Office believed the application became abandoned on June 1, 2005. A Notice of Abandonment was mailed on October 20, 2005.

Petitioner asserts that a reconsideration Rule 47(b) petition and a petition for a two month extension of time and fee were timely submitted on August 1, 2005. In support of this assertion, petitioner has provided a copy of petitioner's itemized postcard receipt showing an Office of Initial Patent Examination stamp citing August 1, 2005 as the date of receipt. The postcard lists that the filing included a request for reconsideration of petition under 37 CFR 1.47(b) and a petition for a two month extension of time.

The return postcard constitutes *prima facie* evidence that those two items were filed on August 1, 2005. MPEP 503. A review of Office financial records for this application reveals that a $450.00 two month extension of time fee was received on August 1, 2005. Accordingly, the petition under 37 CFR 1.181 is **granted**. The holding of abandonment is withdrawn.

With respect to the Rule 47(b) petition, petitioner has shown that the non-signing inventors have refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of Rene Vis, insolvency administrator of the Swiss company Scholl-Then AG that is currently in bankruptcy liquidation, explains that non-signing inventors Carl Cordes and Thomas Widmer both received the application papers for the above-identified application, but Mr. Cordes refused to join in the filing of the application in an e-mail to Mr. Vis dated July 10, 2005 and Mr. Widmer refused to join in the filing of the application on June 9, 2005 in a letter addressed to the Insolvency Administrator's Office of the District of

Zofingen. Copies of the express refusals have been submitted. In addition, petitioner has shown that Scholl-Then AG has a proprietary interest in the above-identified application with the legal memorandum signed by an attorney familiar with the law of the jurisdiction, Dr. -Ing. Rudolf Ruger, stating that a court of competent jurisdiction would by the weight of authority in that jurisdiction award the title of the invention to Scholl-Then AG and the companies that subsequently bought its interest in the patent application. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64 and petitioner has shown that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

As provided in Rule 1.47(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.

Regarding fees, petitioner submitted the Rule 47 petition fee twice. Only one petition fee is required. One $200.00 petition fee will be credited to deposit account no 01-2340. In addition, the Rule 137(a) petition fee will be credited to the same deposit account.

After this decision is mailed, the above-identified application will be forwarded to the Office of Initial Patent Examination for further processing.

Inquiries may be directed to the undersigned at (571)272-3230.

E Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CARL CORDES
AUF DEM KLINGENBERG 26
D-74523 SCHWABISH HALL
GERMANY

COPY MAILED

NOV 21 2005

OFFICE OF PETITIONS

In re Application of
Cordes and Widmer
Application No. 10/967,336
Filed: October 19, 2004
Attorney Docket No. 040533
For: METHOD AND DEVICE FOR FLUSHING TEXTILE FABRICS IN ROPED FORM

: LETTER

Dear Mr. Cordes:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS, LLP
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UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
www.uspto.gov

THOMAS WIDMER
MUHLENMATTSTR. 25
CH-6004 LUZERN
SWITZERLAND

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NOV 21 2005

OFFICE OF PETITIONS

In re Application of
Cordes and Widmer
Application No. 10/967,336
Filed: October 19, 2004
Attorney Docket No. 040533
For: METHOD AND DEVICE FOR FLUSHING TEXTILE FABRICS IN ROPED FORM

: LETTER

Dear Mr. Widmer:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS, LLP
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ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS, LLP
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SUITE 1000
WASHINGTON DC 20006

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APR 11 2005

OFFICE OF PETITIONS

In re Application of	:
Knecht & Widmer	: DECISION REFUSING
Application No. 10/967,337	: STATUS UNDER
Filed: October 19, 2004	: 37 CFR 1.47(b)
Attorney Docket No. 040535	:
For: PIECE DYEING BEAM	:

This is in response to the petition under 37 CFR 1.47(b), filed March 10, 2005.

The petition under 37 CFR 1.47(b) is dismissed.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)." Failure to respond will result in abandonment of the application.

The above-identified application was filed on October 19, 2004 without an executed oath or declaration. Accordingly, on March 2, 2005, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring, *inter alia*, an executed oath or declaration, filing fees, and a surcharge for their late filing.

In response, on March 10, 2005, *inter alia*, an unexecuted oath, the surcharge, filing fees, the petition fee, and the instant petition were filed. A declaration of facts by Rene Vis, insolvency administrator of Scholl-Then AG (hereinafter "Scholl"), accompanies the petition. Mr. Vis states that to the best of his knowledge that Scholl originally owned the above-identified patent application and that Scholl sold its rights in the application to Then Maschinen (B.V.I.) Limited (hereinafter "Maschinen"). Mr. Vis explains that non-signing inventor Widmer refused to join in the filing of the above-identified application and non-signing inventor Knecht did not respond

after receiving a declaration and an assignment for the above-identified application.

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.

Petitioner lacks items (1), (2), and (5) set forth above.

As to item(1), an acceptable refusal to join on the part of the non-signing inventors has not been established. The non-signing inventors were mailed only a copy of the declaration and assignment, along with a request that each sign the documents and return them.

The Office requires that the non-signing inventors be provided with a complete copy of the application as filed. This includes the specification with claims, drawings,, and a declaration. See MPEP 409.03(d). Inventors Knecht and Widmer must have the complete application in their possession in order to make an informed decision as to whether they join in its filing. The inventors cannot make the necessary statements found in the declaration-- i.e. "I have reviewed and understand..." -- without having examined the patent application. Their signature on the declaration would obligate them, under penalty of "fine or imprisonment, or both" to particulars to which they can only attest after having had the opportunity to review the subject patent application.

When petitioner can show that the inventors were mailed or received the complete application and that they either refused to sign the declaration or would not respond to the request that they sign the declaration, petitioner will have satisfied this requirement.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented.

First, each inventor's citizenship is not included on the oath or declaration. The citizenship of each inventor must be included on the oath or declaration. As listing the citizenship for each inventor is a statutory requirement under 35 U.S.C. 115, it cannot be waived.

Second, the declaration has not been signed by a properly empowered representative of the Rule 1.47 applicant. **No one** has signed the declaration. An oath or declaration in compliance with 37 CFR 1.63 and 1.64 listing the inventors' identifying information, signed by the Rule 1.47 applicant on behalf of the inventors is REQUIRED. See MPEP 409.03(b).

MPEP 409.03(b) states that typically when a corporation is the Rule 47 applicant, an officer should sign the declaration and provide his/her title. Where an oath is signed by a registered

attorney on behalf of a corporation, either proof of the attorney's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney may simply state that he is authorized to sign on behalf of the corporation. The Rule 47 applicant must state his/her relationship to the inventor as required by 37 CFR 1.64.

An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicant on behalf of the non-signing inventors is REQUIRED. See MPEP 409.03(b).

As to item (5), Rule 47 applicant has failed to show that Maschinen has sufficient proprietary interest in the subject matter to justify the filing of the application for the non-signing inventors (see MPEP 409.03(f)). The executed 2004 Intellectual Property Rights Purchase Agreement between Scholl and Maschinen establishes that Maschinen purchased Scholl's rights in the above-identified application. However, it has not been shown what Scholl's rights are. Petitioner must prove via documentary evidence that Scholl had proprietary interest in the application.

Acceptable proof of Scholl's proprietary interest in the application could include a copy of the employment agreement between the non-signing inventors and Scholl, a copy of an assignment agreement showing that the invention disclosed in the application was assigned to Scholl, or a legal memorandum signed by an attorney familiar with the law of the jurisdiction stating that a court of competent jurisdiction would by the weight of authority in that jurisdiction award the title of the invention to Scholl/ the company that bought Scholl's interests in the patent application.

Regarding finances, the current fee due for filing a petition under 37 CFR 1.47(b) is $200.00. Petitioner paid $130.00 by check. Pursuant to petitioner's authorization, deposit account no. 01-2340 was charged the balance due, or $70.00. The Office collected an additional $130.00 in error. This amount will be credited to deposit account no. 01-2340.

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

Inquiries may be directed to the undersigned at (571)272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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1725 K STREET, NW
SUITE 1000
WASHINGTON DC 20006

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SEP 13 2005

OFFICE OF PETITIONS

In re Application of	:
Knecht & Widmer	: DECISION REFUSING
Application No. 10/967,337	: STATUS UNDER
Filed: October 19, 2004	: 37 CFR 1.47(b)
Attorney Docket No. 040535	:
For: PIECE DYEING BEAM	:

This is in response to the reconsideration petition under 37 CFR 1.47(b), filed August 1, 2005.

The petition under 37 CFR 1.47(b) is dismissed.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)." Failure to respond will result in abandonment of the application.

The above-identified application was filed on October 19, 2004 without an executed oath or declaration. Accordingly, on March 2, 2005, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring, *inter alia*, an executed oath or declaration, filing fees, and a surcharge for their late filing.

In response, on March 10, 2005, *inter alia*, an unexecuted oath, the surcharge, filing fees, the petition fee, and the instant petition were filed.

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration;

(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.

The March 10, 2005 petition was dismissed on April 11, 2005 for failure to meet requirements (1), (2), and (5) set forth above.

Petitioner filed a reconsideration petition on August 1, 2005.

As to (1) above, petitioner has shown that the non-signing inventors have refused to join in the filing of the application. Petitioner has filed a declaration by Rene Vis, insolvency administrator of the Swiss company Scholl-Then AG that is currently in bankruptcy liquidation. Mr. Vis explains that non-signing inventors Felix Knecht and Thomas Widmer both received the application papers for the above-identified application, but Mr. Knecht did not reply to numerous requests that he return executed declaration and assignment documents and Mr. Widmer refused to join in the filing of the application on June 9, 2005 in a letter addressed to the Insolvency Administrator's Office of the District of Zofingen. A copy of the express refusal was submitted with the instant reconsideration petition.

As to item (5), Rule 47 applicant has provided a legal memorandum signed by an attorney familiar with the law of the jurisdiction, Dr. -Ing. Rudolf Ruger, stating that a court of competent jurisdiction would by the weight of authority in that jurisdiction award the title of the invention to Scholl-Then AG and the companies that subsequently bought its interest in the patent application.

However, the reconsideration petition still lacks item (2) above. The declaration submitted with the instant reconsideration petition is not acceptable. The declaration is signed by Lee Che Keung. The title or position of the person signing must be stated if signing on behalf of a corporation under 37 CFR 1.47(b). Mr. Keung has not provide his title. It has not been established that Mr. Keung has the authority to bind the company.

The declaration should normally be signed by an officer of the corporation (President, Vice-President, Secretary, Treasurer of Chief Executive Officer).

A corporation may authorize any person to sign the application on its behalf. A registered attorney/agent may sign the declaration. However, he/she must either state that he/she is authorized to sign on behalf of the company, **OR** provide evidence of his/her authority in the form of a statement signed by an appropriate corporate officer.

If Mr. Keung is not an officer of the company or a registered practitioner, then proof of his authority to bind the company in the form of a statement signed by an appropriate corporate officer must be submitted.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300 - ATTN: Office of Petitions

Inquiries may be directed to the undersigned at (571)272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS, LLP
1725 K STREET, NW
SUITE 1000
WASHINGTON DC 20006

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NOV 2 1 2005

OFFICE OF PETITIONS

In re Application of Knecht & Widmer Application No. 10/967,337 Filed: October 19, 2004 Attorney Docket No. 040535 For: PIECE DYEING BEAM	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(b)

This is in response to the reconsideration petition under 37 CFR 1.47(b), filed November 14, 2005.

The petition under 37 CFR 1.47(b) is granted.

Petitioner has shown that the non-signing inventors have refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of Rene Vis, insolvency administrator of the Swiss company Scholl-Then AG that is currently in bankruptcy liquidation, explains that non-signing inventors Felix Knecht and Thomas Widmer both received the application papers for the above-identified application, but Mr. Knecht did not reply to numerous requests that he return executed declaration and assignment documents and Mr. Widmer refused to join in the filing of the application on June 9, 2005 in a letter addressed to the Insolvency Administrator's Office of the District of Zofingen. A copy of the express refusal was submitted with the previous reconsideration petition. In addition, petitioner has shown that Scholl-Then AG has a proprietary interest in the above-identified application with the legal memorandum signed by an attorney familiar with the law of the jurisdiction, Dr. -Ing. Rudolf Ruger, stating that a court of competent jurisdiction would by the weight of authority in that jurisdiction award the title of the invention to Scholl-Then AG and the companies that subsequently bought its interest in the patent application. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64 and petitioner has shown that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

As provided in Rule 1.47(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.

Regarding fees, petitioner submitted the Rule 47 petition fee twice. Only one petition fee is required. One $200.00 petition fee will be credited to deposit account no 01-2340.

After this decision is mailed, the above-identified application will be forwarded to the Office of Initial Patent Examination for further processing.

Inquiries may be directed to the undersigned at (571)272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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FELIX KNECHT
FOHRENSTR. 10
CH-5442 FISLISBACH
SWITZERLAND

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NOV 2 1 2005

OFFICE OF PETITIONS

In re Application of
Knecht & Widmer
Application No. 10/967,337
Filed: October 19, 2004
Attorney Docket No. 040535
For: PIECE DYEING BEAM

: LETTER

Dear Mr. Knecht:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS, LLP
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WASHINGTON DC 20006

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

THOMAS WIDMER
MUHLENMATTSTR. 25
CH-6004 LUZERN
SWITZERLAND

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NOV 2 1 2005

OFFICE OF PETITIONS

In re Application of
Knecht & Widmer
Application No. 10/967,337
Filed: October 19, 2004
Attorney Docket No. 040535
For: PIECE DYEING BEAM

: LETTER

Dear Mr. Widmer:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS, LLP
1725 K STREET, NW
SUITE 1000
WASHINGTON DC 20006

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

JACOBSON HOLMAN PLLC
400 SEVENTH STREET N.W.
SUITE 600
WASHINGTON, DC 20004

Mail Date: 04/21/2010

Applicant	: Ralf Engelmann	: DECISION ON REQUEST FOR
Patent Number	: 7649683	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/967,341	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/19/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **727** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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FITZPATRICK CELLA
HARPER & SCINTO
1290 AVENUE OF THE AMERICAS
NEW YORK NY 10104-3800

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SEP 28 2009

OFFICE OF PETITIONS

In re Application of :
Sakurai, et al. :
Application No. 10/967,360 : DECISION
Filed/Deposited: 19 October, 2004 :
Attorney Docket No. 03500.014042.1 :

This is a decision on the petition filed on 4 September, 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 **DISMISSED**.

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

Any further petition to revive must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.181 to Withdraw the Holding of Abandonment." *In the alternative, Petitioner may properly file a petition to the Commissioner under 37 C.F.R. §1.137(b) requesting revival of an application abandoned due to unintentional delay.*

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 4 October, 2007, with reply due absent extension of time on or before 4 January, 2008.

On 4 January, 2008, Petitioner filed a reply in the form of an amendment, however, the Office then responded on 11 February, 2008, with a Notice of Non-Compliant Amendment (the 11 February, 2008, Notice) with reply due absent extension of time on or before 11 March, 2008. Thereafter, Petitioner failed to reply timely and properly to that 11 February, 2008, Notice.

The application went abandoned by operation of law after midnight 11 March, 2008.

Despite this condition:

- On 17 September, 2008, Petitioner untimely filed an amendment;
- On 23 December, 2008, the Examiner mailed a final Office action;
- On 22 March, 2009, Petitioner's colleague filed an after-final amendment, which the Examiner refused to enter and Petitioner's colleague—as one registered to practice before the Office—knew was not as of right and not a proper reply[1] if it did not *prima facie* place the application in condition for allowance;
- On 23 June, 2009, Petitioner filed a request and fee for extension of time (improper and the fee will be refunded) with a request for continued examination (RCE) and fee and a submission under the provisions of 37 C.F.R. §1.114 in the form of the previously filed amendment.

The Office mailed the Notice of Abandonment on 7 July, 2009.

The Examiner issued an Interview Summary on 31 July, 2009, and Petitioner replied with his own Interview Summary on 31 August, 2009.

On 4 September, 2009, Petitioner filed a petition pursuant to 37 C.F.R. §1.181—however, Petitioner's contentions are confused: at his petition, page 3, he contends that the Examiner contacted an unnamed "representative of the Applicant" on 17 September, 2008, about the abandoned status of the application—yet it appears that representative took no action regarding the abandoned status of the application, but instead simply filed an untimely amendment—yet at the second (unnumbered) page of his statement, Petitioner refers instead to a conversation with the Examiner on 10 July, 2009. At bottom, Petitioner now contends non-receipt of the 11 February, 2008, Notice, but fails to comply the recitation and document requirements set forth in the guidance in the Commentary at MPEP 711.03(c)(I). (Again, Petitioner included only a due

[1] A proper reply is an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or an RCE (with fee and submission under 37 C.F.R. §1.114). (See: MPEP §711.03(c).)

date calendar and not the docket sheet/file jacket of the application and failed to make the statements required.)

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:

***

> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.[2]

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As indicated above, Petitioner failed to satisfy this burden.

Petitioner failed to satisfy the requirements set forth in the guidance in the Commentary at MPEP §711.03(c)(I), which is the requirement for relief pursuant to 37 C.F.R. §1.181.

Petitioner's alternative is to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay pursuant to 37 C.F.R. §1.137(b).

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[2] *See*: MPEP §711.03(c) (I)(A).

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), and those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation– since all owe to the Office the continuing duty to disclose.[3]

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.[4],[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.

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.

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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] 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).

[5] 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.))

> 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.[6]

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 and how and when it is to be made and supported.

Petitioner appears not to have made the showing required.

CONCLUSION

Accordingly, the petition as considered under 37 C.F.R. §1.181 is **dismissed**.

ALTERNATIVE VENUE

Should Petitioner wish to revive the application, Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply, the petition fee, a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional," and a terminal disclaimer and fee where 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

---

[6] 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).

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 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[7]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[7] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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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HARPER & SCINTO
1290 AVENUE OF THE AMERICAS
NEW YORK NY 10104-3800

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MAR 17 2010

In re Application of	:	
Sakurai, et al.	:	
Application No. 10/967,360	:	DECISION
Filed/Deposited: 19 October, 2004	:	
Attorney Docket No. 03500.014042.1	:	

This is a decision on the petition filed on 30 November, 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, alternatively as a petition to revive pursuant to 37 C.F.R. §1.137(b) averring the application as abandoned due to unintentional delay..

The petition as considered pursuant to 37 C.F.R. §1.181 is **DISMISSED**; the petition pursuant to 37 C.F.R. §1.137(b) 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.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

A Petitioner's attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the non-final Office action mailed on 4 October, 2007, with reply due absent extension of time on or before 4 January, 2008.

On 4 January, 2008, Petitioner filed a reply in the form of an amendment, however, the Office then responded on 11 February, 2008, with a Notice of Non-Compliant Amendment (the 11 February, 2008, Notice) with reply due absent extension of time on or before 11 March, 2008. Thereafter, Petitioner failed to reply timely and properly to that 11 February, 2008, Notice.

The application went abandoned by operation of law after midnight 11 March, 2008.

Despite this condition: on 17 September, 2008, Petitioner untimely filed an amendment; on 23 December, 2008, the Examiner mailed a final Office action; on 22 March, 2009, Petitioner's colleague filed an after-final amendment, which the Examiner refused to enter and Petitioner's colleague—as one registered to practice before the Office—knew was not as of right and not a proper reply[1] if it did not *prima facie* place the application in condition for allowance; on 23 June, 2009, Petitioner filed a request and fee for extension of time (improper and the fee will be refunded) with a request for continued examination (RCE) and fee and a submission under the provisions of 37 C.F.R. §1.114 in the form of the previously filed amendment.

The Office mailed the Notice of Abandonment on 7 July, 2009.

The Examiner issued an Interview Summary on 31 July, 2009, and Petitioner replied with his own Interview Summary on 31 August, 2009.

On 4 September, 2009, Petitioner filed a petition pursuant to 37 C.F.R. §1.181—however, Petitioner's contentions are confused: at his petition, page 3, he contends that the Examiner contacted an unnamed "representative of the Applicant" on 17 September, 2008, about the abandoned status of the application—yet it appears that representative took no action regarding the abandoned status of the application, but instead simply filed an untimely amendment—yet at the second (unnumbered) page of his statement, Petitioner refers instead to a conversation with the Examiner on 10 July, 2009. At bottom, Petitioner contended non-receipt of the 11 February, 2008, Notice, but fails to comply the recitation and document requirements set forth in the guidance in the Commentary at MPEP 711.03(c)(I). (Again, Petitioner included only a due date calendar and not the docket sheet/file jacket of the application and failed to make the statements required.) Clearly from the recitation of events above—despite acts of the Petitioner and Examiner between 12 March, 2008, and the filing of the petition on 24 September, 2009, that may go to the intent of the Petitioner—the application went abandoned by operation of law after midnight 11 March, 2008. Thus, the petition was dismissed on 28 September, 2009.

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[1] A proper reply is an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or an RCE (with fee and submission under 37 C.F.R. §1.114). (See: MPEP §711.03(c).)

On 30 November, 2009, Petitioner, reasserted a petition pursuant to 37 C.F.R. §1.181, supplemented his documentary showing in that regard, and also submitted a "contingent" petition pursuant to 37 C.F.R. §1.137(b), pointed to the fee authorization (now charged to Deposit Account 06-1205), a reply in the form of a request for continued examination (with fee) filed on on 23 June, 2009, with a submission pursuant to 37 C.F.R. §1.114 in the form of the amendment filed on 22 March, 2009, and made a statement of unintentional delay

It does not appear that Petitioner has satisfied or is able to satisfy his burden pursuant to 37 C.F.R. §1.181 and the guidance in the Commentary at MPEP 711.03(c)(I).

Petitioner's burden of a showing pursuant to 37 C.F.R. §1.181 (with narrative and documentary support) is guided by the Commentary at MPEP 711.03(c)(I), which provides in pertinent part:

***

> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.[2]

***

As indicated above, Petitioner failed to satisfy this burden.

However, it appears that Petitioner satisfied the requirements of pursuant to 37 C.F.R. §1.137(b).

---

[2] *See*: MPEP §711.03(c) (I)(A).

Because of the period between actual abandonment and the filing of the most recent petition and also in consideration of the confusion by the Examiner who continued to allow prosecution of the application during that period, the Office notes that the record (including the petitions filed on 4 September, 2009, and 30 November, 2009) does not necessitate a finding that the delay between midnight 11 March, 2008(the date of abandonment), and 30 November, 2009 (the date of the filing of grantable petition), was not unintentional.

Rather, the Patent and Trademark Office is relying in this matter on the duty of candor and good faith of Petitioner's Counsel Donald H. Heckenberg, Jr. (Reg. No. 60,081) when accepting Petitioners' representation that the delay in filing the response was unintentional.[3]

A Petitioner's attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[4]

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.[5],[6]

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[3] 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 the statement required by 37 C.F.R. ' 1.137(b) to the Patent and Trademark Office).

[4] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[5] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

[6] 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.

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.

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.[7]

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 and how and when it is to be made and supported.

Petitioner appears not to have made the showing required.

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

It appears that the requirements under the rule have been satisfied.

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.))

[7] 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).

CONCLUSION

Accordingly, the petition as considered under 37 C.F.R. §1.181 is **dismissed**; the petition pursuant to 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Technology Center/AU 2622 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.

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[8]) 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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[8] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WOODCOCK WASHBURN LLP (MICROSOFT CORPORATION)
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

MAILED

JUN 29 2009

OFFICE OF PETITIONS

In re Application of	:	
Dale C. CROSIER, et al.	:	
Application No. 10/967,368	:	DECISION GRANTING PETITION
Filed: October 18, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **MSFT-5042**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 29, 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 June 3, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2625 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Thu Ann Dang
IBM CORPORATION
Intellectual Property Law Dept.
P.O. Box 218
Yorktown Heights NY 10598

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FEB 05 2007

OFFICE OF PETITIONS

In re Application of
Gaucher et al.
Application No. 10/967,407
Filed: October 18, 2004
Title of Invention: Quadband Antenna
For Portable Devices

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) filed September 21, 2006, to revive the above-identified application.

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 above-identified application became abandoned for failure to timely file a reply to a non-final Office Action mailed November 14, 2005. The 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). A Notice of Formal drawings was also mailed on November 14, 2006. Accordingly, this application became abandoned on February 15, 2006. A Notice of Abandonment was mailed on July 6, 2006.

