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Paper No.

CHARLES E. BAXLEY, ESQUIRE
90 JOHN STREET
SUITE 309
NEW YORK NY 10038

RECEIVED

DEC 22 2008

OFFICE OF PETITIONS

In re Application of	:	
Lai et al.	:	DECISION ON PETITION
Application No. 10/968,559	:	
Filed: October 19, 2004	:	
Attorney Docket No. 14940	:	
(CFP-2495)	:	

This is a decision on the "REQUEST TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR 1.181 OR, IN THE ALTERNATIVE, PETITION TO REVIVE UNDER 37 CFR 1.137(a)" filed May 22, 2008.

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

Any request for reconsideration pursuant to § 1.181 must be filed within **TWO (2) MONTHS** of the date of this decision in order to be considered timely. See 37 CFR §1.181(f). No extensions of time are permitted.

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

Any request for reconsideration pursuant to § 1.181 must be filed within **TWO (2) MONTHS** of the date of this decision in order to be considered timely. See 37 CFR §1.181(f). No extensions of time are permitted.

The above-identified application became abandoned for failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability mailed November 8, 2007. No extension of time under the provisions of 37 CFR 1.136 is permitted for filing corrected drawings. No reply having been received, the above-identified application

became abandoned on February 9, 2007. A courtesy Notice of Abandonment was mailed on March 7, 2008.

In response, applicants filed the instant petition. Applicants maintain that they had timely filed the required corrected drawings with the USPTO as part of an Amendment filed on October 5, 2007. Applicants state that they believed such corrected drawings fully were in compliance with corrected drawings requested by the examiner in the (subsequent) November 8, 2007 Notice of Allowability. Moreover, applicants state that in a telephone call on or about March 11, 2008 [sic], the examiner confirmed that acceptable corrected drawings had, in fact, been received by the USPTO on October 7, 2007. On this basis, applicants conclude that the Notice of Abandonment was mistakenly issued by the USPTO.

ON PETITION UNDER 37 CFR 1.181

The facts and circumstances of the abandonment have been considered, and it has been determined that withdrawal of the abandonment is not warranted. The Notice of Abandonment was not issued in error. Applicants did not file a response to the Notice of Allowability. Accordingly, the application became abandoned by operation of law, 35 U.S.C. 151.

To prevent abandonment of an application, an applicant must take action within the time period set forth in any notice they receive from the Office that so requires. It is undisputed that the Notice of Allowability mailed November 8, 2007 required applicants to file corrected drawings within 3 months. Further, it is undisputed that applicants received the Notice of Allowability mailed November 8, 2007, but did not file a response to the Notice. Applicants did not file corrected drawings or even a written objection and request for withdrawal of the requirement on the basis that the drawings had already been submitted. Rather, applicants allowed the period for response to expire without action. Thus, upon expiration of the period for reply, the application became abandoned by operation of law.

The examiner has no authority to act upon an application in which no action by applicant was taken during the period for reply. In this instance, applicants' referenced conversation with the examiner regarding the propriety of the requirement for corrected drawings did not occur until March 11, 2008 (sic),

about 4 months after the mailing of the Notice and about 1 month after the abandonment of the application. Thus, such belated action is ineffective to prevent abandonment or to cause the abandonment to be rescinded. (It is further noted that any such request should have been timely made *in writing*. See 37 CFR 1.2)[1].

It is concluded that the application is properly regarded as abandoned and withdrawal of the abandonment is not warranted.

ON PETITION UNDER 37 CFR 1.137(a)

A petition to revive an abandoned application on the grounds that the failure to reply was unavoidable (37 CFR 1.137(a)) must be accompanied by: (1) the required reply (which has been filed); (2) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; (3) any terminal disclaimer required pursuant to 37 CFR 1.137(d); and (4) the petition fee as set forth in 37 CFR 1.17(l).