The petition is **dismissed**.

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 Director may require additional information. See MPEP 711.03 (c)(III)(c) and (D).

The instant petition lacks item (1). An amendment was submitted in response to the Office Action. However, a review of the record shows that corrected drawings are required . See 37 CFR 1.85. Petitioner must submit corrected drawings on renewed petition.

The change of correspondence address submitted with the petition will not be entered because the request has not been signed by an attorney of record. See 37 CFR 1.33. A courtesy copy of the decision will be provided, however all other correspondence will continue to be mailed to the correspondence address of record until a proper change of correspondence address has been provided.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Window, Mail Stop Petition 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

cc: William N. Hogg
Driggs, Hogg & Fry Co. LPA
38500 Chardon Road
Willoughby Hills, Ohio 44094

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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DRIGGS, HOGG & FRY CO., L.P.A.
38500 CHARDON ROAD
DEPT. LEN
WILLOUGHBY HILLS OH 44094

COPY MAILED

MAR 28 2007

OFFICE OF PETITIONS

In re Application of
Gaucher et al.
Application No. 10/967,407
Filed: October 18, 2004
Title of Invention: Quadband Antenna For Portable Devices

DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b) filed March 14, 2007, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a reply to a non-final Office Action mailed November 14, 2005. The 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). A Notice of Formal drawings was also mailed on November 14, 2006. Accordingly, this application became abandoned on February 15, 2006. A Notice of Abandonment was mailed on July 6, 2006. A petition was dismissed on February 5, 2007.

The petition is **Granted**.

The office hereby acknowledges the receipt of the amendment and drawings.

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/967,407	10/18/2004	Brian P. Gaucher	YOR920040310US1

CONFIRMATION NO. 8523

OC000000023103415

OC000000023103415

56687
DRIGGS, HOGG & FRY CO., L.P.A.
38500 CHARDON ROAD
DEPT. LEN
WILLOUGHBY HILLS, OH 44094

Date Mailed: 03/26/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/14/2007.

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.

C. Grant

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199

ATTORNEY/APPLICANT COPY

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.

Thu Ann Dang
IBM CORPORATION
Intellectual Property Law
Dept.
P.O. Box 218
Yorktown Heights NY 10598

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JAN 1 8 2007

OFFICE OF PETITIONS

In re Application of	:	
Chen et al.	:	DECISION ON
Application No. 10/967,408	:	PETITION
Filed: October 18, 2004	:	and
Atty Docket No.YOR920040320US1	:	**NOTICE OF NONACCEPTANCE**
	:	**OF CHANGE OF CORRESPONDENCE**
	:	**ADDRESS**

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed November 7, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to pay the Issue Fee within three months of the mailing date, March 14, 2006, of the Notice of Allowance and Fee(s) Due. This Office action set a three-month nonextendable statutory period for reply. No reply having been received, the above-identified application became abandoned on June 15, 2006. A courtesy Notice of Abandonment was mailed on July 19, 2006.

The petition included the required reply[1] in the form of payment of the Issue Fee and Publication Fee; payment of the petition

[1] There was no distinct bur concurrent requirement for drawings.

fee set forth in 37 CFR § 1.17(m); and the required statement of unintentional delay. No terminal disclaimer is required.

It is noted that on November 7, 2006, attorney Davidge filed a Change of Correspondence Address. This change is not being entered as attorney Davidge is acting in a representative capacity and as such, may not file a change of correspondence address. As stated in 37 CFR 1.33(a)(2):

> Where a § 1.63 oath or declaration has been filed by any of the inventors. If a § 1.63 oath or declaration has been filed, or is filed concurrent with the filing of an application, by any of the inventors, the correspondence address may be changed by the parties set forth in paragraph (b) of this section, except for paragraph (b)(2).

Further, 37 CFR 1.33(b) provides that:

> Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
>
> (1) A 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.

A courtesy copy of this petition is being sent to attorney Davidge at the address listed on the petition. All future correspondence, including likely the mailing of the Letters Patent, will be sent to the correspondence address of record until such time as a proper change of correspondence address is filed.

The Office of Patent Publication has been advised of this decision. The application is, thereby, forwarded for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

CC: Ronald Davidge
99 Stirling Road
Suite 219
Cooper City, FL 33024

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OFFICE OF PETITIONS

KAREN B. TRIPP
P.O. BOX 1301
HOUSTON, TX 77251

In re Application of	:	
Frank W. Dean	:	
Application No. 10/967,411	:	ON PETITION
Filed: October 18, 2004	:	
Attorney Docket No. LIDO:005	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 31, 2009, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 19, 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 above-identified application became abandoned on December 20, 2008.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1657 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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C/O LUEDEKA, NEELY & GRAHAM, P.C.
P.O. BOX 1871
KNOXVILLE, TN 37901

Mail Date: 04/20/2010

Applicant	: Krishnamurthy Bhaskar	: DECISION ON REQUEST FOR
Patent Number	: 7602958	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/967,418	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/18/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1262** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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100 MAIN STREET
P O BOX 3445
NASHUA NH 03061-3445

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OFFICE OF PETITIONS

In re Application of :
Kitai et al. :
Application No. 10/967,432 :
Filed: October 18, 2004 :
Attorney Docket No. OSPD016-US :

ON PETITION

This is in response to the petition under 37 CFR 1.47(a), filed on June 3, 2005.

The petition is granted.

Petitioner showed that Andrei Naumov, the non-signing inventor, refused to join in the filing of the above-identified application after having been mailed the application papers. Specifically, the declaration of facts of Attorney Vernon C. Maine established the non-signing inventor acknowledged receipt of the documents; however, he orally refused to sign the declaration.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the present petition. Notice of the filing of this application will also be published in the Official Gazette.

To avoid abandonment of the application, applicants must obtain an extension of time for response within the third month, as well as pay the petition fee. Accordingly, a $1,020.00 extension of time fee and a $200.00 petition fee will be charged to Deposit Account No. 50-0323, as authorized.

The matter is being referred to Technology Center Art Unit 2881for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney

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Andrei Naumov
23 Norgold Cres.,
W. Ottawa
Ontario K2T 1J1
CANADA

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JUL 18 2005
OFFICE OF PETITIONS

In re Application of
Kitai et al.
Application No. 10/967,432
Filed: October 18, 2004
Attorney Docket No. OSPD016-US

LETTER

Dear Mr. Naumov:

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

MAINE & ASMUS
100 MAIN STREET
P O BOX 3445

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WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI, OH 45202

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SEP 3 0 2008

OFFICE OF PETITIONS

In re Application of	:	
David Allen HUTCHINGS, et al	:	
Application No. 10/967,448	:	DECISION ON PETITION
Filed: October 18, 2004	:	
Docket No. VALVO-23US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 2, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, November 7, 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 8, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1540; and (3) the required statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 1615 for appropriate action by the Examiner in the normal course of business on the reply received June 2, 2008.

Thurman K. Page

Thurman Page
Petitions Examiner
Office of Petitions

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JUN 02 2008
PATENT & TRADEMARK OFFICE

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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) AI207/2006

First named inventor: David Allen Hutchings

Application No.: 10/967,448 Art Unit: 1615

Filed: 10/18/04 Examiner: Hagopian, Casey Shea

Title: Sustained release Air Freshening Device

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee
☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.
☑ Other than small entity – fee $ 1,540 (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.

06/03/2008 LTRUONG 00000036 10967448
01 FC:1453 1540.00 OP

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

☑ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

David Carrithers Signature	5/25/2008 Date
David W. Carrithers Typed or printed name	35475 Registration Number, if applicable
Carrithers Law Office, PLLC Address	(502) 452.1233 Telephone Number
6200 Dutchmans Lane, Ste. 206, Louisville, KY 40205 Address	

Enclosures: ☑ Fee Payment

☑ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☑ Other: Change of Address

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.

5/25/2008 Date	D. Carrithers Signature
	D. Carrithers Typed or printed name of person signing certificate

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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JJGJr: 08-06

Paper No: __

NAVTEQ NORTH AMERICA, LLC
222 MERCHANDISE MART
SUITE 900, PATENT DEPT.
CHICAGO IL 60654

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AUG 17 2006

OFFICE OF PETITIONS

In re Application of
Ashby
Application No. 10/967,468
Filed: 18 October, 2004
Attorney Docket No.: N0201US

ON PETITION

This is a decision on the request filed on 14 February, 2006, under 37 C.F.R. §1.182 and also properly considered under 37 C.F.R. §1.181 to withdraw the Terminal Disclaimer filed on 15 November, 2005, from the instant application.

The petition under 37 C.F.R. §1.181 and §1.182 is **GRANTED**.

BACKGROUND

It appears that:

- Petitioner is prosecuting the instant application on behalf of the Applicant;
- on 15 November, 2005, Petitioner filed, *inter alia*, an amendment in response to an Office action, and at that time, Petitioner indicates, he filed into this application a Terminal Disclaimer (entitled "Terminal Disclaimer to Obviate a Double Patenting Rejection Over a Prior Patent") with fee authorization;

- Petitioner now:

  –sets forth the history of the instant and parent applications, and indicates that the Terminal Disclaimer he submitted at that time incorrectly identified therein the patent number applicable (i.e., incorrectly identified as Patent No. 6,061,688);

  –Petitioner has since submitted contemporaneously with the instant petition a Terminal Disclaimer properly identifying the related patent (i.e., correctly identified as Patent No. 6,829,690);

  –and seeks to have the Terminal Disclaimer filed on 15 November, 2005, withdrawn from the instant application.

The Examiner has indicated (upon inquiry from the Office of Petitions) his assent (a copy of which is made of record) to the request to withdraw the terminal disclaimer previously filed by Petitioner as associated with the instant application.

Accordingly, the petition as considered under 37 C.F.R. §1.181 and §1.182 to withdraw the terminal disclaimer as to Patent No. 6,061,688 previously and improvidently filed by Petitioner on 15 November, 2005, with this application is **granted**.

The instant file is being released to the Examiner in Technology Center 2100 for further processing in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[1]) 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

---

[1] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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SUITE 1600
CHICAGO IL 60603-3406

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JUL 18 2007

OFFICE OF PETITIONS

In re Application of	:	
Brookbank et al.	:	
Application No. 10/967,469	:	DECISION ON PETITION
Filed: October 18, 2004	:	
Attorney Docket No. 5569-83620	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 29, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before July 17, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed April 17, 2006. Accordingly, the date of abandonment of this application is July 18, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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 Bucel
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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DEERE & COMPANY
ONE JOHN DEERE PLACE
MOLINE, IL 61265

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AUG 21 2009

OFFICE OF PETITIONS

In re Application of
Kevin William Hoehn
Application No. 10/967,502
Filed: October 18, 2004
Attorney Docket No. 17115-US

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.8 filed October 13, 2006, which is being treated as a request to withdraw 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 mailed January 13, 2006. A Notice of Abandonment was mailed on October 13, 2006.

Petitioner states that a timely reply was mailed via certificate of mailing on April 12, 2006, which included the following papers: an amendment, supplemental disclosure statement, and any other required copies. Petitioner has submitted a copy of the previously mailed correspondence, which bears a certificate of mailing dated April 12, 2006, which would have rendered the reply timely if received.

The file record does not include the originally submitted papers. Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), reproduced below:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of January 13, 2006 is hereby withdrawn and the application restored to pending status.

The copy of the reply received with the petition will be accepted in place of the reply shown to have been mailed on April 12, 2006.

This application is being referred to Technology Center Art Unit 3641 for appropriate action in the normal course of business on the reply received with petition.

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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OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8403

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OFFICE OF PETITIONS

In re Application of
Ryuichi Katayama
Application No. 10/967,504
Filed: October 18, 2004
Att'y Docket No. P/1929-96

: DECISION GRANTING PETITION

This is a decision on the petition filed February 7, 2005, under 37 CFR 1.53, in response to the Notice of Incomplete Nonprovisional Application mailed January 27, 2005, requesting that the above identified application be accorded a filing date of October 18, 2004.

On October 18, 2004, the application was filed. On January 27, 2005, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application" stating that the application had not been accorded a filing date because the application was deposited without drawings and that the filing date of the application would be the date of receipt of the drawings.

In response, the present petition, and 38 sheets of drawings were filed. Petitioners argue that 38 sheets of drawings were filed with the other application papers on October 18, 2004. In support of the petition, a copy of petitioner's postcard receipt which shows an official USPTO date-stamp of October 18, 2004, and the above-identified application number, and acknowledges receipt of, *inter alia*, 38 sheets of drawings (Figures 1-75), was supplied with the present petition. Petitioner has also supplied a copy of the 38 sheets of drawings. Petitioner requests that the application, including 38 sheets of drawings, be accorded a filing date of October 18, 2004.

Upon review of the record, no sheets of drawings deposited on October 18, 2004, have been located among the application papers. However, the evidence is convincing that the application papers deposited on October 18, 2004, included 38 sheets of drawings, which were subsequently misplaced in the USPTO. Therefore, the application, including the 38 sheets of drawings, was complete on filing and entitled to a filing date of October 18, 2004.

In view of the above, the petition is **GRANTED**.

The Notice of Incomplete Nonprovisional Application mailed January 27, 2005, is

withdrawn. Therefore, no petition fee is due and none has been charged.

The application is being returned to the Office of Initial Patent Examination for processing with a filing date of October 18, 2004, using the application papers filed on October 18, 2004 and the 38 sheets of drawings supplied on February 7, 2004.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/967,519	10/18/2004	Barry Alan Morris	AD7061 US NA	8878

23906 7590 07/06/2009
E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1122B
4417 LANCASTER PIKE
WILMINGTON, DE 19805

EXAMINER
KASHNIKOW, ERIK

ART UNIT	PAPER NUMBER
1794	

NOTIFICATION DATE	DELIVERY MODE
07/06/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTO-Legal.PRC@usa.dupont.com

UNITED STATES PATENT and TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Mailed: JUL - 6 2009

In re application of
Barry Alan Morris et al.
Serial No. 10/967,519
Filed: October 18, 2004
For: LAMINATION ADHESION OF FOIL TO THERMOPLASTIC POLYMERS

DECISION ON PETITION

This is a decision on the PETITION UNDER 37 CFR 1.181 FOR ENTRY OF THE AFTER FINAL AMENDMENT filed February 26, 2009.

On December 15, 2008, a final office action was mailed to Applicants, rejecting all of the pending claims under Obviousness-Type Double Patenting, 35 USC 112, 2nd para. and 35 USC 103. Applicants responded to this office action with an amendment after final which was filed on January 21, 2009. The examiner refused entry of the amendment in an advisory action mailed February 12, 2009.

On February 26, 2009, the instant petition under 37 CFR 1.181 was timely filed to request the entry of the after final amendment of January 21, 2009.

Petitioner's position is that the amendment after final reduced issues and placed the claims in better form for appeal, albeit the examiner's position in the advisory action of February 12, 2009 was that the amendment narrowed the scope of the claims which would require further consideration and search.

DECISION

Section 714.13 of the MPEP states:

ENTRY NOT A MATTER OF RIGHT

It should be kept in mind that applicant cannot, as a matter of right, amend any finally rejected claims, add new claims after a final rejection (see 37 CFR 1.116) or reinstate previously canceled claims.
Except where an amendment merely cancels claims, adopts examiner suggestions, removes issues for appeal, or in some other way requires only a cursory review by the examiner, compliance with the requirement of a showing under 37 CFR 1.116(c) is expected in all amendments after final rejection. Failure to properly reply under 37 CFR 1.113 to the final rejection results in abandonment.

An amendment filed at any time after final rejection, but before an appeal brief is filed, may be entered upon or after filing of an appeal brief provided the total effect of the amendment is to (A) remove issues for appeal, and/or (B) adopt examiner suggestions.

ACTION BY EXAMINER
See also MPEP § 706.07(f).
In the event that the proposed amendment does not place the case in better form for appeal, nor in condition for allowance, applicant should be promptly informed of this fact, whenever possible, within the statutory period. The refusal to enter the proposed amendment should not be arbitrary. The proposed amendment should be given sufficient consideration to determine whether the claims are in condition for allowance and/or whether the issues on appeal are simplified. Ordinarily, the specific deficiencies of the amendment need not be discussed. The reasons for nonentry should be concisely expressed. For example:

(A) The claims, if amended as proposed, would not avoid any of the rejections set forth in the last Office action, and thus the amendment would not place the case in condition for allowance or in better condition for appeal.
(B) The claims, if amended as proposed, would raise the issue of new matter.
(C) The claims as amended present new issues requiring further consideration or search.
(D) Since the amendment presents additional claims without canceling any finally rejected claims it is not considered as placing the application in better condition for appeal. *Ex parte Wirt*, 1905 C.D. 247, 117 O.G. 599 (Comm'r Pat. 1905).

Turning to the after final amendment filed on January 21, 2009, it is noted that while petitioner amended line 2 of claim 1, omitting the word "composition" following ethylene butyl acrylate (EBA) copolymer, petitioner did not delete the word "composition" in line 8, following EBA copolymer to provide consistency. Additionally, petitioner points to claim 13 which recites EBA copolymer (without "composition") and argues that because the term has been examined previously in claim 13, that the Office cannot now argue that the term would raise a new issue. However, claim 18, which depends from claim 1, and claim 19, which depends from claim 13, recite EBA copolymer "composition," specifically. Therefore, a review of the evidence presented reveals that the petitioner did not simplify matters for appeal, but upon entry of the amendment would appear to have created more issues with respect to claims 1,13,18 and 19 regarding consistency and meaning of the use of the term "composition.".

As to the REMARKS filed on 1/21/09, line 1, petitioner states that "the amendment deletes an unnecessary word "composition" in claim 1". The amendment deletes the unnecessary word "composition" but does not particularly state why the word is unnecessary. It is noted that throughout claims 1,18 and 19 the term thermoplastic polyolefin "composition" is used, however, it appears from petitioner's arguments that EBA copolymer (without the word "composition") is preferred. Therefore, the examiner's comment that the deletetion of the word "composition" narrows the scope of the claims which would require further consideration and search has merit as the specific meaning of the word "composition" or deletion thereof, is unclear.

As to the petition filed on February 26, 2009, at the bottom of page 1 and beginning of page 2, what is referred to as "Applicant's amended claim 1," thereby additionally including the deletion of the second occurrence of "composition" following EBA copolymer (page 2, line 2) is not representative

of any amendment having been filed or not entered prior to the filing of the petition and will not be treated as a proper amendment.

Accordingly, the petition for entry of the after final amendment is **DENIED.**

/Gregory L Mills/
Gregory L Mills, Acting Director
Technology Center 1700
Chemical and Materials Engineering

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AUG 2 6 2008

EZRA L. SCHACHT
1620 W. MAIN ST
HOUSTON TX 77006-4712

In re Application of	:	
Gittleman	:	
Application No. 10/967,546	:	DECISION
Filed: 18 October, 2004	:	
Attorney Docket No. (None)	:	

This is a decision on the papers filed on 22 January, 2008, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application, and subsequently supplemented on 19 May, 2008,.

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 considered under 37 C.F.R. §1.181 is **GRANTED**.

As to the Request to Withdraw
the Holding of Abandonment

A proper showing (for relief under 37 C.F.R. §1.181[1]):

- (as to non-receipt) requires at the very minimum: a statement from practitioner stating that the Office action was not received by the practitioner; a statement from the practitioner attesting to the fact that a search of the file jacket and docket records for the application indicates that the Office action was not received with a copy of those docket records; and a brief statement of the calendaring process and a copy of the due-date (calendar) docket record(s) where the nonreceived Office action would have been scheduled for reply had it been received must be attached to and referenced in the practitioner's statement; alternatively,

[1] *See*: the Commentary at MPEP §711.03(c).

- (for a showing of timely and proper reply) requires a statement from practitioner stating that the reply was timely submitted by the practitioner; and copies of all papers submitted as and/or in support of that reply, with/and a copy of the date-stamped receipt card, Office FAX receipt acknowledgement (not simply Petitioner's FAX transmittal), or EFS receipt acknowledgment from the Office, along with practitioner's attestation as to the correctness/completeness of his/her records.

The showing(s) must include that of the person(s) with first-hand knowledge and an acknowledgment by the Petitioner that he/she has reviewed that information in compliance with his/her duty of candor to the Office.

BACKGROUND

The record reflects as follows:

The Examiner mailed an *ex parte Quayle* action on 20 June, 2006, with reply due absent extension of time on or before 20 August, 2006.

Petitioner Ezra Schacht (Reg. No. 28,261) filed a reply on 18 August, 2006.

The Office mailed a Notice of Non-Compliant Amendment dated "09/25/2006," with a reply due absent extension of time on or before 25 October, 2006.

Absent reply, the application went abandoned by operation of law after midnight 25 October, 2006.

The Office mailed a Notice of Abandonment on 23 March, 2007.

On 25 July, 2007, Petitioner filed a request for a two- (2-) month extension of time, a letter indicating that Petitioner had filed a timely reply to the 25 September, 2006, Notice of Non-Compliant Amendment, a copy of the reply thereto and a copy of the date-stamped ("SEP 29 2006") receipt card. While Petitioner did not expressly announce a petition to withdraw the holding of abandonment, me made clear his conviction that the 23 March, 2007, Notice of Abandonment was in error and so evidenced with the necessary documents, thus complying in principle with the showing requirements set forth in the guidance in the Commentary at MPEP §711.03(c). (Copies of the 29 September, 2006, date-stamped receipt card and the reply submitted therewith via U.S. Postal Service (USPS) Express Mail), and the 25 July, 2007, letter transmitting same have been printed from the record and are enclosed with this decision for ease of reference. (Eleven (11) pages.)

The Office appears not to have acknowledged or responded to Petitioner's 25 July, 2007, filing.

On 22 January, 2008, Petitioner filed what he styled as a "request[] for review of Corrections to Second Response...." Again Petitioner sought to have the Office withdraw the 23 March, 2007,

Notice of Abandonment, and with a polite but notable tweak of Office manners, asked that the Office "[p]lease find the lost documents in your possession and rectify the anomalies that have resulted in your latest notification."

The Office appears not to have acknowledged or responded to Petitioner's 22 January, 2008, filing.

On 12 May, 2008, Petitioner for a third time sought to obtain the Office's attention as to the matter and filed a "Request for Review of Notice of Abandonment," along with additional copies of papers previously submitted on 25 July, 2007, and 22 January, 2008.

And for a third time the Office appears to have ignored Petitioner's efforts—until this writing.

As noted above, the guidance in the Commentary at MPEP §711.03(c) sets forth the showing requirements for overcoming the presumptions herein.[2]

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[2] The guidance in the Commentary at MPEP §711.03(c) as to non-received Office actions and timely filed replies is as follows:

A. Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner **>describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.<

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

B. Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed

37 C.F.R. 1.10(c) through 1.10(e) and 1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. 1.10(c), (d), (e), or (g) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to

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 as to any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[3]

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.

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[4] (See, also, the commentary at MPEP §711.03(c)(I)(A) and (B).) And the regulation requires that relief be sought within two (2) months of the act complained of.

Petitioner has made the required showing required, though having acknowledged that he was a tad tardy in seeking relief herein.

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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.

C. Treatment of Untimely Petition To Withdraw Holding of Abandonment

37 C.F.R. 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 C.F.R. 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. 37 C.F.R. 1.181(f).

Rather than dismiss an untimely petition to withdraw the holding of abandonment under 37 C.F.R. 1.181(f), the Office may require a terminal disclaimer as a condition of granting an untimely petition to withdraw the holding of abandonment.

[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] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

CONCLUSION

Accordingly, The petition under 37 C.F.R. §1.181 is **granted**, and the 23 March, 2007, Notice of Abandonment is **vacated**.

The instant application is released to Technology Center/AU 3732 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Technology Center/AU in response to this decision—and it is noted that all inquiries with regard to that change in status should be directed to the Technology Center/AU where that change of status must be effected.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[5]) 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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[5] 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 b e 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.

OIPE IAP66
JUL 25 2007
PATENT & TRADEMARK OFFICE

Patent Application SN# 10/967546
Rotating Wing Low Profile Impression Transfer Cap. Filed on18 Oct 2004
Primary Examiner Cary E. O'Conner

Correction of Reply to Second Office Action Mailed :29 September 2006
US Express Mail EO 925 335 472 US
Gittleman, N. B.

Please date stamp and return.

OIPE IAP14
SEP 29 2006
PATENT & TRADEMARK OFFICE

1/11

OIPE IAP68
JUL 25 2007
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Neal B. Gittleman Art Unit : 3732

Primary Examiner is O'Conner, Cary E.

Serial no.: 10/967,546

Filing date: 18 October 2004

Title: Rotating Winged Low Profile Impression Transfer Cap

Reply to Second Response of 6/20/2006 WITH CORRECTIONS

Commissioner of Patents and Trademarks

Washington, D.C. 20231

September 29, 2006

Sir:

Applicant respectfully offers the corrections to the amendments with the appropriate Status Identifiers.

Examiner's Objection 1:

Claim 1, line 8.

The phrase " said single flat face" has been replaced by "a single clocking orientation" first found in the specification line 9 of paragraph 2.

Examiner's Objection 2:

Claim 1, line 10.

Applicant wishes to use the term "abutment" in place of "impression post".

Applicant uses the abutment to retain and align the impression cap instead of a separate, taller impression post. This saves parts and time. The low profile nature of the abutment in combination with the impression cap and rotating winged assembly substitutes for the prior art.

2/11

The prior art relied upon an impression post of a shape and size distinct from the abutment used.

Examiner's Objection 3.

Claim 2. Canceled.

Examiner's Objection 4.

Claim 4

The phrase "impression compound" is found twice in the specification in the third paragraph of the Detailed Description of the Drawings. Applicants is referring to a compound used to receive an impression of the impression cap and rotating winged assembly snapped on the attached abutment, while the abutment is fixed to the implant. As described in the prior art, the impression cap is unsnapped to remain in the impression compound to preserve the relationship to other nearby mouth structures upon removal of the triple tray. As described in the prior art, an analog of the abutment is snapped into the impression cap and the exposed end of the analog is locked into a hardened stone model of the mouth.

Additions to the claims are underlined. Deletions to the claims are struck through.

A clean set of claims are provided on a separate sheet.

What is claimed is:

1. (Currently amended) A dental implant registration apparatus having an ~~impression post~~ abutment with a lower, implant compatible, clocking and locking means; a tapered, truncated, conical upper region having ~~at least one flat face~~ a single clocking orientation and a circumferential retaining groove, and a top surface with a counter-sunk, axial through-hole for an implant-compatible mounting machine screw comprising a low profile impression cap with perforated side wings and with a tapered, truncated, conical recess having a single flat projection clocking with said ~~single flat face~~ single clocking orientation of said ~~impression post~~ abutment;

said low profile impression cap having a circumferential inward projecting ridge snapping into and mating with said circumferential retaining groove in said ~~impression post~~ abutment; and

said perforated side wings adjustable in radial alignment upon said low profile impression cap.

2. (Canceled) A dental implant registration apparatus as cited in claim 1 in which said impression post comprises the final abutment used to support a prosthesis.

3. (Original) A dental implant registration apparatus as cited in claim 1 comprising said perforated side wings having a rotating ring mounted in a cylindrical groove on said impression cap.

4. (Currently amended) A dental implant registration apparatus as cited in claim 1 comprising said low profile impression cap having projecting surface features retaining said impression cap in the an impression compound.

5. (Original) A dental implant registration apparatus as cited in claim 1 comprising

said low profile impression cap having an open top to provide access to said implant abutment retaining hardware.

What is claimed is:

1. (Currently amended) A dental implant registration apparatus having an abutment with a lower, implant compatible, clocking and locking means, a tapered, truncated, conical upper region having a single clocking orientation and a circumferential retaining groove, and a top surface with a counter-sunk, axial through-hole for an implant-compatible mounting machine screw comprising a low profile impression cap with perforated side wings and with a tapered, truncated, conical recess having a single flat projection clocking with said single clocking orientation of said abutment;

said low profile impression cap having a circumferential inward projecting ridge snapping into and mating with said circumferential retaining groove in said abutment;

and said perforated side wings adjustable in radial alignment upon said low profile impression cap.

2. (Canceled) A dental implant registration apparatus as cited in claim 1 in which said impression post comprises the final abutment used to support a prosthesis.

3. (Original) A dental implant registration apparatus as cited in claim 1 comprising said perforated side wings having a rotating ring mounted in a cylindrical groove on said impression cap.

4. (Currently amended) A dental implant registration apparatus as cited in claim 1 comprising said low profile impression cap having projecting surface features retaining said impression cap in an impression compound.

5. (Original) A dental implant registration apparatus as cited in claim 1 comprising said low profile impression cap having an open top to provide access to said implant abutment retaining hardware.

Respectfully submitted.

Ezra L. Schacht

1620 West Main Street, Houston, Texas 77006

Tel: 713 523 0515 Fax: 713 523 0530

Registered Patent Agent, Number 28,261

September 29, 2006

OIPE IAP68
JUL 25 2007
PATENT & TRADEMARK OFFICE

Express Mail No. EO 9925 335 472 US

29 September 2006

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service "EXPRESS MAIL POST OFFICE TO ADDRESSEE" service under 37 CFR 1.10, postage prepaid, in an envelope addressed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231
Date: September 29, 2006

Ezra L. Schacht

Ezra L. Schacht
1620 West Main Street
Houston, Texas 77006

Agent for Applicant
Registration No.28261

Telephone: 713 523 0515
Fax: 713 523 0530

8/11

OIPE IAP68
JUL 25 2007
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Neal B. Gittleman Art Unit : 3732

Primary Examiner is O'Conner, Cary E. Serial no.: 10/967,546

Filing date: 18 October 2004

Title: Rotating Winged Low Profile Impression Transfer Cap

Reply to Second Response of 6/20/2006 WITH CORRECTIONS

Commissioner of Patents and Trademarks

Washington, D.C. 20231

24 July 2007

Sir:

A two month Extension of Time and relevant fees are enclosed. If these fees are not necessary, please inform our office.

Apologies are offered for failing to attend this matter in a timely fashion.

Our office did mail a response to your 09/25/2006 Request for the Correction of Informalities on 29 Sept 2006. I enclose a copy of the date stamped Return Mail Card, a copy of the date stamped US Postal Service Express Mail receipt, and a copy of the sworn mailing date statement for 29 September 2006. Also, I enclose a copy of the further explanation of terms and the corrected claims provided on that date.

Respectfully submitted.

Ezra L Schacht

Ezra L. Schacht, 1620 West Main Street, Houston, Texas 77006,

Tel: 713 523 0515 Fax: 713 523 0530

Registered Patent Agent, Number 28,261

24 July 2007

Best Available Copy

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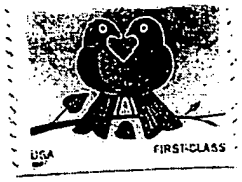
JUL 25 2007
PATENT & TRADEMARK OFFICE



Mr. Ezra L. Schacht, Patent Agent
1620 West Main
Houston, Texas 77006 4712

To: **Mr. Ezra L. Schacht, Patent Agent**
1620 West Main
Houston, Texas 77006 4712

77006#4712 C004

10/11

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JUL 25 2007
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25 July 2007

CERTIFICATE OF MAILING

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Commissioner of Patents and Trademarks
Washington, D.C. 20231
Date: March 12, 2004

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Registration No.28261

Telephone: 713 523 0515
Fax: 206 984 0487

4/4

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FEB 1 9 2009

OFFICE OF PETITIONS

In re Application of	:	
Neal B. Gittleman	:	
Application No. 10/967,546	:	ON PETITION
Filed: October 18, 2004	:	
For: ROTATING WINGED LOW PROFILE	:	
IMPRESSION TRANSFER CAP	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 28, 2008, to revive the above-identified application.

The petition is **DISMISSED** as moot.

The petition is dismissed as moot in view of the decision mailed August 26, 2008, granting the petition to withdraw the holding of abandonment submitted on January 22, 2008, and supplemented on May 19, 2008.

The petition fee of $770.00 is being refunded as requested on February 9, 2009.

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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Christopher M. Goff (27839)
ARMSTRONG TEASDALE LLP
7700 Forsyth Boulevard
Suite 1800
St. Louis, MO 63105

Mail Date: 07/12/2010

Applicant	: Richard L. Underhill	: DECISION ON REQUEST FOR
Patent Number	: 7662136	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/967,548	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/18/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **789** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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GRACE J FISHEL
2200 WEST PORT PLAZA DRIVE
SUITE 202
ST. LOUIS, MO 63146

Mail Date: 04/21/2010

Applicant	: Willis F. Bellar	: DECISION ON REQUEST FOR
Patent Number	: 7595081	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/967,549	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/18/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1077** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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, BEST & FRIEDRICH LLP
100 EAST WISCONSIN AVENUE
SUITE 3300
MILWAUKEE, WI 53202

Mail Date: 04/21/2010

Applicant	: Mark E. Reindle	: DECISION ON REQUEST FOR
Patent Number	: 7617557	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/967,551	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/18/2004	: 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.

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WALL MARJAMA & BILINSKI
101 SOUTH SALINA STREET
SUITE 400
SYRACUSE, NY 13202

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AUG 3 1 2006

OFFICE OF PETITIONS

In re Application of :
Frank J. Cunha, et al. :
Application No. 10/967,557 : ON PETITION
Filed: October 18, 2004 :
Attorney Docket No.: 1235_021 :

This is a decision on the petition, filed August 28, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 17, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries 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 filed August 28, 2006.

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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DAVID S. BETTINGER
8030 COVENTRY
GROSSE ILE MI 48138

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OFFICE OF PETITIONS

In re Application of	:	
David S. Bettinger	:	
Application No. 10/967,560	:	DECISION ON PETITION
Filed: October 18, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No.	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed October 26, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age, must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes copy of applicant's drivers license. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3621 for action on the merits commensurate with this decision.

April M. Wise
Petitions Examiner
Office of Petitions

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COMPANY
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BARLEY MILL PLAZA 25/1128
4417 LANCASTER PIKE
WILMINGTON, DE 19805

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OFFICE OF PETITIONS

In re Application of

David Ross McGregor :

Application No. 10/967,569

: DECISION ON PETITION

Filed: October 18, 2004

:

Attorney Docket No. EL0533 US NA

This is a decision on the petition under 37 CFR 1.137(b), filed July 13, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 8, 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 March 9, 2007.

The amendment filed July 13, 2007, is noted.

The request for an extension of time within the third month is noted, but cannot be granted as the request was made outside the maximum statutory period for reply. Accordingly, deposit account 04-1928 will be refunded $1,020.00, in due course.

The application is being forwarded to Technology Center 2800, GAU 2841 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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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

David K. Lucente
Seagate Technology LLC
389 Disc Drive
Longmont CO 80503

In re Application of:
James Francis McCarty, et al.
Application No. 10/967,585
Filed: October 18, 2004
For: **MANAGING MULTIPLE UNIT ATTENTIONS**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed June 30, 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 fails to fully meet requirement (4) inasmuch as there is no detailed discussion of the search method employed, such as classes and subclasses searched, etc. A statement that a search "..has been made by attorney" is not sufficient.

Accordingly, the petition is **DENIED**.

Petitioner may submit a request for reconsideration within **TWO MONTHS** of the date of this decision. Any request for reconsideration should include a complete discussion of the search method employed in order to comply with item (4) above.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

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Fellers, Snider, Blankenship,
Bailey & Tippens, P.C.
Suite 1700
100 North Broadway
Oklahoma City OK 73102-8820

MAIL

SEP 2 8 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
James Francis McCarty, et al.
Application No. 10/967,585
Filed: October 18, 2004
For: **MANAGING MULTIPLE UNIT ATTENTIONS**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the request for reconsideration of petition decision, filed September 19, 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, listing the field of search by class and subclass, publications, Chemical abstracts, foreign patents, etc., a search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. § 1.111(b) and (c), how the claimed subject matter is patentable over the references.

Applicant's previous petition filed June 30, 2005, was denied for failure to include a detailed discussion of the search method employed, i.e., applicants had only provided a statement that a search "..has been made by attorney". In reviewing MPEP § 708.02 section VIII, item 4 sets forth the requirement that a statement is required "listing the field of search by class and subclass, publications, Chemical abstracts, foreign patents, etc". There is no alternative or option between the statement and what is included in the statement. Rather, item 4 clearly establishes that there must be a statement that includes a discussion of the search performed. A simple statement that "a search has been made" would not satisfy the requirement.

Applicant's request for reconsideration in combination with the original petition, satisfies all of the above requirements. Accordingly, the original petition as supplemented by the request for reconsideration, is **Granted**.

The application file will be forwarded to the examiner for action in appropriate course.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

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FREDRIKSON & BYRON, PA
200 SOUTH SIXTH ST, SUITE 4000
MINNEAPOLIS, MN 55402-1425

Mail Date: 04/21/2010

Applicant	: James Francis McCarty	: DECISION ON REQUEST FOR
Patent Number	: 7590679	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/967,585	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/18/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **808** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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LAW OFFICES OF ALBERT WAI-KIT CHAN, PLLC
141-07 20TH AVENUE
WORLD PLAZA, SUITE 604
WHITESTONE, NY 11357

Mail Date: 04/21/2010

Applicant	: Sun-Wing Tong	: DECISION ON REQUEST FOR
Patent Number	: 7632671	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/967,592	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/18/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **565** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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ONE MICROSOFT WAY
REDMOND WA 98052

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OFFICE OF PETITIONS

In re Application of	:	
Dideriksen et al.	:	
Application Number: 10/967606	:	DECISION ON PETITION
Filing Date: 10/18/2004	:	
Attorney Docket Number:	:	
MS150644.03	:	

This is in response to the petition under 37 CFR 1.47(a) filed on November 20, 2008.

The petition is **DISMISSED AS MOOT**.

In accordance with 37 CFR 1.63(d), petitioner has submitted a copy of the executed oath or declaration filed in Application No. 09/817,902, filed on March 26, 2001, of which the instant filing is a continuation application. Furthermore, a copy of the decision, mailed on March 17, 2003, granting a petition to accord § 1.47(a) status to prior application No. 09/817,902, has been placed in the file of the present application.

As Rule 1.47(a) status was granted in the prior application, this application is hereby accorded Rule 1.47(a) status.

As no petition is necessary to accord Rule 1.47(a) status in this application, the petition is dismissed as moot. No petition fee is necessary and none has been charged.

As provided in Rule 1.47(c), since notice was provided after the grant of Rule 1.47(a) status in the prior application, the Office is dispensing with the notice provision in this continuation application.

After this decision is mailed, the application will be referred to the Office of Data Management for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

DIWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Technology Center 2100

Fellers, Snider, Blankenship, Bailey & Tippens, P.C.
100 North Broadway, Suite 1700
Oklahoma City, OK 73102-8820

In re Application of: Roberson, et al.
Application No. 10/967,615
Filed: 10 October 2004
For: RECOVERY RECORD FOR UPDATING A SYSTEM CONFIGURATION

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P.§708.02(VIII)

This is a decision on the petition filed 20 May 2005 under 37 C.F.R. 102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petition filed 20 May 2005 fails to adequately meet requirement (e) as set forth above. Responsive to requirement (e), applicant must provide a "detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references." Petitioner should ensure that the above discussion is directed to *how the language of each of the independent claims are specifically distinguishable and patentable from the references* provided pursuant to requirement (d) supra.

Petitioner fails to discuss (relate) the claimed limitations and each reference submitted under section (d) supra. The MPEP requires that the petition must show, with respect to each reference, how the claimed subject matter distinguishes from the prior art in accordance with the requirements of 37 CFR 1.111 (b) and (c). The petition filed 20 May 2005, however, provides only a terse summary of the claimed invention and then asserts that none of the references teach Applicant's claimed features. Simply citing (without the detailed discussion, as is required) some of the references does not satisfy the section (e) requirement for particularly addressing each reference. Petitioner merely alludes to the references in broad terms, and fails to furnish the "detailed discussion of the references, which discussion points out ... how the claimed subject matter is patentable over the references." Finally, a specific reference to the claimed features found in independent claims 1, 8 and 15 as they relate to the detailed discussion of the references should be provided.

Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

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Technology Center 2100

FELLERS, SNIDER, BLANKENSHIP, BAILEY & TIPPENS, P.C.
100 NORTH BROADWAY, SUITE 1700
OKLAHOMA CITY, OK 73102-8820

In re Application of: Roberson, et al.
Application No. 10/967,615
Filed: October 18, 2004
For: RECOVERY RECORD FOR UPDATING A SYSTEM CONFIGURATION

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER M.P.E.P. §708.02 (VIII)

This is a decision on the Request for Reconsideration filed January 30, 2006 on the petition to make special under 37 C.F.R. §102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, originally filed on May 20, 2005 and dismissed on November 28, 2005. The status letter filed April 21, 2006 is acknowledged.

The Petition is **GRANTED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Petition to Make Special **GRANTED** since all of the requirements for special status under MPEP § 708.02(VIII) have now been met.

The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

UNITED STATES PATENT AND TRADEMARK OFFICE

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COOPER CAMERON CORPORATION
PO BOX 1212
HOUSTON TX 77251-1212

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FEB 2 2 2007

OFFICE OF PETITIONS

In re Application of :
Abrahamian :
Application No. 10/967,618 : ON PETITION
Filed: October 18, 2004 :
Attorney Docket No. TCD-030456 US :
For: REPLACEABLE HIRTH COUPLING COMPONENT

This is a decision on the petition under 37 CFR 1.181, filed January 16, 2007 (certificate of mailing date January 12, 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 for failure to respond in a timely and proper manner to the final Office action mailed on May 22, 2006, which set an extendable three month period for reply. Applicant submitted an amendment after final on July 21, 2006. The amendment after final failed to place this application in *prima facie* condition for allowance, as was explained in the August 4, 2006 Advisory action. The Office has no record of receiving further correspondence in application no.10/967,618. Therefore, the Office considered the application abandoned on August 23, 2006. A Notice of Abandonment was mailed on December 28, 2006.

Petitioner asserts that a proper response in the form of a RCE and amendment were timely filed on August 22, 2006. A review of the copy of the August 22, 2006 RCE and amendment filed with the present petition reveals that petitioner listed the application number as 10/976,618. Therefore, the RCE and amendment were not associated with application file.

A review of the contents of application no. 10/976,618 reveals that the August 22, 2006 RCE and amendment are present.

Even though petitioner cited the wrong application number on the RCE and amendment, under MPEP 502, " A minor error in the identification of the application can be corrected by the group provided the correct identification can be quickly discovered. Examples of minor errors are transposed numbers, typographical errors, and listing the parent application number." The undersigned believes that a relatively simple review of Office records would have yielded the correct application number to enable the Office to match the August 22, 2006 correspondence

with this application file. A cross-referencing of any of the accurate identifiers found on the RCE and amendment with Office databases would have revealed the typographical error.

The undersigned will request that the August 22, 2006 RCE and amendment be removed from the file of application no. 10/976,618 and placed in the file of the above-identified application.

A RCE fee of $790.00 will be charged to deposit account no. 03-0355 with a mailroom date of August 22, 2006.

The August 22, 2006 RCE and amendment were timely filed. Accordingly, the petition is **GRANTED**, the holding of abandonment withdrawn, and the Notice of Abandonment is hereby **vacated**. No petition fee has been or will be charged in connection with this matter.

The application file will be forwarded to the Technology Center AU 3679 for consideration of the RCE and amendment filed on August 22, 2006 and resubmitted with the present petition.

Telephone inquiries pertaining to this matter may 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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TROUTMAN SANDERS LLP
BANK OF AMERICA PLAZA, SUITE 5200
600 PEACHTREE STREET, NE
ATLANTA GA 30308-2216

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APR 20 2005

OFFICE OF PETITIONS

In re Application of	:	
Rose and Ventura	:	DECISION ACCORDING STATUS
Application No. 10/967,632	:	UNDER 37 CFR 1.47(a)
Filed: October 18, 2004	:	
Title: Frozen Biocidal Compositions	:	
And Methods Of Use Thereof	:	

This is in response to the petition under 37 CFR 1.47(a), filed on March 28, 2005 (certificate of mailing dated March 21, 2005). Petitioner obtained a two-month extension of time for filing a reply. Accordingly, the petition is filed timely.

The petition is granted.

Petitioner has shown that Lawrence J. Ventura, the nonsigning inventor, has refused to join in the filing of the above-identified application after having been mailed the application papers. Specifically, the statement of facts of Mary Anthony Merchant, Ph.D. establishes that petitioner mailed the application papers, including the specification, claims and drawings via UPS to the last known address of the nonsigning inventor on two separate dates. The packages were returned to Dr. Merchant's office with an indication that the original receiver refused delivery. Copies of the letters, return labels and the UPS tracking information 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.

The application is being referred to the Office of Initial Patent Examination.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Lawrence J. Ventura
3805 Barbican Court
Fuquay Varian, NC 27526

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APR 20 2005

OFFICE OF PETITIONS

In re Application of :
Rose and Ventura :
Application No. 10/967,632 : LETTER
Filed: October 18, 2004 :
Title: Frozen Biocidal Compositions :
And Methods Of Use Thereof :

Dear Mr. Ventura:

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

TROUTMAN SANDERS LLP
BANK OF AMERICA PLAZA, SUITE 5200
600 PEACHTREE STREET, NE
ATLANTA GA 30308-2216

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6/4/08

Paper No.: _____

TO SPE OF : ART UNIT 3672

10/967651

SUBJECT : Request for Certificate of Correction on Patent No.: 7350599

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:

office mistake

DAVID BAGNELL
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

SPE

3672
Art Unit

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FEB 28 2006

OFFICE OF PETITIONS

JANAL M. KALIS
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH
1600 TCF TOWER
121 SOUTH EIGHT STREET
MINNEAPOLIS MN 55402

In re Application of	:	
LEE et al.	:	
Application No. 10/967,667	:	ON PETITION
Filed: October 18, 2004	:	
Attorney Docket No. 952.028US1	:	

This is in response to a petition under 37 CFR 1.47(a) and a petition under 37 CFR 1.137(b) to revive the above-identified application, both filed December 19, 2005.

The petition under 37 CFR 1.47(a) is **GRANTED.**

The petition under 37 CFR 1.137(b) is **GRANTED.**

Petition under 37 CFR 1.47(a)

Petitioner has shown that the non-signing inventor, Robert Boock, cannot be located to join in the filing of the above-identified application.

The 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 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Petition under 37 CFR 1.137(b)

The above-identified application became abandoned for failure to reply in a timely manner to a Notice to File Missing Parts of Nonprovisional Application mailed January 10, 2005, which set a period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 11, 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: the statutory basic filing fee of $395, excess independent claim fee of $500 and excess claims fee of $550, a properly executed declaration, the late declaration surcharge fee of $65, and drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121; (2) the petition fee of $750; 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 January 10, 2005 is accepted as having been unintentionally delayed.

This matter is being referred to the Office of Initial Patent Examination.

Telephone inquiries regarding this decision should be directed to Denise Pothier at (571) 272-4787.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

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FEB 28 2006

OFFICE OF PETITIONS

ROBERT BOOCK
16514 BERNARDO CENTER DRIVE
SAN DIEGO, CA 92127

In re Application of
JEFFREY LEE, MARIE CALABRIA, AURTHUR BERTELSON, and ROBERT BOOCK
Application No. 10/967,667
Filed: October 18, 2004
For: ANEURYSM EMBOLIZATION MATERIAL AND DEVICE

Dear Mr. Boock:

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 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 Denise Pothier at (571) 272-4787. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington, DC area).

Frances Hicks
Petitions Examiner
Office of Petitions

cc: JANAL M. KALIS
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH
1600 TCF TOWER
121 SOUTH EIGHT STREET
MINNEAPOLIS MN 55402

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 08/27/09

TO SPE OF : ART UNIT 2421

SUBJECT : Request for Certificate of Correction for Appl. No.: 10967672 Patent No.: 7543321 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580

You can fax the Directors SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Dominic Saltarelli/

SPE /John Miller/

Art Unit 2421

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAILED
FROM DIRECTORS OFFICE

JAN 13 2006

TECHNOLOGY CENTER 3600

John Tedrick
4937 S. 86th E. Avenue
Tulsa, OK 74145

In re application of	:	**DECISION ON PETITION**
John Tedrick	:	**TO MAKE SPECIAL**
Application No. 10/967,683	:	**(APPLICANT'S AGE)**
Filed: October 18, 2004	:	
For: COUPLING FOR TRASH CONTAINERS	:	

This is a decision on the petition submitted on July 26, 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 Mr. Tedrick'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** .