The instant petition meets the requirements of submission of the required reply in the form of corrected drawings and payment of the petition fee. No terminal disclaimer is required to revive this application. However, the petition is not grantable as applicants have not met their burden of establishing that the cause of the delay resulting in failure to reply in a timely fashion was unavoidable within the meaning of 37 CFR 1.137(a).

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

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[1] This decision is not meant to infer that in all instances filing a written objection to an Office action will prevent abandonment of the application (i.e. petitions under 1.181 do not toll periods for reply). To ensure that an application does not become abandoned, a sufficient reply for the particular Office action must be filed.

> ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 667-68 (D.D.C. 1963), aff 'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

The diligence required of prudent and careful men in relation to their most important business requires that applicants take action in response to a Notice which specifically states, and which by law requires, that to avoid abandonment applicant must submit corrected drawings within three months. Drawings submitted a month prior to the mailing of the Notice of Allowability cannot be considered filed in response to the Notice. Further, the Notice's acknowledgment of the October 9, 2007 response, which included the drawings applicants' reference, shows that the Office still required corrected drawings notwithstanding the October 9, 2007 submission. Rightly or wrongly on its face the Notice required further drawings despite the filing of drawings on October 9, 2007. Applicants chose not to respond. It is not unavoidable delay to allow the period for response to expire and to then question the correction of the Notice after the application has become abandoned.

The facts and circumstances of the abandonment of this application have been considered and it is concluded that applicants have not carried their burden of establishing that the delay in filing corrected drawings was unavoidable within the meaning of 37 CFR 1.137(a).

CONCLUSION

Applicants are not precluded from submitting a petition to revive pursuant to 37 CFR 1.137(b). A petition under 37 CFR 1.137(b) may be filed accompanied by the fee set forth in 37 CFR 1.17(m) 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. The required reply has been received. No terminal disclaimer is required by 37 CFR 1.137(c).

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

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

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

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
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Paper No.

CHARLES E. BAXLEY, ESQUIRE
90 JOHN STREET
SUITE 309
NEW YORK NY 10038

MAILED

JUN 18 2009

OFFICE OF PETITIONS

In re Application of	:	
Lai et al.	:	DECISION ON PETITION
Application No. 10/968,559	:	
Filed: October 19, 2004	:	
Attorney Docket No. 14940	:	
(CFP-2495)	:	

This is a decision on the "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)" filed January 21, 2009.

The petition is **GRANTED**.

The above-identified application became abandoned February 9, 2007 for failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability mailed November 8, 2007. A courtesy Notice of Abandonment was mailed on March 7, 2008. By decision mailed December 22, 2008, the "REQUEST TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR 1.181 OR, IN THE ALTERNATIVE, PETITION TO REVIVE UNDER 37 CFR 1.137(a)" filed May 22, 2008 was dismissed. Applicants did not make a showing warranting withdrawal of the holding of abandonment or sufficient to submit a conclusion that the entire delay in filing the required reply was unavoidable within the meaning of 37 CFR 1.137(a).

In response, applicants filed this petition on the lesser standard of unintentional delay. On prior petition filed May 22, 2008, applicants filed the required reply in the form of corrected drawings[1]. This petition includes payment of the

[1] The issue fee and publication fee were timely submitted on January 28, 2008.

petition fee required for revival based on unintentional delay and the required statement of unintentional delay. No terminal disclaimer is required to revive this application.

Applicants have met all requirements for revival of this application pursuant to 37 CFR 1.137(b).

The Office of Data Management has been advised of this decision. The application is, thereby, forwarded for processing into a patent.

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

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

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

In re Application of:
John I. Makowski Jr. et al.
Application No. 10/968,567
Filed: October 19, 2004
For: METHOD AND SYSTEM FOR PRODUCING PROGRAM-INTEGRATED ADVERTISEMENTS

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed September 9, 2005 under MPEP§708.02,VIII requesting accelerated examination.

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

Applicant's submission is deficient in that it does not comply with (6) above. That is, no clear indication is given specifically pointing out how the language of the claims patentably distinguishes from the references.