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(571) 272-6611

SNM/dew: 12/21/05

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ALEXANDER VERA
8255 W. SUNRISE BLVD. #203
PLANTATION, FL 33322

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SEP 1 5 2005

OFFICE OF PETITIONS

In re Application of :
Alexander Vera :
Application No. 10/967,686 :
Filed: October 18, 2004 :
Attorney Docket No. N/A :

ON PETITION

This is a decision on the petition under 37 CFR 1.10(c), filed May 3, 2005, requesting that the above-identified application be accorded a filing date of October 13 2004, rather than the presently accorded filing date of October 18, 2004.[1]

The petition is **dismissed**.

Petitioner alleges that the application was deposited in USPS Express Mail service on October 13, 2004. In support, the petition is accompanied by a copy of a cash register receipt from the USPS Sawgrass Postal Store in Sunrise Florida that is dated "10/13/2004" and lists:

"ALEXANDRIA VA 22313	$3.85
Express Mail	
Delivery Confirmation	$0.45
Label Serial #: 0[304]1070000255284	
Issue PVI:	$4.30
Total:	$4.30"

It is noted that the words "Express Mail" on the receipt appear in a different font (size and style) then the rest of the items printed on the receipt. Furthermore, the numbers of the "Delivery

[1] Petitioner further argues a filing date of October 13, 2003 should be applied in this file, due to the submission of a previous provisional application. However, the filing date of a provisional application is for the prior provisional application and is not applicable as a replacement for the filing date of a later-filed non-provisional application. Furthermore, it is noted, that no priority claims to any prior provisional application are found in the above-identified application.

Confirmation Label Serial #" are not completely legible. Additionally, an Express Mail fee (minimum $10.70) does not appear on the receipt. Please note, USPS Priority Mail service does not receive the benefit of 37 CFR 1.10.

Paragraph (c) of 37 CFR 1.10 states that:

> "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."

A grantable petition under 37 CFR 1.10(c) must include "a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit." The petition filed May 3, 2005, is not accompanied by the required true copy of the "Express Mail" mailing label. As such, review of the label and the "date-in" notation is not possible and the petition must be dismissed.

Furthermore, a review of the application papers submitted on October 18, 2004 indicate that the "Express Mail" mailing label number was not placed on any of the application papers filed on that date as the number is not found on any of the papers filed on that date. As such, even if the papers were sent by USPS Express Mail, it is impossible to ascertain under what Express Mail label the papers were sent under.

For the reasons listed above, the petition is dismissed.

The application is being returned to Technology Center 3700 for examination in due course with the presently accorded filing date of October 18, 2004.

Telephone inquiries should be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Alexander Vera
8255 W. Sunrise Blvd. #203
Plantation, FL 33322

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JAN 17 2007

OFFICE OF PETITIONS

In re Application of	:
Alexander Vera	:
Application No. 10/967,686	: DECISION ON PETITIONS
Filed: 10/18/2004	: UNDER 37 CFR 1.53 and
Title of Invention: SELF LUBRICATING CONDOM	: 37 CFR 1.78(a)(6)
	:

This is a decision on the correspondence filed February 22, 2005, to accord a filing date of October 14, 2006 to the above-identified application, and to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to a prior-filed provisional application. The correspondence is properly treated as a petition under petition under 37 CFR 1.78(a)(6).

The petitions are **DISMISSED.**

The filing date of the application

A review of Office records reveals that this office mailed a Decision on September 15, 2005, which addressed Applicant's request to accord the application a filing date of October 13, 2004. As such, the issue has been considered and will not be reconsidered herein.

As to the priority claim

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.

Initially, it is noted that the pending nonprovisional application was filed on October 18, 2004. The filing date of the provisional application, for which the benefit is sought, Application No. 60/510,494, was filed on October 14, 2003, more than twelve months before the filing date of the pending nonprovisional application. As such, continuity does not exist between the pending nonprovisional application and the provisional application for which priority is sought.

Also, the petition that includes the requested amendment to the application is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(5)(i). In this regard, the amendment is physically part of the 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.

The petition also does not comply with items (**1**) and (**3**) above.

As to item (**1**), 37 CFR 1.78(a)(5)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending provisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. When the nonprovisional application is entitled to an earlier U.S. effective filing date of one or more provisional applications under 35 U.S.C. 119(e), a statement such as "This application claims the benefit of U.S. Provisional Application No. 60/---, filed ---, and U.S. Provisional Application No. 60/ ---, filed ---." should appear as the first sentence(s) of the description or in an application data sheet. *See* MPEP Section 201.11, Reference to Prior Provisional Applications. The amendment fails to comply with the provisions of 37 CFR 1.78(a)(5)(i) and is therefore unacceptable.

As to item (**3**), 37 CFR § 1.78(a)(6) requires a statement that the entire delay between the date the claim was due under 37 CFR § 1.78(a)(5)(ii) and the date the claim was filed was unintentional. Applicant has failed to provide the statement required by 37 CFR §1.78(a)(6).

Finally, the petition did not include a petition fee. Before the merits of a petition under 37 CFR 1.78(a)(6) may be considered, **a petition fee of $1370.00 is required**. Applicant must submit the petition fee.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Derek L. Woods at (571) 272-3232.

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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ALEXANDRIA, VA 22313-1450
www.uspto.gov

Timothy Alan Munyon
128 Spyglass Lane
Half Moon Bay, CA 94019

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JAN 12 2006

OFFICE OF PETITIONS

In re Application of :
Timothy Alan Munyon :
Application No. 10/967,689 : ON PETITION
Filed: October 18, 2004 :
Attorney Docket No. N/A :

This is a decision on the petition under 37 CFR 1.137(b), filed October 21, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to respond to the Notice to File Corrected Application Papers mailed December 8, 2004.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of replacement drawings and a replacement abstract; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the petition is being construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the petition.

The Change of Correspondence Address filed October 21, 2005 has been made of record.

The application file is being referred to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Mr Glenn Toews
Harland Medical Systems, LLC
7418 Washington Avenue South
Eden Prairie MN 55344

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MAY 0 2 2007

OFFICE OF PETITIONS

In re Application of :
Jonathan Dale Anderson et al. :
Application No. 10/967,693 :
Filed: October 18, 2004 :
Attorney Docket No. P2004-001 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 2, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed February 15, 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) was obtained. Accordingly, the application became abandoned on March 16, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will continue to be directed

to the address currently of record. **The power of attorney filed November 20, 2006 was not approved because the required certificate under 3.73(b) was not received nor was it signed by of the applicants.**

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

The application file is being referred to Technology Center AU 2856 for appropriate action on the election.

Liana Walsh
Petitions Office
Office of Petitions

cc: **Patterson, Thuente, Skaar & Christensen, P.A.**
4800 IDS Center
80 South 8th Street
Minneapolis, MN 55402-2100

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GOWLING LAFLEUR HENDERSON LLP (RIM)
160 ELGIN STREET, SUITE 2600
OTTAWA, ON K1P 1C3
CANADA

Mail Date: 07/09/2010

Applicant	: Chao Chen	: DECISION ON REQUEST FOR
Patent Number	: 7639240	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/967,695	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **819** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8/26/07

TO SPE OF : **Technology Center** 1745

10/967696

SUBJECT : Request for Certificate of Correction on Patent No.: 7208241 B2

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Elisha Evans
Certificates of Correction Branch
Tel. No. 703-308-9390 EXT 110

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

CHANGES ARE SOLELY EDITORIAL

SPE

1745
Art Unit

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MAYER & WILLIAMS PC
251 NORTH AVENUE WEST
2ND FLOOR
WESTFIELD NJ 07090

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OFFICE OF PETITIONS

In re Application of
YOUNG, Mark K. et al.
Application No. 10/967,717
Filed: October 18, 2004
Attorney Docket No. **9005/27**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R.§ 1.36(b), filed June 18, 2007.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, (matter was transferred per assignee's request), does not meet any the conditions set forth in 37 CFR 10.40.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272- 4231.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **CHOATE, HALL & STEWART LLP**
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

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Paper No.

CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON MA 02110

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OFFICE OF PETITIONS

In re Application of :
Young et al. : DECISION ON PETITION
Application No. 10/967,717 :
Filed: October 18, 2004 :
Atty Docket No. 2006669-0024 :

This is a decision on the PETITION TO REVIVE AN UNINTENTIONALLY ABANDONED APPLICATION UNDER 37 C.F.R. §1.137(b) filed July 23, 2008.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a reply to the non-final Office action mailed May 25, 2007. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply received and no extension of time obtained, the application became abandoned on August 26, 2007. A courtesy Notice of Abandonment was mailed on June 12, 2008.

The petition includes the required reply in the form of an amendment and a terminal disclaimer, the required statement of unintentional delay, and payment of the petition fee set forth in 37 CFR § 1.17(m). No terminal disclaimer is required for purposes of reviving this application.

Technology Center AU 3663 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the amendment and terminal disclaimer submitted on petition filed July 23, 2008.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Paper No. 9

LEE & HAYES PLLC
421 W RIVERSIDE AVENUE SUITE 500
SPOKANE WA 99201

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MAR 17 2003

OFFICE OF PETITIONS

In re Application of	:
Dideriksen, Feller, Harris, and	:
Novak	: DECISION ACCORDING STATUS
Application No. 09/817,902	: UNDER 37 CFR 1.47(a)
Filed: 26 March, 2001	:
Attorney Docket No. MS1-786US	:

This is in response to the twice renewed petition under 37 CFR 1.47(a)[1] filed on 7 March, 2003.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Chris Feller, has refused to join in the filing of the above-identified application after having been sent a copy of the application papers via E-mail. The non-signing inventor subsequently responded by E-mail stating his refusal to sign.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the declaration. Notice of the filing of this application will also be published in the Official Gazette.

---

[1]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.

Copied from 09817902 on 08/04/2009

The $130.00 fee filed with the present request for reconsideration is unnecessary and will be credited to counsel's deposit account, No. 12-0769.

The application is being forwarded to Technology Center 2100 for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

DWood

Douglas I. Wood
Petitions Attorney
Office of Petitions

Copied from 09817902 on 08/04/2009

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LEE & HAYES, PLLC
601 W. RIVERSIDE AVENUE
SUITE 1400
SPOKANE WA 99201

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AUG 1 1 2009

OFFICE OF PETITIONS

In re Application of	:	
Dideriksen et al.	:	
Application Number: 10/967727	:	DECISION ON PETITION
Filing Date: 10/18/2004	:	
Attorney Docket Number: MS1-0786USC1	:	

This is in response to the petition under 37 CFR 1.47(a) filed on July 10, 2009.

The petition is **DISMISSED AS MOOT**.

In accordance with 37 CFR 1.63(d), petitioner has submitted a copy of the executed oath or declaration filed in Application No. 09/817,902, filed on March 26, 2001, of which the subject application is a continuation. Furthermore, a copy of the decision, mailed on March 17, 2003, granting a petition to accord § 1.47(a) status to the above-identified prior-filed application, has been placed in the file of the present application.

As Rule 1.47(a) status was granted in the prior application, this application is hereby accorded Rule 1.47(a) status.

As no petition is necessary to accord Rule 1.47(a) status in this application, the petition is dismissed as moot. No petition fee is necessary.

As provided in Rule 1.47(c), since notice was provided after the grant of Rule 1.47(a) status in the prior application, the Office is dispensing with the notice provision in this continuation application.

After this decision is mailed, the application is referred to Technology Center Art Unit 2156 for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION, SEARS TOWER
CHICAGO, IL 60606-1080

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OFFICE OF PETITIONS

In re Application of	:	
David W. Moskowitz	:	
Application No. 10/967,754	:	DECISION ON PETITION
Filed: October 18, 2004	:	TO WITHDRAW
Attorney Docket No. 58134.56	:	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 14, 2006 and May 30, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Tara A Nealey and those practitioners associated whit customer number 26263 have been revoked by the assignee of the patent application on June 19, 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 ~~above~~ below first-listed address until otherwise properly notified by applicant.

Telephone inquires concerning this decision should be directed to Charles Smoot at 571-272- 3299.

David Bucci
Petitions Examiner
Office of Petitions

Cc: BLACKWELL SANDERS PEPER MARTIN LLP
720 Olive Street
Suite 2400
ST. Louis, MO 63101

cc: David W. Moskowitz, MD, MA, FACP
C/o GenoMed, Inc.
9666 Olive Boulevard, Suite 310
St. Louis, MO 63132

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OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Zicheng Liu et al	:	
Application No. 10/967,765	:	
Filed: October 18, 2004	:	
Attorney Docket No. MS1-526USC4	:	

This is a decision on the petition, filed March 31, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 17, 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 2624 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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LEE HAYES
421 W RIVERSIDE AVENUE SUITE 500
SPOKANE WA 99201

In re Application of	:	
Zicheng Liu et al	:	
Application No. 10/967,765	:	ON PETITION
Filed: October 18, 2004	:	
Attorney Docket No. MS1-526USC4	:	

This is a decision on the petition, filed August 16, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 21, 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 2624 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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SEP 14 2005

PROSKAUER ROSE LLP
ONE INTERNATIONAL PLACE 14TH FL
BOSTON MA 02110

In re Application of	:
Stephen Quake et al	: PETITION TO MAKE SPECIAL
Serial No.: 10/967,778	:
Filed: October 18, 2004	:
Attorney Docket No.: HEL-917	

This is in response to the petition filed August 31, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, XII. Therefor the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission to the Office general facsimile number, 571-273-8300.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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Commissioner for Patents
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JOHN S REID
REIDLAW LLC
1926 S VALLEYVIEW LANE
SPOKANE WA 99212-0157

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OFFICE OF PETITIONS

In re Application of	:	
Matthew Russell	:	
Application No. 10/967,798	:	ON PETITION
Filed: October 18, 2004	:	
Attorney Docket No. RU01-P12-2	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed January 25, 2006.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely file a reply to the non-final Office action mailed February 9, 2005, which set a shortened statutory period for reply of three (3) months. Applicant filed an Amendment and a Terminal Disclaimer on June 13, 2005, with a Certificate of Mailing dated June 9, 2005. However, while Applicant included a check in the amount of $130 for the Terminal Disclaimer, Applicant did not submit the $60 fee for a one month extension of

time, nor was an authorization to charge the fee to a Deposit Account present.[1] Accordingly, on June 22, 2005, the Office mailed a "NOTICE REQUIRING EXTENSION OF TIME FEE", stating that no extension of time was received, and that the period for reply continued to run from the mailing date of the February 9, 2005 Office action. Applicant filed a response on July 11, 2005, stating that no extension of time was believed to be due for the June 13, 2005 Amendment. However, as a precaution, Applicant submitted $165 for the balance due for a two month extension of time, believing that he earlier paid the $60 fee for a one month extension of time on June 13, 2005. As the Office never received the $60 for the one month extension of time, and the $165 was not sufficient for a two month extension of time, the application became abandoned on May 10, 2005. The Office mailed a Notice of Abandonment on December 28, 2005.

The application file is the official file of record. While Office records indicate that Applicant submitted $130 on June 13, 2005 for a terminal disclaimer, there is no indication that Applicant submitted $60 for the one month extension of time that would have been necessary to make that filing timely.

Petitioner may want to consider reviving the application pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m), currently $1500 ($1500, or $750 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 pursuant to this paragraph was unintentional.

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

---

[1] On the transmittal form, Applicant stated that he was enclosing a check in the amount of $130 for a one month extension of time **and** a terminal disclaimer.

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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JOHN S REID
REIDLAW LLC
1926 S VALLEYVIEW LANE
SPOKANE WA 99212-0157

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JAN 16 2007

OFFICE OF PETITIONS

In re Application of	:	
Matthew Russell	:	
Application No. 10/967,798	:	ON PETITION
Filed: October 18, 2004	:	
Attorney Docket No. RU01-P12-2	:	

This is a decision on the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181, filed October 31, 2006.

The petition under 37 CFR 1.181 is **GRANTED**.

The holding of abandonment is **WITHDRAWN**.

On renewed petition, petitioner has pointed out that the $130 submitted on June 13, 2005 was to cover the small entity terminal disclaimer fee ($65), and the small entity fee for a one month extension of time ($60). Accordingly, the June 13, 2005 reply was timely filed.

The matter is being forwarded to Group Art Unit 3635 for consideration of the Amendment and Terminal Disclaimer, filed June 13, 2005.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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SEP 22 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2800

THOMPSON HINE LLP
2000 COURTHOUSE PLAZA N.E.
10 WEST SECOND STREET
DAYTON OH 45402-1758

In re Application of:
Robert J. Schuller
Application Serial No.: 10/967,799
Filed: October 18, 2004
For: **METHOD AND SYSTEM FOR CONTROLLING MESSAGES PRINTED BY AN IN-STORE LABEL PRINTER AND RELATED LABEL STRUCTURE**

DECISION ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.102, November 26, 2004, to make the above-identified application special. The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

A grantable petition under 37 C.F.R. § 1.102(d), M.P.E.P. § 708.02, item II: Infringement, must be accompanied by the required fee and a statement alleging: (1) that there is an infringing device or product actually on the market or method in use; (2) that a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (3) that he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge or the pertinent prior art. Further, 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 fails to satisfy items 2 above. Specifically, Petitioner states that they "..have made a rigid comparison of the use made of the labels described above to the pending claims...". The requirement as set forth in MPEP §708.02 is that a comparison must have been made with respect to an alleged infringing device, product or method. Indicating that a comparison of the "use" of an item, does not suggest infringement of a specific device, product or method. In addition, the mere arrangement of printed matter is non-statutory. Therefore, applicant's petition does not satisfy the requirements of MPEP §708.02.

However, a review of the application file reveals that applicant has amended their specification to contain specific reference to earlier filed applications, e.g., SN. 10/389,474, filed March 14, 2003 which is a continuation of SN 09/663,285 filed September 15, 2000.

MPEP §708.01 [R-2] List of Special Cases, states in part:

> (I) Applications pending more than 5 years, <u>including those which, by relation to a prior United States application, have an effective pendency of more than 5 years</u>. See MPEP § 707.02. [emphasis added]

In accordance with MPEP section 708.01(I), applications pending over 5 years, including those which by relation to a prior United States application, should be considered special. This application by virtue of its prolonged pendency is considered special in accordance with PTO policy.

Accordingly, the petition is **Granted** due to the prolonged pendency.

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.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

Attorney Docket No. TCI-004M

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the Application of	:	
Jon R. ANFINSEN et al.	:	Confirmation No. 9161
Serial No. 10/967,800	:	Group Art Unit 1761
Filed October 18, 2004	:	Examiner CANO, Milton I.
REDUCED DIGESTIBLE CARBOHYDRATE FOOD HAVING REDUCED BLOOD GLUCOSE RESPONSE	:	

PETITION TO MAKE SPECIAL PURSUANT TO 37 CFR 1.102(c)(1)

Attn: Technology Center SPRE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicants respectfully petition to Make Special the above-identified patent application, on the basis that the Applicant Jon R. Anfinsen is at least age 65. A copy of Applicant's drivers license is attached showing his age over is over 65 years. Therefore no fee is believed to be due.

Respectfully submitted,

FOR: Jon R. Anfinsen et al.

By _____
Daniel F. Nesbitt
Attorney for Applicants
Registration No. 33,746
(513) 229-0383
Customer No. 26868

April 19, 2007

PETITION GRANTED

William Krynski
Special Program Examiner
Technology Center 1700
MAY - 7 2007

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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LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1128
4417 LANCASTER PIKE
WILMINGTON, DE 19805

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OCT 09 2007

OFFICE OF PETITIONS

In re Application of Carroll et al. :
Application No. 10/967,801 : Decision on Petition
Filing Date: October 18, 2004 :
Attorney Docket No. EL0503USDIV :

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 **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 24, 2006, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on January 25, 2007.

The instant petition requests revival of the application.

Petitioner has submitted the required petition fee of $1,500. Petitioner has submitted a reply to the non-final Office action. Petitioner has stated the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

Technology Center Art Unit 1753 will be informed of the instant decision and the application will be further examined in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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WILMINGTON, DE 19805

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OCT 0 8 2008

OFFICE OF PETITIONS

In re Application of Carroll et al. :
Application No. 10/967,801 :
Filing Date: October 18, 2004 :
Attorney Docket No. EL0503USDIV :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(b), filed June 25, 2008, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a proper manner to the final Office action mailed November 7, 2007, which set a shortened statutory period for reply of three (3) months. A one-month extension of time was obtained pursuant to the provisions of 37 CFR 1.136(a). Therefore, the application became abandoned on March 8, 2008.
The instant petition requests revival of the application.

Petitioner has submitted a reply in the form of a RCE and submission. Petitioner has submitted the required petition fee. Petitioner has stated the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

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 to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

Technology Center Art Unit 1795 will be informed of the instant decision and the application will be further examined in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 23313-1450
WWW.USPTO.GOV

Mailed: APR 18 2005

HYP
Paper No.

In re Application of Yu Shi et al.
Serial No.: 10/967,803
Filed: October 18, 2004

DECISION ON PETITION UNDER *37 CFR 1.48(a)*

Title: PET COPOLYMER COMPOSITION WITH ENHANCED MECHANICAL PROPERTIES AND STRETCH RATIO, ARTICLES MADE THEREWITH, AND METHODS

This is a decision on the PETITION TO CORRECT INVENTORSHIP IN A NON-PROVISIONAL PATENT APPLICATION filed October 18, 2004 to correct inventorship under 37 CFR 1.48(a) by adding the name of Christopher C. Kjorlaug to the list of inventors of the instant application.

It is noted that the applicant has met the requirements of 37 C.F.R. § 1.48(a) by (1) submitting a request to correct the inventorship that sets forth the desired inventorship change; (2) providing a statement from each person being added as an inventor that the error in inventorship occurred without deceptive intention on his or her part; (3) providing a declaration of the actual inventors as required by 37 C.F.R. § 1.63; (4) providing the processing fee set forth in 1.17(i); and, (5) providing the written consent of the assignee.

The request is **GRANTED**.

The application file is being forwarded to the appropriate section of the Patent and Trademark Office for correction of the record.

Harold Y. Pyon
Supervisory Patent Examiner 2/14/05
Art Unit 1772
Technology Center 1700

SUTHERLAND ASBILL & BRENNAN LLP
999 Peachtree Street, NE
Atlanta, Georgia 30309-3996

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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GARVEY SMITH NEHRBASS & NORTH, LLC
LAKEWAY 3, SUITE 3290
3838 NORTH CAUSEWAY BLVD.
METAIRIE LA 70002

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MAY 23 2008

In re Application of	:	
Kenneth A. Davis et al	:	
Application No. 10/967,812	:	DECISION GRANTING PETITION
Filed: October 18, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. A03095US (98134.10)	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 23, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 21, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 1797 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy
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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Aaron Passman
9632 Windom Point Avenue
Las Vegas NV 89129

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OCT 12 2007

OFFICE OF PETITIONS

In re Application of :
Bryant :
Application No. 10/967,815 : ON PETITION
Filed: October 19, 2004 :
Attorney Docket No. PEB 3 CON :
For: METHOD AND APPARATUS FOR REBOUND CONTROL

This is a decision on the petition under 37 CFR 1.181, filed July 26, 2007 and supplemented on September 4, 2007, requesting that the Office withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any reconsideration petition must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. This is **not** a final agency action within the meaning of 5 U.S.C.§ 704.

The application became abandoned for failure to properly reply within the meaning of 37 CFR 1.113 to the final Office action, mailed October 20, 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. Applicant filed an unacceptable terminal disclaimer on October 27, 2006. Accordingly, the application became abandoned on January 21, 2007 for failure to properly and complete respond to the October 20, 2006 final Office action.

Petitioner argues that because a timely response was filed within three months of the mailing of the October 20, 2006 final Office action, that the holding of abandonment should be withdrawn.

Petitioner is reminded that after a final action, there are only five possible proper replies: (1) a Notice of Appeal, (2) the filing of a continuing application, (3) a 37 CFR 1.129(a) submission, if appropriate, (4) an amendment after final that makes the case ready for issuance or (4) a RCE. To be a proper reply, an amendment after final must eliminate all of the Examiner's objections and rejections, and thus place the case in *prima facie* condition for allowance.

It is noted that the October 20, 2006 final Office action stated that a timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual

rejection based on a nonstatutory double patenting ground. Petitioner filed a terminal disclaimer, as encouraged by the examiner, on October 27, 2006. Unfortunately, poetitioner's terminal disclaimer was not properly completed and failed to place this application in *prima facie* condition for allowance.

The terminal disclaimer was signed by Aaron Passman as attorney of record **and** owner of United States Patent No. 6,830,256. No percentage of ownership was specified. This is because Aaron Passman is not owner of Patent No. 6,830,256. Amtech Corporation is owner. The terminal disclaimer filed on October 27, 2006 was correctly deemed unacceptable. The terminal disclaimer was not in compliance with 37 CFR 1.321(c).

The rules of practice are clear that prosecution of an application to save it from abandonment must include such complete and proper action as the condition of the case may require. The admission of an amendment not responsive to the last Office action, or refusal to admit the same, shall not operate to save the application from abandonment. "[T]he admission of, or refusal to admit, any amendment after final rejection, and any proceedings relative thereto, shall not operate to relieve the application or patent under reexamination from its condition as subject to appeal or to save the application from abandonment under § 1.135." See 37 CFR 1.116(a). This reasoning is applicable to petitioner's situation. Petitioner filed an insufficient terminal disclaimer. It was petitioner's responsibility to file a complete and proper response to the October 20, 2006 final Office action. Petitioner's error resulted in the abandonment of the application.

The petition to withdraw the holding of abandonment under 37 CFR 1.181 is DISMISSED. No petition fee has been or will be charged in connection with this petition.

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).

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

Telephone inquiries pertaining to this matter may 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Aaron Passman
9632 Windom Point Avenue
Las Vegas NV 89129

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JAN 17 2008

OFFICE OF PETITIONS

In re Application of :
Bryant :
Application No. 10/967,815 : ON PETITION
Filed: October 19, 2004 :
Attorney Docket No. PEB 3 CON :
For: METHOD AND APPARATUS FOR REBOUND CONTROL

This is a decision on the petition under 37 CFR 1.137(b), filed October 26, 2007 (certificate of mailing date October 24, 2007).

The petition under 37 CFR 1.137(b) is **GRANTED**.

The application became abandoned for failure to properly reply within the meaning of 37 CFR 1.113 to the final Office action, mailed October 20, 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. Applicant filed an unacceptable terminal disclaimer on October 27, 2006. Accordingly, the application became abandoned on January 21, 2007 for failure to properly and complete respond to the October 20, 2006 final Office action.

Applicant has submitted a proper terminal disclaimer in response to the October 20, 2006 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the October 20, 2006 final Office action, and the $770.00 petition fee. Therefore, the petition is granted.

After the mailing of this decision the application will be forwarded to Technology Center AU 3616 for consideration of the terminal disclaimer filed on July 26, 2007.

Telephone inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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30 ROCKEFELLER PLAZA
44TH FLOOR
NEW YORK NY 10112-4498

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OFFICE OF PETITIONS

In re Application of	:	
Rick Steven Constantine, et al.	:	
Application No. 10/967,830	:	DECISION ON PETITION
Filed: October 18, 2004	:	TO WITHDRAW
Attorney Docket No. AP36046 (071848.0143)	:	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 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 no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

The Associate Power of Attorney filed with the amendment on January 29, 2007, was filed after June 25, 2004, the effective date of a rule change eliminating the Associate Power of Attorney practice (37 CFR 1.34(b) was eliminated). *See* MPEP § 402.02 and Revision of Power of Attorney and Assignment Practice, 69 Fed. Reg. 29865 (May 26, 2004); 1283 Off. Gaz. 148 (June 22, 2004). Although the paper has been placed in the file, the names of the patent practitioners listed on the Associate Power of Attorney have not been made of record. However, as requested, and since the Associate Power of Attorney was signed by an attorney of record, the correspondence address has been changed to the address noted in the document.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

There is an outstanding Office action mailed May 2, 2007 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: JEREMY R. KRIEGEL
MARSHALL, GERSTEIN & BORUN, LLP
233 SOUTH WACKER DRIVE
6300 SEARS TOWER
CHICAGO, IL 60606

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Paper No.

DEVON A. ROLF
GARMIN AT, INC.
1200 EAST 151ST STREET
OLATHE, KS 66062

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OFFICE OF PETITIONS

In re Application of	:	
Horvath et al.	:	DECISION ON PETITION
Application No. 10/967,848	:	
Filed: October 18, 2004	:	
Atty Docket No. 702.376	:	

This is a decision on the PETITION TO WITHDRAW HOLDING OF ABANDONMENT filed September 7, 2005, which is properly treated under 37 CFR 1.181. This request was recently forwarded to the undersigned for consideration.

The petition under § 1.181 is **GRANTED**.

The above-identified application became abandoned for failure to file a timely and proper reply to the non-final Office action mailed February 3, 2005. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply considered timely filed and no extension of time considered obtained, the application became abandoned effective May 4, 2005. A courtesy Notice of Abandonment was mailed on August 24, 2005.

Petitioner states that on February 23, 2005, applicant submitted a response via facsimile to the USPTO's central fax server. In support thereof, petitioner submits copies of the response, terminal disclaimer, cover sheet, and Auto-Reply Facsimile Transmission issued by the Patent Office.

Petitioner's evidence has been reviewed, and found persuasive. Nonetheless, consideration of the evidence is unnecessary. A review of the image file wrapper for this application reveals that the reply is present in the application with a date-stamp of receipt thereon of February 23, 2005. The record establishes that the response, including a terminal disclaimer, was timely received.

In view thereof, the Notice of Abandonment is hereby **vacated**, and the holding of abandonment is **withdrawn**.

No fee is required on petition under § 1.181.

Technology Center AU 3661 has been advised of this decision. The application file is, thereby, forwarded for consideration by the examiner of the response filed February 23, 2005.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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P.O. Box 10395
Chicago IL 60610

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MAR 28 2008

OFFICE OF PETITIONS

ON PETITION

In re Patent No. 7,208, 326 :
Issue Date: April 24, 2007 :
Application No. 10/967,869 :
Filed: October 18, 2004 :
Attorney Docket No. 13306-6 :

This is a decision on the petition filed November 20, 2007 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**.

Pursuant to petitioner's request, deposit account no. 23-1925 will be charged the $130.00 processing fee pursuant to 37 CFR 1.17(i).

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3215. 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.

Charlema Grant

Charlema Grant
Petitions Attorney
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNILEVER INTELLECTUAL PROPERTY GROUP
700 SYLVAN AVENUE,
BLDG C2 SOUTH
ENGLEWOOD CLIFFS, NJ 07632-3100

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FEB 25 2005

OFFICE OF PETITIONS

In re Application of :
Feng-Lung Gordon Hsu, Sudhakar :
Puvvada, Ronald Frederick : DECISION GRANTING PETITION
Vogel, Diane Wolf and Gary Hsu : UNDER 37 CFR 1.47(a)
Application No. 10/967,870 :
Filed: October 18, 2004
Title: AUTOMATIC DISPENSING
DEVICE FOR LAUNDRY CARE
COMPOSITION

This is in response to the "Petition Under 37 CFR 1.47(a)," filed December 20, 2004.

The petition is **granted**.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The file is being forwarded to Technology Center 1700 for examination *in due course*.

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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FEB 25 2005

OFFICE OF PETITIONS

RONALD FREDERICK VOGEL
417 EAST 6TH STREET, #5
NEW YORK, NY 10025

In re Application of
Feng-Lung Gordon Hsu, Sudhakar Puvvada, Ronald Frederick Vogel, Diane Wolf and Gary Hsu
Application No. 10/967,870
Filed: October 18, 2004
Title: AUTOMATIC DISPENSING DEVICE FOR LAUNDRY CARE COMPOSITION

Dear RONALD FREDERICK VOGEL:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571)272-3228. Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

UNILEVER INTELLECTUAL PROPERTY GROUP
700 SYLVAN AVENUE,
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ENGLEWOOD CLIFFS, NJ 07632-3100

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CARY W. BROOKS
General Motors Corporation
Legal Staff, Mail Code 482-C23-B21
P.O. Box 300
Detroit MI 48265-3000

JUN 04 2007

In re Application of:
SACHS, CHRISTIAN
Serial No.: 10/967,889
Filed: Oct. 18, 2004
Docket: GP-305239
Title: HEATABLE HYDROGEN PRESSURE REGULATOR

DECISION ON PETITION

This is a decision on the petition filed on Dec. 21, 2006 seeking reversal of the objection to the proposed drawing changes for introducing new matter into the disclosure. The petition is being considered pursuant to 37 CFR 1.181.

The petition is **DISMISSED**.

In the petition, petitioner requests withdrawal of the examiner's objection to the drawings under 37 CFR 1.83(a) for introducing new matter into the disclosure. The examiner did not accept the updated drawings received on Sep. 5, 2006 because the drawings contain subject matter not described in the specification such as the location of the fuel cell system and the location of the compressed tank system. Petitioner believes that the new matter objection to the drawings is in error and requests review and relief therefrom.

The record shows that:

1. On Jul. 19, 2006, the examiner issued a non-final Office action and objected to the drawings under 37 CFR 1.83(a) because the drawings did not show the "fuel cell" and "vehicle" as specified in the claims.
2. On Sep. 5, 2006, the applicant filed an amendment including proposed drawing changes showing the fuel cell system, the compressed tank system and the vehicle.
3. On Nov. 7, 2006, the examiner issued a final Office action which included a new matter objection to the drawings because the drawings contain subject matter which was not described in the specification, such as the location of the fuel cell system and the location of the compressed tank system in the vehicle.

4. On Dec. 21, 2006, the applicant filed an appeal brief in addition to the instant petition requesting withdrawal of the examiner's objection to the drawings for introducing new matter into the disclosure.

Discussion and Analysis

37 CFR 1.83(a) states:

> The drawing in a nonprovisional application must show every feature of the invention specified in the claims. However, conventional features disclosed in the description and claims, where their detailed illustration is not essential for a proper understanding of the invention, should be illustrated in the drawing in the form of a graphical drawing symbol or a labeled representation (*e.g.*, a labeled rectangular box). In addition, tables and sequence listings that are included in the specification are, except for applications filed under 35 U.S.C. 371, not permitted to be included in the drawings.

MPEP 608.04(a) Matter not in original specification, claims, or drawings, states:

> Matter not in the original specification, claims, or drawings is usually new matter. Depending on circumstances such as the adequacy of the original disclosure, the addition of inherent characteristics such as chemical or physical properties, a new structural formula or a new use may be new matter. See *Ex parte Vander Wal,* 109 USPQ 119, 1956 C.D. 11, 705 O.G. 5 (Bd. App. 1955) (physical properties), *Ex parte Fox*, 128 USPQ 157, 1960 C.D. 28, 761 O.G. 906 (Bd. App. 1957) (new formula) and *Ex parte Ayers,* 108 USPQ 444 (Bd. App. 1955) (new use). For rejection of claim involving new matter, see MPEP § 706.03(o).

In order to determine whether or not the drawings submitted on Sep. 5, 2006 introduces new matter into the disclosure, we look to the original disclosure to determine if the amendments to the drawings submitted on Sep. 5, 2006 is supported by the original specification, claims and drawings. A review of the original disclosure reveals that there is no support in the original disclosure which shows the relative location of the fuel cell and the compressed tank system in the vehicle. Petitioner argues in the petition that originally filed dependent claims 7 and 15 only claimed that the tank system was associated with a fuel cell system on a vehicle and that nothing in the amended specification and proposed drawing changes is directed to the location of the fuel cell system and the compressed tank system. However, this argument is not convincing because proposed figure 1 now clearly shows where the fuel cell system and the compressed tank system is located in relation with each other in the vehicle. The review of the record shows that the examiner was in compliance with proper examining practice as set forth in MPEP 608.04(a). Therefore, the proposed drawing changes submitted on Sep. 5, 2006 introduces new matter into the disclosure. The examiner's objection to the drawings for introducing new matter into the disclosure in accordance with 37 CFR 1.83(a) is correct.

Conclusion

For the foregoing reasons, the relief requested by the petitioner will not be granted. Specifically, the examiner's objection to the proposed drawings in the final Office action dated Nov. 7, 2006 for introducing new matter into the disclosure is proper. The application is being forwarded to Examiner Lee of Art Unit 3753 for further processing. Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Any inquiry regarding this decision should be directed to Marc Jimenez, Training Quality Assurance Specialist, at (571) 272-4530.

The petition is dismissed.

Karen M. Young

Karen Young, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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Guobiao Zhang
P.O. Box 6182
Stateline NV 89449-6182

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OFFICE OF PETITIONS

In re Application of
Zhang.
Application No. 10/967,893
Filed: October 19, 2004
Attorney Docket No. N/A
For: THREE-DIMENSIONAL MEMORY SYSTEM ON A CHIP

DECISION DISMISSING PETITION

This is a decision on the petition filed March 14, 2005, which is being treated as a petition under 37 CFR 1.10(c) requesting that the above-identified application be accorded a filing date of October 14, 2004, rather than the presently accorded filing date of October 19, 2004.

The petition under 37 CFR 1.10(c) is **dismissed**.

No petition fee has been or will be charged in connection with this matter.

Petitioner requests the earlier filing date on the basis that the application was purportedly deposited in Global Express Mail service on October 14, 2004. Petitioner has supplied a copy of his Global Express Mail customer receipt showing a date of deposit in Global Express Mail service of October 14, 2004. The original application transmittal letter references the Global Express Mail label number listed on the customer receipt.

Section 1.10(a) of title 37, Code of Federal Regulations, states that:

> 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 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.

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 35 U.S.C. 21(a). 35 U.S.C. 21(a) is limited to correspondence deposited with the USPS . The procedures in 37 CFR 1.10 are limited to correspondence deposited in the "Express Mail Post Office to Addressee" service of the USPS. **There are no similar provisions and no similar benefit can be obtained for correspondence deposited in International Express Mail.** MPEP 513.

This application was filed by Global Express Mail, not USPS Express Mail. Therefore, this application's filing date is the date it was received in the Office, which is October 19, 2004.

This application is being forwarded to Technology Center G.A.U. 2819 for examination in due course.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:111106

DATE : November 3, 2006

TO SPE OF : ART UNIT 1712

SUBJECT : Request for Certificate of Correction on Patent No.: 7,015,297

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: CLAIM 15 DOES NOT CONTAIN THE UNDERLINED COMPOUNDS Column 8, Line 22, Claim 15:

(Page 2, line 1, claim 8: Examiner's Amendment dated September 28, 2005):

Delete "aminomethyl-methyldiethoxysilane, phenylaminomethyl-methyldimethoxysilane, butylaminomethyl-methyldimethoxysilane, cyclohexylaminomethyl-methyldimethoxysilane".

SPE: Randy Gulakowski **Art Unit** 1712

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

CLARK HILL PLC
SUITE 3500
500 WOODWARD AVENUE
DETROIT, MI 48226-3435

In re Application of
Peter John Ellis
Application No. 10/967,924
Filed: October 18, 2004
Attorney Docket No. 19351-098383

DECISION GRANTING PETITION

This is a decision on the petition, filed May 4, 2005, requesting that the above-identified application be accorded a filing date of October 18, 2004, instead of the presently accorded date of October 19, 2004.

Petitioner requests 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 18, 2004. In support, petitioner provides a copy of the USPS Pickup Service Statement for Express Mail No. EL 962724794 US, showing a pickup date of "10/18," as well as a copy of the Express Mail Label No. EL 962724794 US showing a "date-in" of "10 18 04." The same Express Mail number appears on the original transmittal letter found in the file.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "Date In" on the Express Mail label, MPEP 513. That is the date that verifies that the package was actually mailed. The evidence is convincing that the application was deposited as "Express Mail" with the USPS on October 18, 2004.

The petition is GRANTED.

The application is being referred to Initial Patent Examination Division for correction of the filing date to **October 18, 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 (571) 272-4000.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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CLARK HILL PLC
SUITE 3500
500 WOODWARD AVENUE
DETROIT, MI 48226-3435

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SEP 0 6 2005

OFFICE OF PETITIONS

In re Application of :
Faisal Sultan, et al. :
Application No. 10/967,925 : DECISION GRANTING PETITION
Filed: October 18, 2004 :
Attorney Docket No. 19350-098378 :

This is a decision on the petition filed May 9, 2005, requesting that the above-identified application be accorded a filing date of October 18, 2004, instead of the presently accorded date of October 19, 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 18, 2004. In support, petitioners provide, *inter alia*, a copy of the Express Mail label, receipt No. EL 962724785 US. The same Express Mail receipt number was referred to in the original transmittal letter found in the file.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "Date In" on the Express Mail label, MPEP 513. That is the date that verifies that the package was actually mailed. The evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on October 18, 2004.

Accordingly, the petition is GRANTED.

The application is being returned to the Office of Initial Patent Examination (OIPE) for correction of the filing date to **October 18, 2004** and for issuance of a Corrected 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 (571) 272-4000.

Sherry D. Brinkley
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
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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
10/967,955	10/19/2004	3736	519	PARCR 69498	31	24	5

CONFIRMATION NO. 1717

CORRECTED FILING RECEIPT

OC000000014968572

24201
FULWIDER PATTON LEE & UTECHT, LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE
TENTH FLOOR
LOS ANGELES, CA 90045

Date Mailed: 01/18/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Lilip Lau, Los Altos, CA;
Joshua Wallin, San Jose, CA;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of 10/715,150 11/17/2003
which claims benefit of 60/427,079 11/15/2002

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 US10/967,955

Projected Publication Date: 03/03/2005

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Cardiac harness delivery device and method

Preliminary Class

600

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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MOTOROLA INC.
600 NORTH US HIGHWAY 45
W4-39Q
LIBERTYVILLE, IL 60048-5343

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MAR 16 2009

OFFICE OF PETITIONS

In re Application of	:	
Changxue C. MA, et al	:	
Application No. 10/967,957	:	DECISION ON PETITION
Filed: October 19, 2004	:	
Attorney Docket No. CS24110ML	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 22, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before December 15, 2008. As required by the Notice of Allowance and Fee(s) Due, mailed September 15, 2008, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on December 16, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the Issue Fee of $1510 and Publication Fee of $300; (2) the petition fee of $1620; and (3) the required statement of unintentional delay.

The terminal disclaimer is accepted and has been made of record.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

The application is being referred to the Office of Data Management for processing into a patent.

Thurman Page
Petitions Examiner
Office of Petitions

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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TAKESHIGE YOKOTA
7 TIMES SQUARE
KASHIBA YUKIO, PITNEY HARDIN
NEW YORK, NY 10036

COPY MAILED

DEC 29 2005

OFFICE OF PETITIONS

In re Application of Takeshige Yokota Application No. 10/967,960 Filed: October 19, 2004 For: BEVERAGE CONTAINER WITH A NUTRITIONAL SUBSTANCE HOLDER OF GREEN TEA OR OTHER NUTRITIONAL SUPPLEMENTS AND AN OPENER ATTACHED TO A CONTAINER CAP	DECISION ON PETITION UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed September 24, 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 (up to five months with the appropriate extension of time fee). The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is not a final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, 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 item (1).

This application became abandoned for failure to timely reply to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed December 3, 2004 (copy attached), which required the submission of the following items to avoid the abandonment of the application:

- $10 balance for the basic filing fee
- $65 surcharge fee for submission of a late or insufficient filing fee
- $18 for 2 total claims over 20

The petition was accompanied by the $750 petition fee and a $65 surcharge fee. However, the petition was not accompanied by the $10 basic filing fee or the current fees required for the two claims over 20 (petitioner has 22 claims in the case; therefore, any application containing claims in excess of 20 requires a fee). Although the Notice of December 3, 2004 indicated that the fee for each claim over 20 is $18, effective December 8, 2004, the fee increased from $18 to $25. Therefore, petitioner owes $50 for the two claims in excess of twenty.

In sum, petitioner must now submit the following (along with a renewed petition to revive under 37 CFR 1.137(b)):

- $10 balance for the basic filing fee ($385+10=$395)
- $25 for 2 total claims over 20 for **a total of $50**

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

ATTACHMENT: Copy of Notice mailed December 3, 2004

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JAN 20 2006

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TAKESHIGE YOKOTA
7 TIMES SQUARE
KASHIBA YUKIO, PITNEY HARDIN
NEW YORK, NY 10036

COPY MAILED

DEC 29 2005

OFFICE OF PETITIONS

In re Application of :
Takeshige Yokota :
Application No. 10/967,960 : DECISION ON PETITION
Filed: October 19, 2004 : UNDER 37 CFR 1.137(b)
For: BEVERAGE CONTAINER WITH A :
NUTRITIONAL SUBSTANCE HOLDER OF GREEN TEA OR OTHER NUTRITIONAL SUPPLEMENTS AND AN OPENER ATTACHED TO A CONTAINER CAP

This is a decision on the petition under 37 CFR 1.137(b), filed September 24, 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 (up to five months with the appropriate extension of time fee). The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is not a final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, 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 item (1).

This application became abandoned for failure to timely reply to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed December 3, 2004 (copy attached), which required the submission of the following items to avoid the abandonment of the application:

- $10 balance for the basic filing fee
- $65 surcharge fee for submission of a late or insufficient filing fee
- $18 for 2 total claims over 20

The petition was accompanied by the $750 petition fee and a $65 surcharge fee. However, the petition was not accompanied by the $10 basic filing fee or the current fees required for the two claims over 20 (petitioner has 22 claims in the case; therefore, any application containing claims in excess of 20 requires a fee). Although the Notice of December 3, 2004 indicated that the fee for each claim over 20 is $18, effective December 8, 2004, the fee increased from $18 to $25. Therefore, petitioner owes $50 for the two claims in excess of twenty.

In sum, petitioner must now submit the following (along with a renewed petition to revive under 37 CFR 1.137(b)):

- $10 balance for the basic filing fee ($385+10=$395)
- $25 for 2 total claims over 20 for **a total of $50**

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

ATTACHMENT: Copy of Notice mailed December 3, 2004

C:\documents and settings\fhicks\my documents\470\967960 12-28-05

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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TAKESHIGE YOKOTA
7 TIMES SQUARE
KASHIBA YUKIO, PITNEY HARDIN
NEW YORK, NY 10036

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JUL 25 2006
OFFICE OF PETITIONS

In re Application of	:
Takeshige Yokota	:
Application No. 10/967,960	: DECISION ON PETITION
Filed: October 19, 2004	: UNDER 37 CFR 1.137(b)
For: BEVERAGE CONTAINER WITH A NUTRITIONAL SUBSTANCE HOLDER OF GREEN TEA OR OTHER NUTRITIONAL SUPPLEMENTS AND AN OPENER ATTACHED TO A CONTAINER CAP	:

This is a decision on the communication received January 9, 2006, which communication is being treated as a renewed petition under 37 CFR 1.137(b) to revive the above-identified application.[1]

The petition is **GRANTED**.

As noted in the decision mailed December 29, 2005, this application became abandoned for failure to timely reply to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed December 3, 2004, which required the submission of a $10 balance for the basic filing fee, a $65 surcharge fee for submission of the insufficient basic filing fee and $18 for 2 claims over 20.

The petition to revive filed on September 24, 2005 was accompanied by the $750 petition fee and the $65 surcharge fee required by the Notice of December 3, 2004. However, the petition was dismissed because the $10 balance for the basic filing fee and the $18 for 2 claims over 20 had not been received, which latter fee had since increased to $50.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the items required by the Notice of December 3, 2004; (2) the $750 petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of December 3, 2004 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This matter is being referred to the Office of Initial Patent Examination for further processing.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] The communication was not accompanied by a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)," as instructed in the decision mailed December 29, 2005. Accordingly, the Office did not recognize that this was a reply to the decision of December 29, 2005.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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MAY - 2 2005

JAMES RAY & ASSOCIATES
2640 PITCAIRN ROAD
MONROEVILLE, PA 15146

In re application of Donald V. Edwards Application No. 10/967,970 Filed: October 19, 2004 For: FURNITURE SLIDE FOR USE ON HARD SURFACE FLOORS	: : : : : :	**DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)**

This is a decision on the petition under 37 C.F.R § 1.102(d) filed November 8, 2004 to make the above-identified application special.

The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(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 November 8, 2004 lacks requirement 2(B), above.

Regarding element 2(B) above, the petition states "it is found that these claims are unquestionably infringed." Since it is not clear who found the claims infringed, what is required is a statement that in the petitioners opinion the claims are unquestionably infringed.