Accordingly, the petition is **DENIED**.

Should applicant desire reconsideration, he/she should supplement this petition by supplying the information as outlined above. No further petition fee is required.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision.

Doris To
Special Program Examiner
Technology Center 2600

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OFFICE OF PETITIONS

LOTUS AND RATIONAL SOFTWARE
David A. Dagg, Esq.
44 Chapin Road
Newton MA 02459

In re Application of	:	
Steve Wang et al.	:	
Application No. 10/968,575	:	DECISION ON PETITION
Filed: October 19, 2004	:	
Attorney Docket No. 260-023	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 4, 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, December 26, 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 27, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2179 for appropriate action by the Examiner in the normal course of business.

JoAnne Burke
Petitions Examiner
Office of Petitions

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1101 CAPITAL OF TEXAS HIGHWAY SOUTH
BUILDING C, SUITE 200
AUSTIN TX 78746

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OFFICE OF PETITIONS

In re Application of :
Athanasios J. Syllaios et al :
Application No. 10/968,588 :
Filed: October 19, 2004 :
Attorney Docket No. 019469.0268 :

ON PETITION

This is a decision on the petition, filed January 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 November 24, 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 2813 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

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FISH & RICHARDSON PC
225 FRANKLIN ST
BOSTON, MA 02110

In re Application of	:	
Fitzgerald, et al.	:	
Application No. 10/968,598	:	ON PETITION
Filed: October 18, 2004	:	
Attorney Docket No. 07917-253001	:	

This is a decision on the papers styled, "Petition Under 37 CFR 1.181," filed February 24, 2005, which has been treated as a petition under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of October 18, 2004, including page 11 of the specification.

The application was filed on October 18, 2004. However, on December 29, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice To File Missing Parts Of Nonprovisional Application" (Notice) that stated the application had been accorded a filing date, but page 11 of the specification appears to have been omitted. Please note, this decision deals solely with the issue of the aforementioned omitted item.

In response, on February 24, 2005, the instant petition and a copy of page 11 of the specification were submitted. The instant petition is accompanied by a copy of applicant's postcard receipt that acknowledges receipt of "74 pages of specification" on October 18, 2004. A review of the application file indicates the presence of seventy-three (73) pages of specification. It is assumed that page 11 of the specification was misplaced by the Office.

In view of the above, the petition is granted.

The petition fee, submitted February 24, 2005, will be refunded to deposit account no. 06-1050.

This application will be returned to OIPE for further processing with a filing date of October 18, 2004, using the copy of page 11 of the specification, supplied on February 24, 2005.

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

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

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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/968,607	10/18/2004	Adam Thomas Belote	1444-0120

COOK, ALEX, MCFARRON, MANZO, CUMMINGS & MEHLER LTD
SUITE 2850
200 WEST ADAMS STREET
CHICAGO IL 60606

DATE MAILED: May 4, 2007

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)
The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(d) filed on April 14, 2007, requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

- ☐ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).
- ☑ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.
- ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).

Any inquiries concerning this decision should be directed to the Pre-Grant Publication Division at (703) 605-4283.

Barbara J. Debnam
Pre-Grant Publication Division

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Renner, Otto, Boisselle & Sklar, LLP (Raytheon)
1621 Euclid Avenue - 19th Floor
Cleveland, OH 44115

Mail Date: 04/21/2010

Applicant	: Philip Christopher Theriault	: DECISION ON REQUEST FOR
Patent Number	: 7599138	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/968,609	: 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 **907** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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CO/AMC INTELLECTUAL PROPERTY GRP
500 QUEEN ST. SOUTH
BOLTON ON L7E 5S5 CA CANADA

In re Application of	:	
John P. Quail et al	:	
Application No. 10/968,610	:	DECISION GRANTING PETITION
Filed: October 19, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. H-730-0-US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 13, 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 February 4, 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) 272-3208.