With regards to element 2(C) above, an Information Disclosure Statement was filed on December 29, 2003.

In view of these deficiencies, the petition is **DISMISSED**.

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Should petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving the information as outlined above.

Applicant should promptly submit a renewed petition to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

SUMMARY: Petition to Make Special **DISMISSED**.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(571) 272-6611

SNM/dew: 04/25/05

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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HOWARD & HOWARD ATTORNEYS, P.C.
THE PINEHURST OFFICE CENTER, SUITE #101
39400 WOODWARD AVENUE
BLOOMFIELD HILLS MI 48304-5151

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AUG 0 7 2007

OFFICE OF PETITIONS

In re Application of	:	
Nigarura et al.	:	
Application No. 10/967,983	:	DECISION ON PETITION
Filed: October 19, 2004	:	
Attorney Docket No. 71024-370	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 26, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before January 19, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed October 19, 2006. Accordingly, the date of abandonment of this application is January 19, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,400.00 and publication fee of $300.00, (2) the petition fee of $1500.00; and (3) a proper statement of unintentional delay.

Also, the address given on the petition differs from the address of record. A change of address was filed on March 26, 2007. However, this was not a proper change of address since it was provided by an assignee but was not accompanied by a required statement under 37 C.F.R. 3.73(b). 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 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

cc: Metz Lewis LLC
11 Stanwix Street, 18th Floor
Pittsburg, PA 15222

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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PALM C/O MURABITO, HAO & BARNES LLP
TWO NORTH MARKET STREET
THIRD FLOOR
SAN JOSE CA 95113

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SEP 09 2008

OFFICE OF PETITIONS

In re Application of	:	
Kim et al.	:	
Application No. 10/967,997	:	DECISION ON PETITION
Filed: October 18, 2004	:	
Attorney Docket No. PALM-3718.SG.CON	:	

This is a decision on the petition, filed May 20, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely pay the issue and publication fees on or before June 14, 2007, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed March 14, 2007.

Petitioner asserts that the Notice dated March 14, 2007 was not received.

A review of the written record indicates that the Notice was properly mailed to the practitioner at the address of record. However, the address of record at the time the Notice was mailed had an incorrect entry pertaining to the street identifier. The correspondence address included with the Transmittal letter, filed October 18, 2004, listed the street address as "Two North **Market** Street" (emphasis added). However, in the Office Database of Correspondence Address for the instant application, reference to "Market" was inadvertently omitted in the street identifier, resulting in the Notice not being received by the practitioner, as asserted in the Petition.

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 2116 technical support staff for **re-mailing** the Notice of Allowability and the Notice of Allowance and Fee(s) Due of March 14, 2007. The period for paying the issue and publication fees and submitting corrected drawings

will be reset to expire three (3) months from the date the Notices are re-mailed. This period is not extendable under the provisions of 37 CFR 1.136.

Telephone inquiries concerning this decision should be directed to Ramesh Krishnamurthy at (571) 272-4914.

David Bucci
Petitions Examiner
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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BOURQUE & ASSOCIATES, P.A.
835 HANOVER STREET
SUITE 303
MANCHESTER NH 03104

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FEB 15 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Ralf Beckmann et al. :
Application No. 10/968,000 :
Filed: October 19, 2004 :
Attorney Docket No.: THIELK-036XX :

This is a decision on the petition filed December 19, 2005, under 37 CFR 1.181, to withdraw the holding of abandonment for the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

The application was held abandoned on September 8, 2005, for failure to timely submit a timely response to the non-Final Office Action mailed June 7, 2005, which set a three month period for reply. Accordingly, a Notice of Abandonment was mailed December 14, 2005.

Petitioner asserts that a response was filed and, in support, petitioner has submitted, *inter alia*, a copy of the response in the form of an amendment, a three month extension of time request which bears a certificate of mail date of December 7, 2005 and a post card receipt date stamped December 9, 2005 by the USPTO.

A search of the application file and the USPTO records reveals that in fact, an amendment was filed on December 9, 2005. As well, the three month extension of time fee in the amount of $1020.00 was properly posted on December 9, 2005 to the finance account for the above referenced application. Accordingly, the Notice of Abandonment mailed December 14, 2005 was mailed in error and is hereby withdrawn. No petition fee is due and none has been charged.

This matter will be referred to Technology Center 2833 for appropriate action on the amendment filed December 9, 2005.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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JAGTIANI + GUTTAG
10363-A DEMOCRACY LANE
FAIRFAX, VA 22030

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AUG 17 2005

OFFICE OF PETITIONS

In re Application of
Ibrahim
Application No. 10/968,001
Filed: October 20, 2004
Attorney Docket No. COCH-0112-UT1

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(b), filed , to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed November 29, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice.

A reply to the Notice was submitted along with a request for a two month extension of time on March 22, 2005.

The reply was not accompanied by a corrected drawing for Figure 5F.

The application became abandoned as of midnight on March 29, 2005.

A Notice of Incomplete Reply was mailed on April 1, 2005.

The instant petition requests revival of the application. Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

The Office of Initial Patent Examination will be informed the application has been revived.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Stanley P. Fisher
REED SMITH LLP
Suite 1400
3110 Fairview Park Drive
Falls Church VA 22042

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In re Application of
Hwan
Application No. 10/968,006
Filed: October 20, 2004
Attorney Docket No. LEET.0048

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 7, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned June 29, 2007 for failure to timely submit a proper reply to the non-final Office action mailed March 28, 2007. The non-final Office action 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. Notice of Abandonment was mailed October 15, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply, (2) the required petition fee, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

This application is being referred to Technology Center AU 2814 for further processing.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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MILES & STOCKBRIDGE PC
1751 PINNACLE DRIVE
SUITE 500
MCLEAN VA 22102-3833

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OCT 22 2007
OFFICE OF PETITIONS

In re Application of	:	
Kennon Yi	:	
Application No. 10/968,014	:	DECISION GRANTING PETITION
Filed: October 20, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. T3465-908318US03	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 19, 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 12, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2873 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

DATE 10-22-07

APPLICATION NUMBER 10/968014

DOC CODE IN IS

DOC DATE 10-22-07

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

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 : October 22, 2007

TO : Director, Office of Patent Publication

FROM : Office of Petitions

SUBJECT : Withdrawal from Issue of **Application No. 10/968,014**

Applicant(s) : Kennon Yi
Application No. : 10/968,014
Filed : October 20, 2004

The above-identified application has been assigned Patent No. 7,284,854 and an issue date of October 23, 2007.

It is hereby directed that this application be withdrawn from issue at the request of the applicant. Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of October 23, 2007:

> **"All reference to Patent No. 7,284,854 to Kennon Yi of California for HALF-JACKET EYEWEAR WITH REMOVABLE DUST SHIELD appearing in the Official Gazette of October 23, 2007 should be deleted since no patent was granted."**

Karen Creasy
Petitions Examiner
Office of Petitions

cc: Paul Harrison
Deneise Boyd
Mary Louise McAskill
Niomi Farmer
Mary E. Johnson (Cookie)
Duane Davis (CDS)
Brad Harris
Kim Terrell
Kay Pinkney
Betty Powell

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MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON, DC 20006

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OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Joong Seo Park	:	
Application No. 10/968,060	:	
Filed: October 20, 2004	:	
Attorney Docket No.: 28980.012.00 US	:	

This is a decision on the petition, filed October 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 September 29, 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 2163 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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ARENT FOX PLLC
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON, DC 20036

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Toshiya Miyo, et al. :
Application No. 10/968,072 :
Filed: October 20, 2004 :
Attorney Docket No.: 108397-00124 :

This is a decision on the petition, filed August 29, 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 15, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2827 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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JACKSON INTELLECTUAL PROPERTY GROUP PLLC
106 STARVALE LANE
SHIPMAN, VA 22971

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JAN 12 2010

In re Application of	:	
Ying-Ming HUNG	:	
Application No. 10/968,074	:	DECISION ON PETITION
Filed: October 20, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. **7001.110**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 30, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of September 5, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is December 6, 2008.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405,

and the submission required by 37 CFR 1.114; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 3656 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.

Christopher Bottorff
Petitions Examiner
Office of Petitions

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G. LINK Co. LTD
PmB 174
Suite 137
931 West 75th Street
Naperville IL 60565

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JAN 1 0 2005

OFFICE OF PETITIONS

In re Application of
Chu
Application No. 10/968,113
Filed: October 20, 2004
Attorney Docket No. KH-USI 44
FOR: PARTITION STRUCTURE OF A COMPUTER CASING

ON PETITION

This is a decision on the petition filed December 8, 2004.

The application was filed on October 20, 2004. However, on November 26, 2004, Initial Patent Examination Division mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" (Notice) stating that the application had been accorded a filing date of October 20, 2004, and advising applicant that drawings of Figures 10 and 11 described in the specification appeared to have been omitted.

In response, the present petition was filed. Petitioner has supplied a drawing sheet including Figures 10 and 11,a petition fee of $130.00, and a copy of the November 26, 2004 Notice.

The mailing of a "Notice of Omitted Items" permits the applicant to either: (1) promptly establish prior receipt in the PTO of the items at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted items in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing items were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted items in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted items with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the "Notice of Omitted Items" (37 CFR 1.181(f)).

In this case, petitioner neither asserts that the drawings were actually deposited in the PTO on October 20, 2004, with the other application papers, nor requests a later filing date.

Petitioner must clarify what is desired. Either (1) file a petition under 37 CFR 1.53(e) and present evidence that Figures 10 and 11 were filed on October 20, 2004, or (2) file a petition under 37 CFR 1.82, requesting December 8, 2004 as the filing date of the application, along with a newly executed oath/declaration that references Figures 10 and 11, which were filed on December 8, 2004.

Regardless of the option petitioner selects, **petitioner must submit an additional $270.00.** Effective November 22,2004, several petition fees increased. Petitions fees under 37 CFR 1.53(e) and 37 CFR 1.182 became $400.00. Therefore, the $130.00 submitted with the instant petition will be applied towards the $400.00 owed, leaving a balance of $270.00.

The petition is **dismissed**.

The application is being returned to the Office of Initial Patent Examination for further processing.

Any inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

E Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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G. LINK Co. LTD
PmB 174
Suite 137
931 West 75th Street
Naperville IL 60565

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OFFICE OF PETITIONS

In re Application of
Chu
Application No. 10/968,113
Filed: October 20, 2004
Attorney Docket No. KH-USI 44
FOR: PARTITION STRUCTURE OF A COMPUTER CASING

ON PETITION

This is a decision on the reconsideration petition under 37 CFR 1.53(e), filed February 17, 2005.

The application was filed on October 20, 2004. However, on November 26, 2004, Initial Patent Examination Division mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" (Notice) stating that the application had been accorded a filing date of October 20, 2004, and advising applicant that drawings of Figures 10 and 11 described in the specification appeared to have been omitted.

On December 8, 2004 petitioner submitted a drawing sheet including Figures 10 and 11 as described in the specification,a petition fee of $130.00, and a copy of the November 26, 2004 Notice. Because petitioner did not explain the relief requested, the petition was dismissed on January 10, 2005.

In response, petitioner timely filed the present reconsideration petition. Petitioner requests that Figures 10 and 11 be accorded a filing date of October 20, 2004 on the basis that 19 sheets of drawing figures, including Figures 10 and 11, were received in the Patent and Trademark Office (PTO) on October 20, 2004. In support, the petition is accompanied by a copy of applicant's itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing October 20, 2004 as the date of receipt. The postcard lists, *inter alia*, that the filing included 19 sheets of drawings.

The return postcard constitutes *prima facie* evidence that 19 sheets of drawing figures were filed on October 20, 2004. MPEP 503. A review of the originally filed pages of drawings reveals that

only 18 sheets are present. Accordingly, the request is granted. The $130.00 petition fee submitted on December 8, 2004 will be refunded via a treasury check that will be scheduled shortly.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **October 20, 2004**, using the sheet of drawings depicting Figures 10 and 11 submitted with the original petition on December 8, 2004. Office records will be corrected to show that 19 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

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COMMISSIONER FOR PATENTS
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BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON DC 20001-5303

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JUN 14 2006

OFFICE OF PETITIONS

Applicant: Kang
Appl. No.: 10/968,116
Filing Date: October 5, 2004
Title: Solid Solution Powder, Method to Prepare the Solid-Solution Powder, Cermet Powder Including the Solid-Solution Powder, Method to Prepare the Cermet Powder, Cermet Using the Cermet Powder and Method to Prepare the Cermet
Attorney Docket No.: KANG2
Pub. No.: US 2005/0180875 A1
Pub. Date: August 18, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on October 5, 2005, for the above-identified application.

Applicant requests that the application be republished because the patent application publication contains material errors, as "sinter" is misprinted as "winter", "sintering" is misprinted as "skittering", "sintered" is misprinted as "skittered" and "microstructure" is misprinted as "micro structure" throughout the specification.

The request is granted.

The errors may have been due to the quality of the text in the application. The text in the application is small, which makes it difficult to read, not clearly legible and difficult to electronically reproduce. 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. 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).

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

Inquiries relating to this matter may be directed to Mark O. Polutta at (571) 272-7709 (voice).

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA VA 22314-1176

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AUG 21 2008

In re Application of	:	
Ting-Yin Chiu et al.	:	
Application No. 10/968,143	:	DECISION ON PETITION
Filed: October 20, 2004	:	
Attorney Docket No. CHIU3044/EM	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 30, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before November 9, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed August 9, 2007. Accordingly, the date of abandonment of this application is November 10, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $720.00 and the publication fee of $300.00, (2) the petition fee of $770.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to Publishing Division for processing into a patent.

Irvin Dingle
Petitions Examiner
Office of Petitions

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DEC 14 2004

DANIEL J. SWIRSKY
PO BOX2345
BEIT SHEMESH 99544
ISRAEL

In re Application of	:
Gregory PIPKO	:
DANI NEIFELD	: PETITION TO MAKE SPECIAL
MOSHE REUVENI	:
Serial No.: 10/968,146	:
Filed: October 20, 2004	
Attorney Docket No.: 1362-US	

This is in response to applicants' petition filed October 20, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant. No fee is required for this petition.

Applicants have satisfied the provisions set forth in M.P.E.P. 708.02, IV. Therefore, the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact 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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Paper No.

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

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FEB 18 2010

In re Patent No. 7,496,089	:	DECISION ON REQUEST
Hiroshima et al.	:	FOR
Issue Date: February 24, 2009	:	RECONSIDERATION OF
Application No. 10/968,151	:	PATENT TERM ADJUSTMENT
Filed: October 20, 2004	:	and
Atty Docket No. 016778-0484	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on April 16, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand one hundred sixty-two (1162) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicated that the term of the above-identified patent is extended or adjusted by one thousand one hundred sixty-two (1162) days is **GRANTED**.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand one hundred sixty-two (1162)** 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 : 7,496,089

DATED : **February 24, 2009** **DRAFT**

INVENTOR(S) : Hiroshima 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 679 days

Delete the phrase "by 679 days" and insert – by 1162 days--

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BAKER & HOSTETLER LLP
WASHINGTON SQUARE
SUITE 1100
1050 CONNECTICUT AVENUE, N.W.
WASHINGTON, DC 20036

COPY MAILED

JUL 23 2008

In re Application of	:	
Craig S. Bixler et al	:	
Application No. 10/968,156	:	ON PETITION
Filed: October 20, 2004	:	
Attorney Docket No. 87424.1900	:	

This is a decision on the petition, filed August 15, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) so that the Letters Patent will issue to the assignee.

The request is **DISMISSED**.

Petitioner states that the correct assignee's name is GENCSUS and that an incorrect assignee's name was included on the Part B - Fee(s) Transmittal form at the time of payment of the issue fee. Accordingly, petitioner requests that the patent issue to GENCSUS.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a)) and the processing fee set forth in § 1.17(i) of this chapter.

The request under 37 CFR 3.81(b) was not accompanied by a request for a certificate of correction (and fee) as required by 3.81(b). *See also* MPEP 1481.01. As petitioner has failed to comply with the provisions of 37 CFR 3.81(b), the request cannot be granted at this time.

---

[1] *See* MPEP 1309, subsection II and Official Gazette of June 22, 2004

A review of Office database assignment records reflects that an assignment to GENCSUS has been recorded. Therefore, upon submission of the required certificate of correction and fee, it would be appropriate for the Office to issue a certificate of correction to correct the front page of the Letters Patent to reflect that GENCSUS was the assignee of record at the time of issuance of the application into a patent. *Note also* 35 U.S.C. § 152.

In view of the above and **after issuance of this application into a patent, the Certificates of Correction Branch is instructed to issue a certificate of correction upon submission by petitioner of a request for a certificate of correction (and fee) which sets forth GENCSUS, as the assignee**. *No certificate of correction will be issued which sets forth an assignee other than the assignee set forth in this request. A copy of this decision* ***must*** *accompany the request for a Certificate of Correction.*

No further renewed request under 37 CFR 3.81(b) is necessary for consideration by the Office of Petitions for issuance of a certificate of correction in the name of the assignee set forth in this request, since this decision operates as an instruction to the Certificates of Correction Branch to issue the requested certificate of correction.

Alternatively, if petitioner desires to have the correct assignee data appear on the front page of the Letters Patent, petitioner may wish to consider filing a petition to withdraw the subject application from issue under 37 CFR 1.313(c)(2). The petition to withdraw from issue under 37 CFR 1.313(c)(2) must be accompanied by a request for continued examination (RCE) and submission (which may be a request under 37 CFR 3.81(b)).

Inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210. Any questions concerning issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

Irvin Dingle
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	: Seung-Hun Chae	: DECISION ON REQUEST FOR
Patent Number	: 7652641	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/968,162	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/20/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1307** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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H.C. PARK & ASSOCIATES, PLC
8500 LEESBURG PIKE
SUITE 7500
VIENNA, VA 22182

Mail Date: 04/20/2010

Applicant	: Soo-Jin Lee	: DECISION ON REQUEST FOR
Patent Number	: 7583242	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/968,163	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/20/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1296** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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H.C. PARK & ASSOCIATES, PLC
8500 LEESBURG PIKE
SUITE 7500
VIENNA, VA 22182

Mail Date: 05/17/2010

Applicant : Soo-Jin Lee
Patent Number : 7583242
Issue Date : 09/01/2009
Application No : 10/968,163
Filed : 10/20/2004

: 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 **1331** 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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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

Mail Date: 05/21/2010

Applicant	: Sun-kyung Jin	: DECISION ON REQUEST FOR
Patent Number	: 7660513	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/968,176	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/20/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1512** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

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AUG 07 2006

OFFICE OF PETITIONS

In re Application of	:	
Woo Chan Kim, et al.	:	
Application No. 10/968,186	:	ON PETITION
Filed: October 20, 2004	:	
Attorney Docket No.: 2658-0333PUS1	:	

This is a decision on the petition, filed August 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 June 22, 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 2811 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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AUG 07 2006
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OFFICE OF PETITIONS

Date : August 7, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Woo Chan Kim, et al.
Application No. : 10/968,186
Filed : October 20, 2004

The above-identified application has been assigned Patent No. 7,087,926 and an issue date of August 8, 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 August 8, 2006:

> "All reference to Patent No. 7,087,926 to WOO CHAN KIM, ET AL. of REPUBLIC OF KOREA for ELECTRO LUMINESCENCE DISPLAY DEVICE appearing in the Official Gazette of August 8, 2006, should be deleted since no patent was granted."

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

OFFICE OF PETITIONS
AUG 07 2006

cc: Paul Harrison, Crystal Park 3-44l (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-9l0 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane K.Davis, P/OCS, CM1-6A07
Tamara K. Greene, PK3-910

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APR 12 2005

BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON DC 20001-5303

In re Application of	:
David Wallach et al	:
Serial No.: 10/968,191	: SUSPENSION OF ACTION
Filed: October 20, 2004	:
Attorney Docket No.: WALLACH-20A	:

This is in response to the petition under 37 CFR 1.103, filed February 24, 2005, to suspend prosecution of the above identified application for six months.

The petition fee of $200.00 has been paid.

Applicants seek suspension of the prosecution on this application for a period of three months in oprder to prepare and provide to the Office certain affidavits.

BACKGROUND

This application was filed October 20, 2004, and has not been examined.

DISCUSSION

37 CFR 1.103. Suspension of action.

(a) Suspension of action by the Office will be granted for good and sufficient cause and for a reasonable time specified upon petition by the applicant and, if such cause is not the fault of the Office, the payment of the fee set forth in ∋1.17(I). Action will not be suspended when a reply by applicant to an Office action is required.

M.P.E.P. 709 relates to suspension of action in an application. 37 CFR 1.103 permits the Office to suspend action upon petition by applicants for **good and sufficient cause** (emphasis added). Applicants state that they are attempting to obtain an expert opinion affidavit as to utility of the claimed invention. Also that experimental work from various parts of the world is being gathered and will be submitted.

This is a new unexamined application which is a continuation of an earlier application (although PALM fails to contain any continuity data) in which a rejection for lack of utility was made. A review of the parent application shows the rejection was made as early as July, 2001. While rebuttal arguments have been presented in response to several Office actions since then, failure

to seek and present such expert opinion affidavit does not show due diligence is seeking to bring this application to final resolution in an expeditious manner. Further, since this application has not yet been examined suspension is not appropriate at this time.

DECISION

The petition to suspend action is DENIED. Applicant has not presented a good and sufficient cause warranting suspension of action by the examiner.

The application will be forwarded to the examiner of record for consideration in turn.

The PALM continuity data will also be corrected.

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 the general Office facsimile number 571-273-8300.

Jasemine C. Chambers

Jasemine C. Chambers
Director, Technology Center 1600

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-145

JAN 18 2005

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JAN 18 2005

OFFICE OF THE DIRECTOR
TC 3600

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1030

In re application of
Matthew Mengerink et al. :
Application No. 10/968,197 :
Filed: October 18, 2004 :
For: METHOD AND SYSTEM TO UTILIZE A USER NETWORK WITHIN A NETWORK-BASED COMMERCE PLATFORM :

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on November 22, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney in the above-identified application is not approved because the request does not comply with Item B).

As to Item B), the reason "Discontinuation of the attorney/client relationship" is not appropriate since it is not clear that the client initiated the discontinuation, or that the client knowingly or freely assents to the transfer to new counsel. A proper reason for withdrawal is enumerated in 37 CFR 10.40(b) subsections (1)-(4) or subsections (1)-(6) of 37 CFR 10.40(c) must be provided.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

SNM/pav: 01/13/05

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OFFICE OF PETITIONS

McTavish Patent Firm
429 Birchwood Courts
Birchwood, MN 55110

In re Application of

Daniel G. Ericson
Application No. 10/968,203
Filed: October 19, 2004
Attorney Docket No. 112.004US1

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 11, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Hugh McTavish on behalf of all attorneys of record.

All attorneys/agents have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is no outstanding Office action at this time.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Daniel G. Ericson**
1423 Bell Oaks Lane SW
Rochester, MN 55902

cc: **Medical Innovations International, Inc.**
6256 34th Avenue, NW
Rochester, MN 55901

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
10/968,203	10/19/2004	Daniel G. Ericson	112.004US1

CONFIRMATION NO. 9818

OC000000021428821

OC000000021428821

McTavish Patent Firm
429 Birchwood Courts
Birchwood, MN 55110

Date Mailed: 11/30/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/11/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Terri S. Williams

TERRI S WILLIAMS
OP (571) 272-2991

FORMER ATTORNEY/AGENT COPY

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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RAYMOND Y. CHAN
108 N. YNEZ AVE., SUITE 128
MONTEREY PARK CA 91754

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MAR 2 0 2007

OFFICE OF PETITIONS

In re Application of	:	
LEE	:	
Application No.: 10/968,221	:	DECISION ON PETITION
Filing Date: October 18, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No.: USP2725A-STLI	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 29, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed August 14, 2006, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on November 14, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the issue fee and publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the payment of the issue fee and publication fee is accepted as having been unintentionally delayed.

This application is being referred to the Office of Publications.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3301.

Daniel Stemmer
Legal Examiner
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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MAY 9 2007

Technology Center 2100

SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION, SEARS TOWER
CHICAGO IL 60606-1080

In re Application of:
James M. Funk et al.
Serial No.: 10/968,224
Filed: October 18, 2004
Docket: 40007177-0008-002
Title: METHOD AND APPARATUS FOR CONTENT DOWNLOAD

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on March 28, 2007 to make the above-identified application special in view of the accelerated examination procedure set forth in MPEP § 708.02(a).

The petition to make the application special is **DENIED**

REGULATION AND PRACTICE

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), the following conditions must be satisfied:

1. The application must be a non-reissue utility or design application filed under 37 CFR 1.111(a) **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 the accelerated examination under 37 C.F.R. § 1.102(d) because it was filed on October 18, 2004 and not **on or after August 25, 2006**. Note

also that MPEP § 708.02 requires that a petition to make special filed on or after August 25, 2006 will only be granted if it is based upon applicant's health or age or is under the PPH pilot program, or if it complies with the requirements set forth in MPEP § 708.02(a). Note that any petition to make special under MPEP § 708.02, subsection VIII was required to be filed prior to August 25, 2006.

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 the undersigned at (571) 272-3719.

Kakali Chaki
Quality Assurance Specialist
Technology Center 2100

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION, SEARS TOWER
CHICAGO, IL 60606-1080

In re Application of
James M. Funk, et al.
Application No. 10/968,232
Filed: October 18, 2004
Attorney Docket No. 40007177-0007-002

ON PETITION

This is a decision in response to the petition, filed February 17, 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 March 14, 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 June 15, 2008. A Notice of Abandonment was mailed on September 17, 2009. On February 17, 2009, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) a proposed reply in the form of an amendment; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 2623 for appropriate action by the Examiner in the normal course of business on the response filed February 17, 2009.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

MICROSOFT CORPORATION
c/o LYON & HARR, LLP
300 ESPLANADE DRIVE
SUITE 800
OXNARD, CA 93036

MAIL

AUG 04 2008

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Henrique S. Malvar
Serial No.: 10/968,236
Filed: October 19, 2004
For: SYSTEM AND METHOD FOR ENCODING MOSAICED IMAGE DATA EMPLOYING A REVERSIBLE COLOR TRANSFORM

DECISION ON PETITION
ACCEPTANCE OF COLOR DRAWINGS

This is a decision on the petition under 37 CFR 1.84(a)(2) filed October 19, 2004 requesting acceptance of drawings.

The petition request that the color drawings identified in Figures 2, 3 and 4 be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. §1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3 (three) sets of the color photographs in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition is **GRANTED**.

Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

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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JJGJR.: 08-07

Paper No: __

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AUG 27 2007

OFFICE OF PETITIONS

ROXANNA EHSANIPOUR
SUITE 207
205 PARK RD.
BURLINGAME CA 94010

In re Application of	:	
Ehsanipour, et al.	:	DECISION
Application No. 10/968,247	:	
Filing Date: 18 October, 2004	:	
Attorney Docket No.: (None)	:	

This is a decision on the petition filed on 17 September, 2006, seeking to revive the instant application under 37 C.F.R. §1.137(a) as 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.[1]

For the reasons set forth below, the petition as considered under 37 C.F.R. §1.137(a) is **DISMISSED**.

NOTES:

(1) Any petition (and fee) for reconsideration of this decision under 37 C.F.R. §1.137(a) (as to unavoidable delay) or an alternative request for relief under 37

[1] **NOTE: Monitoring of the status of applications on PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected. Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181.**

C.F.R. §1.137(b)[2] (as to unintentional delay) must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(a)"; and/or "Petition under 37 C.F.R. §1.137(b)";

(2) Thereafter, there will be no further reconsideration of this matter.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 30 January, 2006, with reply due absent extension of time on or before 30 April, 2006;
- the instant application went abandoned by operation of law after midnight 30 April, 2006;
- on 5 May, 2006, Petitioner filed a reply in a form considered as an amendment, however, the reply was untimely in that while it may have been submitted on or before the due date, it was filed after the due date of the shortened statutory period (SSP), and was filed without a Certificate of Mailing (see: 37 C.F.R. §1.8) or Certificate of Express Mailing (see: 37 C.F.R. §1.10), or, alternatively, without a request and fee for extension of time (see: 37 C.F.R. §1.136);
- on 7 September, 2006, the Office mailed the Notice of Abandonment;
- on 17 September, 2006, Petitioner filed, *inter alia*, the instant petition with fee, a reply in the form an Election, and a statement averring unavoidable delay, however, Petitioner failed to support satisfactorily that averment and submit proper documentation in support of the averment (see: MPEP §711.03(c), and otherwise to satisfy the showing requirement under the regulation.

---

[2] Effective December 1, 1997, the provisions of 37 C.F.R. §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 C.F.R. §1.137(b). a grantable petition filed under the provisions of 37 C.F.R. §1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 C.F.R. §1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee set forth in 37 C.F.R. §1.20(d)) required pursuant to 37 C.F.R. §1.137(c). (Emphasis supplied.)

Had Petitioner submitted her reply over/with a Certificate of Mailing/Transmission under 37 C.F.R. §1.8), over/with a Certificate of Express Mail under 37 C.F.R. §1.10), or, alternatively, with a request and fee for extension of time under 37 C.F.R. §1.136)–it is noted that the Certificate of Mailing/Transmission under 37 C.F.R. §1.8) is the least costly of these alternatives, followed by the procedure for a Certificate of Express Mail under 37 C.F.R. §1.10–Petitioner may have been able to submitted or filed timely the reply in question.

However, Petitioner failed to utilize any of these alternatives.

The Rules of Practice provide protections and benefits for applicants and practitioners, however, those protections and benefits are unavailable when those rules are not complied with/followed.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[3]

---

[3] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;

(2) Returning papers;

(3) Precluding a party from filing a paper, or presenting or contesting an issue;

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[4]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[5]

Delays in responding properly raise the question whether delays are unavoidable.[6] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[7] 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]))

---

(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.
(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[4] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[5] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[6] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[7] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[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.

As to 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.

Petitioner has failed to satisfy the "showing" requirement of the regulation.

CONCLUSION

The instant petition under 37 C.F.R. §1.137(a) is **dismissed**.

ALTERNATIVE VENUE

If Petitioner is unable to make a showing of unavoidable delay, Petitioner's only alternative to irretrievable abandonment is to file a petition under 37 C.F.R. §1.137(b) (state therein that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional").

Petitioner may wish to refer to the guidance (as to revival of abandoned applications) found at the Office website at http://www.uspto.gov/web/offices/pac/dapp/petitionspractice.html#lapse and/or review the guidance at http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c

Thus, Petitioner may wish to supplement the petition to plead alternatively under 37 C.F.R. §1.137(b) wherein the "showing" burden is much less onerous.

Further correspondence with respect to this matter should be addressed as follows:[10]

By mail: Commissioner for Patents[11]
P.O. Box 1450
Alexandria, VA 22313-1450

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[10] On July 15, 2005, the Central Facsimile (FAX) Number was changed to (571) 273-8300, which is the only facsimile number recognized for entralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

[11] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

By hand: Mail Stop: Petition
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[12]) 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

[12] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7/29/09

TO SPE OF : ART UNIT **3764** (3700)

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/968,250** Patent No.: **7,429,236**

Attn: Allana Lewin

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: Minor changes to spec and drawings are approved.

/LoAn H. Thanh/ SPE — **SPE**

3764 — **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

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TC 3600

WOLFF & KING PLLC
2111 Eisenhower Avenue
Suite 402
Alexandria, VA 22314

In re application of Paul W. Stiles et al. Application No. 10/968,288 Filed: October 20, 2004 For: TRAVEL INFORMATION METHOD AND ASSOCIATED SYSTEM	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)**

This is in response to the petition filed on February 01, 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(h); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

The petition fails to adequately meet requirement (B) above. Regarding item (B), the petition fails to include an election without traverse, or a statement that applicant is willing to elect without traverse should a restriction or election be required.

For the above stated reasons, the petition is **DISMISSED**.

Petitioner is given one more opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.
Applicant should promptly submit a renewed petition to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/pav: 03/14/05

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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MAY - 5 2005

WOLFF & KING PLLC
2111 Eisenhower Avenue
Suite 402
Alexandria, VA 22314

In re application of Paul W. Stiles Application No. 10/968,288 Filed: October 20, 2004 For: TRAVEL INFORMATION METHOD AND ASSOCIATED SYSTEM	: : : :	**DECISION ON RENEWED PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)**

This is in response to the renewed petition filed on April 13, 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 original petition filed on February 01, 2005 was dismissed on March 24, 2005 for failing to satisfy condition (B) above. The renewed petition satisfies the above deficiencies.

Since all of the requirements for special status under MPEP § 708.02 VIII have now been met, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED.**

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(571) 272-6587

KJD/pav: 04/27/05

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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Andover-IP-Law
Suite 300
44 Park Street
Andover, MA 01810

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AUG 0 3 2007

OFFICE OF PETITIONS

In re Application of
James B. Paull
Application No. 10/968,293
Filed: October 19, 2004
Attorney Docket No. EER-004US

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 18, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by David Silverstein 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 James B. Paull at the address indicated below.

There is an outstanding Office action mailed July 25, 2007 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: **James B. Paull**
1 Virginia Road
Andover, MA 01810

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
10/968,293	10/19/2004	James B. Paull	EER-004US

CONFIRMATION NO. 3440

OC000000025175266

Andover-IP-Law
Suite 300
44 Park Street
Andover, MA 01810

Date Mailed: 08/03/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/18/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Gerri Williams

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199

FORMER ATTORNEY/AGENT COPY

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AGILENT TECHNOLOGIES, INC.
INTELLECTUAL PROPERTY ADMINISTRATION
LEGAL DEPT
P.O. BOX 7599, M/S DL 429
LOVELAND, CO 80537-0599

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JUN 15 2005

OFFICE OF PETITIONS

In re Application of	:
Karl Abele et al	:
Application No. 10/968,296	: DECISION GRANTING STATUS
Filed: October 19, 2004	: UNDER 37 CFR 1.47(A)
For: SOLID PHASE EXTRACTION	:
APPARATUS AND METHOD	:

This is in response to the petition under 37 CFR 1.47(a), filed April 25, 2005.

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries regarding this decision should be directed to Petitions Examiner Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 1743 for examination in due course.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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KARL ABELE
BRUDERHOLZSTRASSE 32
CH 4102 BINNINGEN
SWITZERLAND **AIRMAIL**

COPY MAILED

JUN 15 2005

OFFICE OF PETITIONS

In re Application of
Karl Abele and Robert D. Ricker
Application No.10/968,296
Filed: October 19, 2004
For: SOLID PHASE EXTRACTION APPARATUS AND METHOD

Dear Mr. Abele:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Wan Laymon at (571) 272-3220. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Frances Hicks
Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:
AGILENT TECHNOLOGIES, INC.
INTELLECTUAL PROPERTY ADMINISTRATION, LEGAL DEPT.
P.O. BOX 7599, M/S DL429
LOVELAND, CO 80537-0599

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RAYMOND R. MOSER JR., ESQ.
MOSER IP LAW GROUP/SYMANTEC CORPORATION
1030 BROAD STREET
2ND FLOOR
SHREWSBURY, NJ 07702

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OCT 08 2008

OFFICE OF PETITIONS

In re Application of	:	
Michael Root	:	
Application No. 10/968,298	:	DECISION ON PETITION
Filed: October 19, 2004	:	
Attorney Docket No. VRTS-0933	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 4, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed December 13, 2007, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on February 14, 2008. *See* MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Appeal Brief and fee of $510, (2) the petition fee of $1,540, and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

This application is being referred to Technology Center AU 2116 for appropriate action by the Examiner in the normal course of business on the reply received August 4, 2008.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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LAURA N. TUNNELL
P.O. BOX 6003
SANTA BARBARA CA 93160

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MAY 29 2008

OFFICE OF PETITIONS

In re Application of :
Andrew Bobro :
Application No. 10/968,319 : ON PETITION
Filed: October 18, 2004 :
Attorney Docket No. 03BOB1NP

This is a decision on the petition under 37 CFR 1.137(b), filed April 3, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit corrected drawings in a timely manner in reply to the Notice of Allowability mailed October 16, 2007, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on January 17, 2008.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the corrected drawing sheets (2) the petition fee of $770; and (3) the required statement of unintentional delay have been received. Accordingly, the corrected drawing sheets are accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Carl Friedman at (571) 272-6842.

The application file is being referred to the Office of Data Management.

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

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OFFICE OF PETITIONS

In re Application of :
Ji-hoon Lee et al :
Application No. 10/968,352 :
Filed: October 20, 2004 :
Attorney Docket No. 1349.1390 :

ON PETITION

This is a decision on the "Petition for Change the Order of Inventors' Names" under 37 CFR 1.182 filed June 6, 2007.

The petition is **granted.**

The order of the names of the inventors has been changed to the following:

1. Ji-hoon Lee
2. Jong-ho Bang
3. Byoung-joon Lee

Telephone inquiries concerning this matter may be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
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
10/968,352	10/20/2004	2616	1320	1349.1390	19	5

CONFIRMATION NO. 8417

CORRECTED FILING RECEIPT

OC000000026062952

21171
STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

Date Mailed: 09/28/2007

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)

Ji-hoon Lee, Chaongju-si, KOREA, REPUBLIC OF;
Jong-ho Bang, Suwon-si, KOREA, REPUBLIC OF;
Byoung-joon Lee, Seongnam-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 2003-76681 10/31/2003

If Required, Foreign Filing License Granted: 12/22/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/968,352

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Communication system for improving data transmission efficiency of TCP in wireless network environment and a method thereof

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).

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MAR 23 2007

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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
1400 PAGE MILL ROAD
PALO ALTO CA 94304-1124

In re Patent No. 7,102,047 GRUBBS et al	:	
Issue Date: September 5, 2006	:	**DECISION GRANTING**
Appl No.: 10/968,361	:	**PETITION**
Filed: October 18, 2004	:	*37 CFR 1.324*
For: Correction of Inventorship	:	
	:	
	:	
	:	

This is a decision on the petition filed January 30, 2007, to correct inventorship under 37 CFR 1.324.

The petition is **GRANTED**.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Xiaogang Gao	: DECISION ON REQUEST FOR
Patent Number	: 7641753	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/968,378	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/18/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **788** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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AKIN GUMP STRAUSSS HAUER & FELD L.L.P.
ONE COMMERCE SQUARE
2005 MARKET STREET, SUITE 2200
PHILADELPHIA, PA 19103

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OFFICE OF PETITIONS

In re Application of	:	
Wah et al.	:	DECISION ON PETITION
Application No. 10/968,392	:	
Filed: 19 October, 2004	:	
Atty Docket No. 4110-344U1	:	

This is a decision on the petition, filed on 24 January, 2005, under 37 CFR 1.137(f) which is treated as a petition to revive the above-identified nonprovisional application under the unintentional provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of a foreign or international application filed on 12 November, 2004. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The present petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded.

A Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing, which sets forth the projected publication date of 8 September, 2005, is enclosed herewith.

The application is being referred to Technology Center Art Unit 3611 for examination in due course.

Any inquiries concerning this decision may be directed to the undersigned at 571.272.3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing

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AVERILL & VARN
8244 PAINTER AVE.
WHITTIER CA 90602

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OFFICE OF PETITIONS

In re Application of	:	
Bradley et al.	:	
Application No. 10/968,395	:	DECISION ON PETITION
Filed: October 18, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 135/122	:	

This is a decision on the petition, filed March 3, 2006, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704. No additional petition fee is required.

Petitioner states that the instant non-provisional application is the subject of an application filed in a foreign country and the U. S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country. A review of the file record shows that a Request to Rescind was filed on March 3, 2006. 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.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By Fax: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

Liana Chase
Petitions Examiner
Office of Petitions

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AUG 2 3 2006

OFFICE OF PETITIONS

In re Application of	:	
Bradley et al.	:	
Application No. 10/968,395	:	DECISION GRANTING PETITION
Filed: October 18, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 135/122	:	

This is a decision on the renewed petition, filed July 17, 2006, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant non-provisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on April 11, 2005. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of November 30, 2006, accompanies this decision on petition.

This matter is being referred to the Publishing Division to await a response to the Office action mailed July 27, 2006.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

Liana Chase
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/968,395	10/18/2004	Gary F. Bradley	135/122

CONFIRMATION NO. 1766

27612
AVERILL & VARN
8244 PAINTER AVE.
WHITTIER, CA 90602

Date Mailed: 08/23/2006

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 11/30/2006.

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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GLENDALE, CA 91202

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OFFICE OF PETITIONS

In re Application of
Roy L. Anderson
Application No. 10/968,399
Filed: October 18, 2004
Attorney Docket No. RLA35.001A

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 2, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed January 7, 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 8, 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) an adequate statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. 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 April Wise at 571-272-1642.

This application is being referred back to the Office of Initial Patent Examination for further processing of the reply received March 2, 2007.

April M. Wise
Petitions Examiner
Office of Petitions

CC: GLENN E. VON TERSCH
PO BOX 1639
LOS ALTOS, CA 94023

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Roy L. Anderson, Esq.
LAW OFFICES OF ROY ANDERSON
1010 North Central Avenue
Glendale, CA 91202

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OFFICE OF PETITIONS

In re Application of Anderson et al. :
Application No. 10/968,401 :
Filing Date: October 18, 2004 :
Attorney Docket No. PRIVP006.US01 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(b), filed March 2, 2007, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed January 11, 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 12, 2005. A Notice of Abandonment was mailed on November 28, 2006.

The instant petition requests revival of the application.

Petitioner has submitted the required petition fee of $1,500. Petitioner has submitted a reply to the Notice to File Missing Parts. Petitioner has stated the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

Glenn Tersch signed the petition. Tersch was not an attorney or agent of record at the time the application became abandoned. Therefore, it appears Tersch was not in a position to have firsthand or direct knowledge of the facts and circumstances of the delay. Nevertheless, the statement by that the entire delay was unintentional is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.[1] In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that a portion of the delay from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The Office of Initial Patent Examination will be informed of the instant decision and will take steps 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

cc: Glenn E. Von Tersch
PO Box 1639
Los Altos, CA 94023

[1] See Changes to Patent Practice and Procedure, 62 *Fed. Reg.* at 53160 and 53178; 1203 *Off. Gaz. Pat. Office* at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

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Fulwider Patton LLP
Howard Hughes Center
6060 Center Drive, Tenth Floor
Los Angeles, CA 90045

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OFFICE OF PETITIONS

In re Application of	:	
Hossein Nadjafizadeh et al.	:	
Application No. 10/968,403	:	DECISION ON PETITION
Filed: October 18, 2004	:	TO WITHDRAW
Attorney Docket No. PBLMD-69097	:	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 10, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Fulwider Patton LLP has been revoked by the assignee of the patent application on November 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 Terri Williams at 571-272-2991.

T. Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **Bruce Slayden II**
Baker Botts LLP
1500 San Jacinto Center
98 San Jacinto Blvd.
Austin, TX 78701-4039

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LOS ANGELES, CA 90064

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OFFICE OF PETITIONS

In re Application of

Natan Epstein

Application No. 10/968,422

Filed: October 18, 2004

Attorney Docket No. NE001

: DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 17, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to file a proper and timely response to the final Office action mailed March 31, 2006, which set a shortened statutory period for reply of three-months from its mailing date. A response was not receieved within the allowable period and the application became abandoned on July 2, 2006. A Notice of Abandonment was mailed on April 10, 2007.

The Request for Continued Examination filed April 17, 2007, is noted.

The request for an extension of time within the third month filed April 17, 2007, is noted but cannot be granted as the request was made outside the maximum statutory period for reply to the final Office action. The amount of $510.00 will be refunded, in due course.

The application file is being forwarded to Technology Center 2600, GAU 2617 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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LOS ANGELES CA 90064

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OFFICE OF PETITIONS

In re Application of	:	
Natan Epstein	:	
Application Number: 10/968422	:	
Filing Date: 10/18/2004	:	ON PETITION
Attorney Docket Number: NE001	:	

This is a decision on the petition under 37 CFR 1.137(b)[1] filed on January 16, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on October 11, 2008, for failure to timely respond to the non-final Office action mailed on July 10, 2008, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. The filing of the present petition precedes the mailing of Notice of Abandonment.

Receipt of the response requesting reconsideration filed on January 16, 2009 is acknowledged.

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

Receipt of the replacement drawings filed with the subject petition is acknowledged.

The application is referred to Technology Center Art Unit 2617 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

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SUITE 240
ALEXANDRIA, VA 22314

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In re Application of
Albert Enayati
Application No. 10/968,425
Filed: October 18, 2004
Attorney Docket No. RHA3004

ON PETITION

This is a decision in response to the petition, filed May 5, 2008, 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 the Restriction Requirement mailed June 13, 2007, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). A Notice of Abandonment was mailed on February 6, 2008. In response, on May 5, 2008 the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the response in the form of an election of the invention to be examined; (2) the petition fee of $770; and (3) an adequate statement of unintentional delay[1]

The application is being referred to Technology Center AU 3733 for appropriate action by the Examiner in the normal course of business on the reply received May 5, 2008.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[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.

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PRESS BUILDING, SUITE 902
19 CHENANGO STREET
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OFFICE OF PETITIONS

In re Patent No. 7,273,839 :
Issue Date: September 25, 2007 :
Application No. 10/968,441 : ON PETITION
Filed: October 20, 2004 :
Inventor: Koetzle :

This file has come to the attention of this office by way of the communications filed August 29, 2007 and September 7, 2007, and supplemented on October 30, 2007, on behalf of the named inventor and assignee ARK Patent International IIC, which is being treated as a petition under 37 CFR 1.181 to review (1) the becoming of record of assignee Tarksol International, (2) the appointment and revocation of the power of attorney by Tarksol, and (3) the request that the instant application issue to Tarksol as the assignee of the entire interest.

The petition is dismissed.

The petition is opposed by counsel Mark Levy on behalf of Tarksol in the communication filed September 13, 2007.

Petitioner (inventor Koetzle and ARK) contends that former counsel, Hiscock & Barclay appointed via customer number 44,331 directly by inventor Koetzle should be reinstated as Tarksol has improperly become of record within the meaning of 37 CFR 3.71 and MPEP 324 and appointed and revoked the power of attorney by way of a license agreement, that is not an assignment, and that the patent should not issue to Tarksol, as it is the mere licensee.

The USPTO prefers not to become embroiled in ownership disputes, particularly as it does not have the means or the authority to resolve such disputes. Indeed, the USPTO 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, 114 S. Ct. (1994). Rather, 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 as 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)(same). Rather, that is almost exclusively a matter for the state courts. However, under 37 CFR 3.73, the assignee of the entire interest may prosecute an application to the exclusion of the named

inventor, or any previous assignee, and also revoke, or appoint, a power of attorney in the application or patent, and as here, upon payment of the issue per 35 U.S.C. § 152 and 37 CFR 3.81, request that the patent issue to the assignee of record at the USPTO. This, however is contingent upon the putative assignee establishing its ownership of the application to the satisfaction of the Director. See 37 CFR 3.73(b).

Ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, a copy of an executed assignment submitted for recording) or by specifying (*e.g.*, reel and frame number) where such evidence is recorded in the Office. Id. The submission establishing ownership must be signed by a party authorized to act on behalf of the assignee. Id.; see also MPEP 324. There is no dispute that inventor Koetzle, as recorded at reel 19593 frame 0317 assigned on February 27, 2007, his ownership interest to A.R.K. Patent International("A.R.K.").

The dispute centers on the document recorded at reel 9722 frame 0298, executed by Koetzle on the same date, on behalf of A.R.K Patent International LLC, ,which was relied upon by Tarksol to intervene as the putative assignee of the entire interest, as sucessor from A.R.K. as recorded above.

While the latter document was recorded against this application by Levy as an assignment, such recordation as an "assignment" was simply predicated upon the assertions made on the assignment recordation cover sheet tendered and executed by Levy pursuant to 37 CFR 3.31. However, as set forth in 37 CFR 3.54, and MPEP 317.03, the recordation of a document proffered as an "assignment" 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 or patent. As further noted by the foregoing authorities, when, as here, it becomes necessary, the USPTO 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 also MPEP 324.