This application is being referred to Technology Center AU 2123 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

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

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KLARQUIST SPARKMAN, LLP
121 SW SALMON STREET
SUITE 1600
PORTLAND, OR 97204

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OFFICE OF PETITIONS

In re Application of :
Fred L. Heffron, et al. :
Application No. 10/968,629 : ON PETITION
Filed: October 18, 2004 :
Attorney Docket No. 899-61589-02 :

This is a decision on the petition, filed March 21, 2005, which is being treated under 37 CFR 1.181 to review the refusal to issue a corrected Filing Receipt.

The petition is **GRANTED**.

A review of the record discloses that the application was filed on October 18, 2004. The filing included a preliminary amendment adding the applications to which priority is claimed; however, the Official Filing Receipt failed to include the priority data. Accordingly, on February 14, 2005 applicants submitted a request that the priority data as claimed by applicant be added to the Official Filing Receipt. In response, on February 25, 2005, a Response to Request for Corrected Filing Receipt was mailed indicating, for some unknown reason, that the Office is unable to comply with the request because a claim for priority cannot be made based on an application filed after the application making the claim. Clearly the applications for which priority is being claimed were filed before the application making the claim.

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

Applicant should note that 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.

Since the petition was necessitated by USPTO error, the $130.00 petition fee is being refunded in the form of a credit to counsel's deposit account.

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

This application is being referred to Technology Center Art Unit 1644 for appropriate action on the preliminary amendment submitted October 18, 2004, including consideration by the examiner of the claim under 35 U.S.C. § §119(e), 120 and 365(c) for the benefit of the prior-filed applications.

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

Attachment: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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SHAHROOZ JAMIE
POST OFFICE BOX 10
CLAY, WV 25043

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SEP 02 2008

In re Application of	:	
Shahrooz S. **JAMIE**	:	
Application No. 10/968,641	:	DECISION ON PETITION
Filed: October 19, 2004	:	
Attorney Docket No. J1162.80002	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 18, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed May 25, 2006, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 26, 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 $770; 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 3662 for appropriate action by the Examiner in the normal course of business on the reply received October 18, 2007.

Thurman Page
Petitions Examiner
Office of Petitions

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NOV 09 2005

GEORGE A LEONE, SR
2150 128TH AVENUE, NW
MINNEAPOLIS MN 55448

In re Application of	:	
Mark E. Fauver et al	:	
Serial No.: 10/968,645	:	DECISION ON PETITION
Filed: October 19, 2004	:	
For: System and Method for Preparation of	:	
Cells for 3D Image Acquisition	:	

This is in response to applicants' petition filed October 19, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the merits as it relates HIV/AIDS.

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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CENTURY IP GROUP, INC.
P.O. BOX 7333
NEWPORT BEACH CA 92658-7333

MAILED

OCT 21 2009

OFFICE OF PETITIONS

In re Application of	:	
Yavor Eliad Wardimon, et al.	:	
Application No. 10/968,655	:	DECISION ON PETITION
Filed: October 18, 2004	:	TO WITHDRAW
Attorney Docket No. 1005-26-01 USP	:	FROM RECORD
	:	

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 3, 2009.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request cannot be approved because practitioners were not appointed by customer number. In order to withdraw by customer number practitioners must be appointed by customer number.

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

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number).

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

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

cc: IXI MOBILE (R&D), LTD
PO BOX 2543
17 HA 'TIDHAR ST
RA'ANANA, 43665 ISRAEL

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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FAY, SHARPE, FAGAN, MINNICH & McKEE LLP
1100 SUPERIOR AVENUE, SEVENTH FLOOR
CLEVELAND, OHIO 44114

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OCT 12 2006

OFFICE OF PETITIONS

In re Application of	:	
Stevan George Calland	:	
Application No. 10/968,661	:	DECISION ON PETITION
Filed: October 19, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. UDL 20015	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed January 18, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 09/889,608, filed November 30, 2001, which is the national stage filing of Application No. PCT/GB00/00202, filed January 27, 2000, as set forth in the amendment filed with the petition.