Inspection of the disputed document which is captioned as "Exclusive License Agreement" ("Agreement") pursuant to 37 CFR 3.54 reveals that the Agreement is clearly self-styled as an exclusive license Agreement It is well settled that a license is merely a promise by the licensor [here A.R.K. Patent International, which therein asserts it is the successor of the entire right, title and interest of Koetzle in this application] not to sue the licensee [here, Tarksol] for infringement, and, as such, title to the case does not change hands. Spindelfabrik Suessen-Schurr v. Schubert & Salzer, 829 F.2d. 1075, 1081, 4 USPQ2d 1044, 1048 (Fed. Cir. 1987), *cert. denied*, 116 S.Ct. 274 (1995). However, the instrument must be construed by what it does, not what it is styled as, to see if, as contended by Levy (and Tarksol) it further conveyed title to Tarksol from ARK Patent International. As noted in Waterman v. McKenzie, 138 U.S. 252 at 256 (1891) "[w]hether a transfer of a particular right or interest is an assignment or a license does not depend on the name by which it calls itself, but on the legal effect of its provisions." The Agreement contains (at 1) a specific numerical reference to this application and includes (emphasis added):

> Whereas, **this sale, assignment, and transfer in full includes any subsequent** new findings, inventions, or additional patents or enhancements thereof...and

> Whereas Tarksol desires a(sic) an Exclusive License Agreement with A.R.K. for **any and all current and future rights acquired from A.R.K or Richard Koetzle** in regards to **any and all title and interests in any and all patents issued by any country on this or subsequent technology which may be granted therefore on the Koetzle patent solvents as described above**.

Section 1.01 thereafter states that A.R.K. "hereby **grants transfers and assigns** to Tarskol... an **exclusive and irrevocable right with no restrictions or reservations in any field of use**...There are no time limitations therefore until all Patents run out in both U.S...."

Section 3.03 stipulates that any Improvements made by A.R.K are included in the License, and that Tarksol will pay for patent filing and prosecution and "for **conveying to Tarksol all such improvements and discoveries**.".

Section 3.06 sets forth that Tarksol was solely responsible for patent enforcement, viz: "**[i]nfringement claims against third parties are to be filed and prosecuted by Tarksol**."

Section 4.01 stipulates that the License is **"perpetual"** and sets forth that there is no time or reason for termination.

Section 5.01 mandates that A.R.K consent to any assignment of their license or any of its rights under this agreement of the license" "upon transfer or change of control of Tarksol," and further, that A.R.K could not unreasonably withhold such consent.

The USPTO has consistently interpreted the applicable statutes and regulations relating to the recording of assignment documents in the USPTO as applying only to instruments which **on their face** affect title to a patent or *application*. See In re Farrand, 1912 C.D. 227 (Comm'r Pat. 1912); In re Charlton, 1903 C.D. 159 (Comm'r Pat. 1903). Pursuant to MPEP 301, subsections II and III, the USPTO considers the essential distinction between a license and an assignment to be that the former conveys less than the entire bundle of patent rights reflected by the ownership interest. That is, if the rights are limited as to time, geographical area, or field of use, the document in question is a license, not an assignment. Here, the Agreement is "perpetual"; there are no time limitations other than the natural limit of the patents expiring; there is no geographical limitations, and there are no restrictions or reservations in any field of use. This indicates the Agreement is an assignment, not a license. Clearly, the Agreement **on its face** specifically identified the instant application, styled itself to be a "sale assignment, and transfer" for any and all current and future rights...in regards to any and all title and interests in any and all patents" that "grants and assigns" an exclusive and irrevocable right with no restrictions..." The Agreement, therefore, is properly considered to be an assignment. See Von Brimer v. Whirlpool Corp. 536 F.2d 838, 190 USPQ 528 (9th Cir. 1976)(document in which owner agreed to "sell, assign, and transfer" the sole and exclusive license and the power to sue for infringement and grant sublicenses is a patent, not a mere license agreement). As such, it was not clear error for the USPTO to consider the Agreement, **on its face** to be an instrument that affected title to this application. As noted in University Patents, Inc. v. Kligman, 762 F.Supp. 1212, 1219, 20 USPQ2d 1401, 1406 (E.D. Pa. 1991):

> Since a patent is a creature of federal statutory law, it may be transferred only in the manner provided by law...An assignment of a patent must be in writing...The

> writing must show a clear and unmistakable intent to transfer ownership,..., and must be executed by the patentee or by the patentee's assigns or legal representatives (citations omitted, emphasis added).

The Agreement sold assigned and transferred all rights in full to Tarksol, and clearly manifested an intent to do so, particularly in light of the perpetual nature of the Agreement per section 1.01 and 4.01, and that all future improvements and discoveries made by A.R.K. were to be conveyed to Tarksol, per section 3.03. In effect, the Agreement makes Tarksol the repository for the entire portfolio of all R.F..K patents to be filed and issued worldwide and the bank of all current and future technical expertise and rights therein, and to this end Tarksol was also charged with creating and developing the market for this technology, per section 1.02 This will redound to R.F.K. 'S advatage in light of its 1/3 interest in all monies Tarksol realizes. As such, Tarksol is considered to have *prima facie* met its burden of proof as to its ownership of all substantial rights in this application by its submission and recordation of the instrument in question. See Waterman, supra; Speedplay v. Bebop, Inc., 211 F.3d 1245250, 52 USPQ2d 1984, 1986 (Fed Cir. 2000); Von Brimer, supra. .

The legal effect of the Agreement is that every substantive right under this application, as well as the application itself, is expressly, and permanently, transferred to Tarksol. While there is no mention in the Agreement that any substantive rights are retained, or made reversionary, it is noteworthy that the *raison d'etre* for the patent grant, that is, the right to exclude others from making using or selling the invention, was specifically, and perpetually conveyed to Tarksol, as was the unfettered power to further assign its rights per section 5.01. As such, it is not clear error for the USPTO to treat the Agreement as an assignment of the right title and interest in this applicant to Tarksol for purposes of Tarksol becoming of record, appointing and revoking a power of attorney, paying *the issue fee, and requesting that the patent issue to Tarkol. . See Von Brimer; supra; see also* Vaupel Textilmaschinen KG v. Meccanica Euro Italia et al., 944 F.2d 1991, 944 F2d. 870, 20 USPQ2d 1045 (Fed Cir. 1991)(agreement is an assignment where substantive patent rights including the right to sue for infringement, and sublicense, are conveyed); Mentor H/S Inc. V. MedicalDevice Alliance Inc,. 240 F. 3d 1016 57 USPQ2d 1819 (Fed. Cir. 2001)(agreement is a license, not an assignment, where some substantive rights, *e.g.*, the right to sue for infringement are retained.). This is particularly apt in this instance as the transfer of the right to sue for infringement is, like all other terms of the Agreement, **perpetua**l, per section 4.01. See Aspex Eyewear Inc v. Miracle Optics, 434 F.3d 1336, 77 USPQ2d 1456(Fed. Cir. 2006) (agreement conferring only a temporary transfer of right to sue for infringement is a license, not an assignment.) This "sale assignment, and transfer in full" is conspicuously devoid of any reservation clause that expressly retained outright, or made reversionary, "any and all current or future rights" acquired from Koetzle and A.R.K. The document manifests a clear intent to sell assign and transfer this application, resultant patent, the technology therein, and well as any future modifications or improvements of the involved technology to Tarksol for the consideration enumerated in article II: Koetzle obtained a 1/3 ownership interest in Tarksol and received 1/3 of all Tarksol income. Thus, Tarksol ownership of, *inter alia*, this patent redounds to A.R.K.

In the supplement to the petition filed October 30, 2007, it is contended that the Agreement was terminated by petitioner on or about September 10, 2007, on the grounds that Tarksol failed to perform under the terms of the Agreement. Unfortunately for petitioner however, even construing the Agreement as a license, it does not clearly and unambiguously contain authorization for petitioner to act unilaterally to terminate the Agreement. It is also unclear how

a document that is self-styled as a "perpetual" and that confers "irrevocable" rights without geographic or temporal limit, and has no time or reason for termination, could have been unilaterally terminated by petitioner, without the express consent of Tarksol. Those issues would seem to be better left to a court of competent jurisdiction. In any event, an assignment of, as here, the entire right title and interest passes both equitable and legal title. See, Wende v. Horine, 191 F. 620, 621 (C.C.N.D. Ill. 1911). Thus petitioner, as the assignor of his entire interest, was not in a good position to insist that the application be prosecuted and issued as he wished and to the exclusion of Tarksol. Tarksol, as the assignee, is free to deal with this application as it wills. See Garfield v. Western Electric Co., 298 F.659 (S.D.N.Y. 1924). Since the Agreement was an instrument that conveyed ownership of this application to Tarksol, petitioner did not have a proprietary interest in this application when he allegedly terminated, unilaterally, the Agreement on September 10, 2007. See Von Brimer, supra. As such the alleged termination appears to be a nullity, the perpetual and irrevocable assignment to Tarksol remains in full force and effect, and the USPTO actions of which petitioner complains will be permitted to stand.

Petitioner is not unduly harmed by the current USPTO interpretation of the Agreement. The rules of practice permit registered practitioners not of record to file papers, and pay monies to the USPTO when they act in a representative capacity. See 37 CFR 1.34. Furthermore, anyone may pay the maintenance fee for this patent and thus maintain it in force, without obtaining permission of the patentee or his successor(s) in title. See 37 CFR 1.366(a). Since the issue fee was duly paid and this patent has issued, no harm has befallen petitioner, even assuming he ultimately prevails on ownership. Further, petitioner appears to overlook that the USPTO procedures and requirements for issuing a patent to the record assignee do not alter the ownership rights in a pending application or in an issued patent. See Regents of the University of New Mexico v. Knight, 66 USPQ2d 1001, 1008 (Fed. Cir. 2003). The issuance of this patent to Tarksol as the assignee of the entire interest was not a determination by the USPTO that Tarksol is the owner of this patent. Id. Moreover, the public record of this patent file provides the public with notice under 37 CFR 1.11(a) of both conflicting ownership contentions, and as such the public is free to make its own business decisions regarding this matter. See Vitronics Corp. v. Conceptronic, Inc., 90 F.3d 1576, 1583, 39 USPQ2d 1573, 1577 (Fed. Cir. 1996); Vectra Fitness v. TNWK Corp., 162 F3d 1379, 1384, 49 USPQ2d 1144, 1148 (Fed Cir. 1998).

In any event, if and when a highest level court of competent jurisdiction issues a final determination that as of the date this patent issued, A.R.K. and not Tarksol was the assignee of the entire interest, then petitioner may promptly make that decision of record and present a request for a Certification of Correction under 37 CFR 1.324 seeking correction of the record assignee as to whom this patent issued. He may also then present a revocation and appointment of a power of attorney under 37 CFR 3.73(b).

The Office of Petitions at the USPTO is not the proper forum for hearing the other issues raised in the petition and as such these other issues will not be considered.

The USPTO does not undertake dual correspondence. On a one-time basis, a courtesy copy of this decision is being mailed to counsel who filed the petition.

Inquiries related to this decision should be directed to the undersigned at (571) 272-3217.

Brian Hearn
Petitions Examiner
Office of Petitions

cc:
Ronald S. Kareken
Hiscock & Barclay LLP
2000 HSBC Plaza
100 Chestnut Street
Rochester NY 14604-2404

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Date:	November 27, 2007	Time:	2:00 pm	No. of Pages Transmitted: (Including this Cover Letter)	3

Name	Company / Location	Fax Number	Phone Number
Director, USPTO	Office of Petitions	1-571-273-8300	

Comments:

Client/Matter Name	Client/Matter Number	Time Keeper Number
Koetzle	3023024	3344

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November 27, 2007

Director of the USPTO
Office of Petitions
United States Patent and Trademark Office
PO Box 1450
Alexandria, VA 22313-1450

Re: U.S. Patent No. 7,273,839, Issued September 25, 2007
U.S. Patent No. 10/968,441, Filed October 20, 2004
METHOD TO INCREASE FLASH POINTS OF FLAMMABLE SOLVENTS
Patentee/Petitioner: A. Richard Koetzle
Art Unit: 1751, Examiner: Gregory E. Webb
Our File: 3023024 US01

REPLY TO NOVEMBER 07, 2007 PETITION DECISION

As an attorney for Patentee and Petitioner A. Richard Koetzle (Mr. Koetzle) for the subject patent, the undersigned attorney submits for the public record the following reply to the November 07, 2007 decision dismissing Mr. Koetzle's August 29, 2007 Petition to the Director *In re Patent No. 7,273,839*, Petition Decision (Petition Decision)

1. For reasons that follow as to the authority of the Office of Petitions to render the Petition Decision, this reply is not a request for reconsideration of the Petition Decision, nor is any response from the USPTO expected.

2. As the Office of Petitions is well aware, the August 29, 2007 Petition was filed before issuance of the subject patent and for which a fee for expedited action was paid.

3. It is the opinion of the undersigned attorney that the failure of the Office of Petitions to expedite action on the Petition before issuance of the subject patent significantly reduced or eliminated the authority of the USPTO to act on the Petition when it did. Notwithstanding that language in the Petition Decision appears to go beyond the USPTO's authority, the following observations are relevant.

4. Petitioner and the undersigned Attorney agree with the statement in the Petition Decision that "the issuance of this patent to Tarksol [International] as the

PAGE 2/3 * RCVD AT 11/27/2007 3:19:56 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-3/20 * DNIS:2738300 * CSID:585 325 5458 * DURATION (mm-ss):01-46

assignee of the entire interest was not a determination by the USPTO that Tarksol is the owner of this patent."

5. Petitioner and the undersigned Attorney further agree with the statement in the Petition Decision that "the USPTO has no authority to decide ownership issues" and that such issues are almost exclusively a matter for the state courts. As the Office of Petitions well knows, 37 CFR 3.54 and MPEP 317.03 provide that the recordation of the license agreement, wrongfully proffered as an "assignment," is not a determination by the USPTO of the validity of the document or the effect that document has on the title to an application or patent.

6. Otherwise, the undersigned Attorney contends that the remaining statements in the Petition Decision and regarding the license agreement and its termination are pure *dicta* and not only carry no weight but instead are contrary to applicable law.

7. Among others including the Petitioner, A.R.K. Patent International, L.L.C., the true and only assignee of the subject patent, has been obliged, because of the multiple wrongful acts of Tarksol International and Mark Levy Associates (Petitioner's former attorney and apparently still attorney for Tarksol International notwithstanding a clear conflict of interest), to file legal actions against both Tarksol International and Mark Levy Associates, the former for multiple claims of actionable wrongdoing, *A.R.K. Patent International L.L.C. et al v. Tarksol International L.L.C. et al*. Supreme Court of New York, Monroe County, Index No. 07/11921, and the latter for legal malpractice, *A.R.K. Patent International L.L.C. et al v. Mark Levy et al*, Supreme Court of New York, Monroe County, Index No. 07/14260. As believed to be required by 37 CFR 10.24(a), notice of the malpractice action has been sent by the undersigned attorney to the USPTO's Office of Enrollment and Discipline.

Respectfully submitted,

Hiscock & Barclay, LLP

Ronald S. Karcken
Attorney for Applicant
Reg. No. 20,573

ROCHDOCS\485488\1

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APR 21 2005

In re Application of	:	
Erwin Cheldin	:	
Serial No. 10/968,445	:	DECISION ON PETITION
Filed: October 18, 2004	:	TO MAKE SPECIAL
For: BAG HAVING A SELF-	:	
POSITIONING STRAP	:	

Applicant's petition, filed October 18, 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. R. Kazenske, Director
Technology Center 3700

Scott W. Kelley
Kelly, Lowry & Kelley, LLP
6320 Canoga Avenue, Suite 1650
Woodland Hills, CA 91367

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Valeo Climate Control Corp.
Intellectual Property Dept
4100 North Atlantic Boulevard
Auburn Hills MI 48326

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AUG 30 2006
OFFICE OF PETITIONS

In re Application of	:	
T-D. HUYNH	:	
Application No. 10/968,453	:	DECISION ON PETITION
Filed: October 19, 2004	:	TO WITHDRAW
Attorney Docket No. TFR0220	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 5, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Thomas P. Liniak. Thomas P. Liniak has been withdrawn as attorney or agent of record; all other attorneys remain of record. The correspondence address of record remains unchanged.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at 571-272-7253.

Liana Chase for
Amelia Au
Petitions Examiner
Office of Petitions

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IPSG, P.C.
P.O. BOX 700640
SAN JOSE CA 95170-0640

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JUN 25 2007

OFFICE OF PETITIONS

In re Application of	:	
Frederick R. Gruner, et al.	:	
Application No. 10/968,460	:	DECISION ON PETITION
Filed: October 18, 2004	:	TO WITHDRAW
Attorney Docket No. RZMI-P307	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed August 1, 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 Joseph A. Nguyen on behalf of all attorneys of record who are associated with this application.

All attorneys/agents associated with this application have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There are no outstanding Office actions at the present time.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: RAZA MICROELECTRONICS, INC.
LEGAL DEPARTMENT
18920 FORGE DRIVE
CUPERTINO, CA 95014-0701

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/968,460	10/18/2004	Frederick R. Gruner	RZMI-P307

CONFIRMATION NO. 8267

OC000000024330336

IPSG, P.C.
P.O. BOX 700640
SAN JOSE, CA 95170-0640

Date Mailed: 06/12/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/01/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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VENABLE LLP
P.O. BOX 34385
WASHINGTON DC 20043-9998

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In re Application of	:	
Joachim EISENHAUER et al.	:	
Application No. 10/968,465	:	DECISION ON PETITION
Filed: October 20, 2004	:	
Attorney Docket No. 32140-208797	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 30, 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 September 10, 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 December 11, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,540.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of September 10, 2007 is accepted as having been unintentionally delayed.

The application file is being referred to Technology Center AU 2612 for appropriate action on the concurrently filed amendment.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at (571) 272- 4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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PHILIP S. JOHNSON
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NEW BRUNSWICK NJ 08933-7003

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AUG 1 8 2008

In re Application of	:	
Frank Molock, et al.	:	
Application No. 10/968,509	:	DECISION GRANTING PETITION
Filed: October 19, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. VTN5061	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 15, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 22, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 1796 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Williams
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.*

DOCKET NO. VTN5061USCIP1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	Frank Molock	Confirmation No.:	1517
Serial No.:	10/968,509	Group No.:	1796
Filed:	October 19, 2004	Examiner:	Sanza L. McClendon
For:	PROCESS FOR THE SYNTHESIS OF SOLUBLE, HIGH MOLECULAR WEIGHT POLYMERS		

I hereby certify that this correspondence is being transmitted via The Office electronic filing system in accordance with 37 CFR 1.6(a)(4)

August 15, 2008
(Date of Deposit)

Linda Shutterly
Name of applicant, assignee, or Registered Representative

Linda Shutterly
(Signature)

August 15, 2008
(Date of Signature)

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION TO WITHDRAW APPLICATION FROM ISSUANCE AFTER PAYMENT OF ISSUE FEE UNDER 37 CFR 1.313(c)

1. Applicant petitions for the withdrawal application from issue of the above-identified application.

2. A Notice of Allowance was issued on April 23, 2008 and the Issue Fee payment was submitted on July 22, 2008.

3. On July 28, 2008, Applicants' attorney received a letter from Johnson & Johnson Vision Care, Inc.'s Japanese agent reporting a rejection against the Japanese counterpart to the above referenced application. The rejection appears to have been dated March 25, 2008, but was reported late by the Japanese agent. The Japanese Examiner cited references which had not been previously considered in the above referenced application.

08/15/2008 LDIEP1 00000015 100750 10968509
01 FC:1464 130.00 DA

4. Applicants submit herewith a Request for Continued Examination and a PTO-1449, listing the references cited by the Japanese Examiner. Applicants request that this application be withdrawn from issuance to permit consideration of the enclosed Request for Continued Examination and PTO-1449 Form in compliance with 37 CFR 1.114.

5. Please charge the $130.00 petition fee, as set forth in 37 CFR 1.17(h), to our deposit account no. 10-0750/VTN5061USCIP1/KAH and for any additional fee required. A duplicate of this petition is attached.

6. If the petition is granted, Applicants respectfully submit that the Issue Fee Payment be reimbursed to deposit account no. 10-0750/VTN5061USCIP1/KAH.

Karen A. Harding
Reg. No.: 33,967
Attorney for Applicant(s)

JOHNSON & JOHNSON
One Johnson & Johnson Plaza
New Brunswick, NJ 08933
Tel. No.: (904) 443-3074
Date: Aug 14, 2008

PTO/SB/30 (08-00)
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REQUEST FOR CONTINUED EXAMINATION (RCE) TRANSMITTAL

Subsection (b) of 35 U.S.C. § 132, effective on May 29, 2000, provides for continued examination of an utility or plant application filed on or after June 8, 1995.
See The American Inventors Protection Act of 1999 (AIPA).

Application Number	10/968,509
Filing Date	October 19, 2004
First Named Inventor	Frank Molock
Group Art Unit	1796
Examiner Name	Sanza L. McClendon
Attorney Docket Number	VTN5061USCIP1

This is a Request for Continued Examination (RCE) under 37 C.F.R. § 1.114 of the above-identified application.

NOTE: 37 C.F.R. § 1.114 is effective on May 29, 2000. If the above-identified application was filed prior to May 29, 2000, applicant may wish to consider filing a continued prosecution application (CPA) under 37 C.F.R. § 1.53 (d) (PTO/SB/29) instead of a RCE to be eligible for the patent term adjustment provisions of the AIPA. See *Changes to Application Examination and Provisional Application Practice*, Final Rule, 65 *Fed. Reg.* 50092 (Aug. 16, 2000); Interim Rule, 65 *Fed. Reg.* 14865 (Mar. 20, 2000), 1233 *Off. Gaz. Pat. Office* 47 (Apr. 11, 2000), which established RCE practice.

1. **Submission required under 37 C.F.R. § 1.114**
   - a. ☐ Previously submitted
     - i. ☐ Consider the amendment(s)/reply under 37 C.F.R. § 1.116 previously filed on (any unentered amendment(s) referred to above will be entered).
     - ii. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on
     - iii. ☐ Other
   - b. ☒ Enclosed
     - i. ☐ Amendment/Reply
     - ii. ☐ Affidavit(s)/Declaration(s)
     - iii. ☒ Information Disclosure Statement (IDS)
     - iv. ☐ Other
2. **Miscellaneous**
   - a. ☐ Suspension of action on the above-identified application is requested under 37 C.F.R. § 1.103(c) for a period of months. (Period of suspension shall not exceed 3 months; Fee under 37 C.F.R. § 1.17(i) required.)
   - b. ☐ Other
3. **Fees** - The RCE fee under 37 C.F.R. § 1.17(e) is required by 37 C.F.R. § 1.114 when the RCE is filed
   - a. ☒ The Director is hereby authorized to charge the following fees, or credit any overpayments, to Deposit Account No. **10-0750**.
     - i. ☒ RCE fee is required under 37 C.F.R. § 1.17(e)
     - ii. ☐ Extension of Time (37 C.F.R. §§ 1.136 and 1.17)
     - iii. ☐ Other
   - b. ☐ Check in the amount of $_____ enclosed
   - c. ☐ Payment by credit card (Form PTO-2038 enclosed)

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Name (print/type)	Karen A. Harding	Registration No.	33,967
Signature		Date	08/15/2008

08/20/2008 [illegible] 00000014 100750 10968509
File Ref: 00000015 DAM: 100750 10968509
01 FC:1464 130.00 DA
02 FC:1801 810.00 DA

CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the Office electronic filing system in accordance with 37 CFR 1.6(a)(4) on

Name (print/type)	Linda Shutterly		
Signature	Linda Shutterly	Date	8/15/2008

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EXXONMOBILE CHEMICAL COMPANY
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BAYTOWN, TX 77522-2149

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OFFICE OF PETITIONS

In re Application of	:
Donna J. Crowther et al	:
Application No. 10/968,546	: DECISION ON PETITION
Filed: October 19, 2004	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 1999U033D1.US	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 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 concurrently with the instant petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the above-noted, 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 above-noted, 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) 272-3208. 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 1713 for appropriate action on the amendment filed June 14, 2005, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

In re Application of	:	
Zicheng Liu et al	:	
Application No. 10/968,553	:	DECISION GRANTING PETITION
Filed: October 19, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. MS1-526USC6	:	

This is a decision on the petition, filed March 29, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 20, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2624 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the 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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OFFICE OF PETITIONS

In re Application of	:
Zicheng Liu et al	:
Application No. 10/968,553	: DECISION GRANTING PETITION
Filed: October 19, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. MS1-526USC6	:

This is a decision on the petition, filed August 16, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 26, 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 2624 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
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 the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment.*