The petition is **GRANTED**.

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

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

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

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled

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

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3218. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center Art Unit 1774 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.[1]

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

[1] A final Office action was mailed on May 12, 2006. A proper reply thereto must be timely filed in order to prevent the abandonment of this application.

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OCT 21 2009

OFFICE OF PETITIONS

F. JASON FAR-HADIAN
CENTURY IP GROUP, INC.
P.O. BOX 7333
NEWPORT BEACH CA 92658-7333

In re Application of	:	
Aviv Dekel	:	
Application No. 10/968,682	:	DECISION ON PETITION
Filed: October 18, 2004	:	TO WITHDRAW
Attorney Docket No. 1005-25-01 USP	:	FROM RECORD
	:	

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 3, 2009.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request cannot be approved because practitioners were not appointed by customer number. In order to withdraw by customer number practitioners must be appointed by customer number.

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

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number).

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

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

cc: IXI MOBILE (R&D), LTD
PO BOX 2543
17 HA 'TIDHAR ST
RA'ANANA, 43665 ISRAEL

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Applied Materials
Patent Counsel - Legal Affairs Department
P.O. Box 450A
Santa Clara, CA 95052

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AUG 11 2005
OFFICE OF PETITIONS

In re Application of :
Milliman :
Filed: October 18, 2004 : ON PETITION
Application No. 10/968,722 :
Dkt. No.: 2924 (203-4379) :

This decision is in response to the "PETITION UNDER 37 C.F.R. §1.182 TO OBTAIN EARLIER FILING DATE," filed May 2, 2005, seeking to have the above-identified application accorded a filing date of October 18, 2004 without Figures 16A and 16B as part of the application disclosure.

The petition is **GRANTED**.

The application was submitted October 18, 2004. On November 26, 2004, the Office of Initial Patent Examination mailed a Notice of to File Missing Parts of Nonprovisional Application ("Notice"). The Notice indicated, *inter alia*, that the application had not been accorded a filing date but that figures 16A and 16B appeared to have been omitted from the application as filed.

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

The Notice advised that failure to timely file a petition (and petition fee) would be treated as a constructive acceptance by the applicant of the application as deposited in the USPTO. The Notice further indicated that the application would, in the absence of a timely filed petition, maintain a filing date as of the date of deposit of the application papers in the USPTO, and the original disclosure of the invention would include only those application papers present in the USPTO on the date of deposit.

Petitioner argues that it was petitioner's intention to maintain a filing date of October 18, 2004 and accept the application as deposited on that date without the inclusion of Figures 16A and 16B.

Nonetheless, petitioner's response to the Notice submitted January 27, 2005 included Figures 16A and 16B. The response did not include the required petition, petition fee, and prima facie evidence of receipt of the omitted items at the time of filing. The application was thus accorded a later filing date of January 27, 2005, the date of submission of the omitted items (Figures 16A and 16B).

Petitioner herein requests the original filing date of October 18, 2004 using only the application papers present on that date; i.e., without Figure 16A and 16B as part of the original disclosure.

In view of the above, the petition to accord the application a filing date of October 18, 2004 using only the application papers present on that date is **GRANTED**.

The application will be processed using only the papers present on filing with a filing date of October 18, 2004; i.e., without Figures 16A and 16B as part of the original disclosure.

To avoid delay in processing, petitioner is advised to submit a preliminary amendment canceling reference to Figure 16A and 16B prior to issuance of the first Office action on the merits.

The required petition fee of $400.00 has been charged to petition's deposit account as authorized in the instant petition. No refund of the required petition fee will be forthcoming as the submission of the instant petition was not necessitated by any Office error.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of October 18, 2004 without entry of Figure 16A and 16B.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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LADAS & PARRY
26 WEST 61ST STREET
NEW YORK, NY 10023

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AUG 07 2007

OFFICE OF PETITIONS

In re Application of	:	
Vladimir Alexeevich Borisov, et al.	:	
Application No. 10/968,740	:	DECISION ON PETITION
Filed: October 19, 2004	:	TO WITHDRAW
Attorney Docket No. U 015412-6	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed March 30, 2007.

The request is **APPROVED**.

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

The request was signed by William R. Evans 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 is an outstanding Notice of Appeal filed February 5, 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: VLADIMIR ALEXEEVICH BORISOV
125167, MOSCOW, PROEZD
AEROPORTA, D. 11-A, KV. 37
RUSSIAN FEDERATION

cc: ALEXEI VLADIMIROVICH LUKOVKIN
107258, MOSCOW, BULVAR
ROKOSOVSKOGO, D.42. KV 154
RUSSIAN FEDERATION

cc: NIKOLAV GRIGORIEVICH TKACH
107589, MOSCOS, ULITSA
KHABAROVSKAYA, D.4-, KV. 445
RUSSIAN FEDERATION

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
10/968,740	10/19/2004	Vladimir Alexeevich Borisov	U 015412-6

CONFIRMATION NO. 3327

OC000000025180331

140
LADAS & PARRY
26 WEST 61ST STREET
NEW YORK, NY 10023

Date Mailed: 08/03/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/30/2007.

- 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.

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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TERENCE P. O'BRIEN
AMER SPORTS NORTH AMERICA
8750 W. BRYN MAWR AVENUE
CHICAGO, IL 60631

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AUG 19 2009

OFFICE OF PETITIONS

In re Application of
Jonathan M. Stewart, et al.
Application No. 10/968,752
Filed: October 19, 2004
Attorney Docket No.: P12550

ON PETITION

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

The petition is GRANTED.

This application became abandoned for failure to timely pay the issue and publication fees on or before May 11, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed February 9, 2009. A Notice of Abandonment was mailed on June 5, 2009. On June 16, 2009, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510 and publication fee of $300, (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

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

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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Welsh & Katz, Ltd.
22nd Floor
120 South Riverside Plaza
Chicago, IL 60606

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MAR 17 2008

OFFICE OF PETITIONS

In re Application of	:	
Shih-Hsiung Weng et al.	:	
Application No. 10/968,753	:	DECISION ON PETITION
Filed: October 19, 2004	:	TO WITHDRAW
Attorney Docket No. TAIW 878	:	FROM RECORD
	:	

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 19, 2007.

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

A review of the file record indicates that the power of attorney to Welsh & Katz, Ltd. has been revoked by the assignee of the patent application on December 18, 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: **Rabin & Berdo, PC**
1101 14th Street, NW
Suite 500
Washington, DC 20005

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

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OCT 1 4 2008

OFFICE OF PETITIONS

In re Application of:
VANCE, Scott L.
Application No.: 10/968,770
Filed: October 19, 2004
Attorney Docket No.: 9314-100

DECISION APPROVING
WITHDRAWAL OF ATTORNEY

This is a decision on the Request to Withdraw as Attorney/Agent of Record under 37 CFR § 1.36, filed October 2, 2008.

The Request is **APPROVED**.

Debra K. Stephens requests that she alone be withdrawn as an attorney under 37 CFR § 1.36, pursuant to the reason set forth under 37 CFR § 10.40(b)(2), because of her current employment by the United States Patent and Trademark Office. Since the Request satisfies all of the requirements for withdrawal, it is appropriate to approve the Request and withdraw only Ms. Stephens as an attorney of record.

All future communications from the Office will continue to be directed to the above-identified correspondence address.

A courtesy copy of this decision is being mailed to Ms. Stephens at the address identified in the Request.

Telephone inquiries relating to this decision should be directed Brian W. Brown at (571) 272-5338.

Brian W. Brown
Petitions Examiner
Office of Petitions

Cc: Debra K. Stephens
301 Edgemore Avenue
Cary, NC 27519

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PO BOX 37428
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OFFICE OF PETITIONS

In re Application of:
DHRIMAJ, Ardian, et al.
Application No.: 10/968,771
Filed: October 19, 2004
Attorney Docket No.: 9314-100XX

DECISION APPROVING WITHDRAWAL OF ATTORNEY

This is a decision on the Request to Withdraw as Attorney/Agent of Record under 37 CFR § 1.36, filed October 2, 2008.

The Request is **APPROVED**.

Debra K. Stephens requests that she alone be withdrawn as an attorney under 37 CFR § 1.36, pursuant to the reason set forth under 37 CFR § 10.40(b)(2), because of her current employment by the United States Patent and Trademark Office. Since the Request satisfies all of the requirements for withdrawal, it is appropriate to approve the Request and withdraw only Ms. Stephens as an attorney of record.

All future communications from the Office will continue to be directed to the above-identified correspondence address.

A courtesy copy of this decision is being mailed to Ms. Stephens at the address identified in the Request.

Telephone inquiries relating to this decision should be directed Brian W. Brown at (571) 272-5338.

Brian W. Brown
Petitions Examiner
Office of Petitions

Cc: Debra K. Stephens
301 Edgemore Avenue
Cary, NC 27519

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2-2-07

TO SPE OF : ART UNIT 3651

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/968782 Patent No.: 7079921

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

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

Please check claims

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

Certificates of Correction Branch

703-308-9390 ext. 117

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

GENE C. CRAWFORD
SUPERVISORY PATENT EXAMINER
SPE

3651
Art Unit

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JONES DAY
222 EAST 41ST STREET
NEW YORK, NY 10017

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AUG 02 2005

OFFICE OF PETITIONS

In re Application of	:
Steve Quackenbush et al	:
Application No. 10/968,783	: DECISION GRANTING PETITION
Filed: October 19, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 10515-010-999	:

This is a decision on the petition, filed July 22, 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 15, 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 3651 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), 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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MAY 18 2010

OFFICE OF PETITIONS

FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

In re Patent No. 7,576,052	:
Kahn et al.	: DECISION ON REQUEST FOR
Issue Date: August 18, 2009	: RECONSIDERATION OF
Application No. 10/968,791	: PATENT TERM ADJUSTMENT
Filed: October 18, 2004	: AND NOTICE OF INTENT
Attorney Docket No. 10276-088001	: TO ISSUE CERTIFICATE OF CORRECTION
Title: METHODS AND COMPOSITIONS FOR MODULATING ADIPOCYTE FUNCTION	:

This is a decision on the petition filed on October 19, 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 six hundred sixty-seven (667) 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 six hundred sixty-six (666) days is **GRANTED to the extent indicated herein.**

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on October 19, 2007 and ends on September 1, 2008, the day before the RCE was filed, and is 319 days. See 35 U.S.C. 154(b)(1)(B)(i).As such, the patent term adjustment is 666, not 667 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **six hundred sixty-six (666)** days.

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

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,576,052 B2

DATED : **August 18, 2009** **DRAFT**

INVENTOR(S) : Kahn 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 347 days

Delete the phrase "by 347 days" and insert – by 666 days--

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

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SEP 2 6 2005

OFFICE OF PETITIONS

In re Application of
Shinozaki
Application No. 10/968,811
Filed: October 20, 2004
Attorney Docket No. 1083970-00130
For: Semiconductor Memory

Decision on Petition

This is a decision on the petition filed January 14, 2005, to accord the above-identified application a filing date of October 20, 2004.

The application was filed on October 20, 2004.

The electronic file wrapper subsequently contained:
1. A 2 page transmittal sheet, and
2. A 2 page IDS statement (IDS and PTO-1449).

On December 2, 2004, the Office of Initial Patent Examination mailed a Notice stating that the application did not contain a specification, claim, drawings, or oath/declaration. The Notice stated that a filing date had not been accorded.

In response, the present petition was filed alleging that a specification, claims, abstract, drawings, and declaration were filed on October 20, 2004. In support, petitioner has submitted a postcard receipt.[1]

The postcard receipt acknowledges receipt of:
1. 78 pages of specification, claims, and abstract,
2. 59 sheets of formal drawings,
3. Declaration,
4. 1.53 Transmittal,
6. IDS, PTO-1449, and
7. Fees in the amount of $1,308.

Petitioner has submitted a copy of the missing documentation:
1. 64 pages of specification,
2. 13 pages of claims,
3. 1 page of abstract,
4. 59 sheets of drawings, and
5. 3 pages of declaration.

---

[1] Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self addressed post card properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the post card in the outgoing mail. "A post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." M.P.E.P. § 503.

The evidence is convincing that the missing documents were filed on October 20, 2004, but were subsequently misplaced by the PTO. Therefore, the application is complete and entitled to a filing date of October 20, 2004.

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

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

The Notice mailed December 2, 2004, was sent in error and is hereby vacated.

The Office of Initial Patent Examination will process the application with a filing date of October 20, 2004, using the application papers (2 page transmittal, 1 page IDS, and 1 page PTO-1449) filed on October 20, 2004, and the copy of 64 pages of specification, 13 pages of claims, 1 page of abstract, 59 sheets of drawings, and 3 pages of declaration, filed on October 20, 2004.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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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
10/968,817	10/19/2004	1772	790	UDL17.001AUS	4	12	2

CONFIRMATION NO. 9865

CORRECTED FILING RECEIPT

OC000000015104676

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

Date Mailed: 02/03/2005

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 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)

Michael J. Melia, Fosters Green, UNITED KINGDOM;

Power of Attorney: The patent practitioners associated with Customer Number **20995**.

Domestic Priority data as claimed by applicant

Foreign Applications

UNITED KINGDOM UK 0327345.5 11/25/2003

If Required, Foreign Filing License Granted: 12/02/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/968,817

Projected Publication Date: 05/26/2005

Non-Publication Request: No

Early Publication Request: No

Title

Method of blow-molding and blow-molded product

Preliminary Class

428

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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STEPHEN R. GREINER, ESQUIRE
GREINER LAW OFFICES, P.C.
SUITE 110
6701 Democracy Blvd.
BETHESDA, MD 20817

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SEP 1 5 2005

OFFICE OF PETITIONS

In re Application of :
Richard R. Marro :
Application No. 10/968,899 : ON PETITION
Filed: October 21, 2004 :
Attorney Docket No. 3854.00 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 23, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed January 10, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on April 11, 2005.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), it will be interpreted as the required statement. Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the issue fee; (2) the petition and publication fees; and (3) an adequate 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) 272-3229.

This application matter is being forwarded to the Publishing Division for further processing.

Retta Williams

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Oct. 9, 2008

TO SPE OF : ART UNIT 2811
SUBJECT : Request for Certificate of Correction for Appl. No.: 10/968902 /7349242

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: All changes are okay to enter.

Lynne A. Gurley
LYNNE GURLEY
SUPERVISORY PATENT EXAMINER
AU 2811, TC 2800

PAGE 2/2 * RCVD AT 11/18/2009 2:17:04 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-6/45 * DNIS:2709942 * CSID:703 305 3594 * DURATION (mm-ss):00-52

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/968,918	10/21/2004	Tae-Min Kang	P57193	3289

7590 09/22/2008

Robert E. Bushnell
Suite 300
1522 K Street, N.W.
Washington, DC 20005

EXAMINER
JOY, DAVID J

ART UNIT	PAPER NUMBER
1794	

MAIL DATE	DELIVERY MODE
09/22/2008	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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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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wk

9-22-08

Mailed :
In re Application of
Tae-Min Kang et al.
Serial No. 10/968,918
Filed: October 21, 2004
For: Donor Substrate For Laser Induced Thermal Imaging Method And Organic Electroluminescence Display Device Fabricated Using The Film

DECISION ON PETITION

This is a decision on the PETITION FILED UNDER 37 CFR 1.144 and 1.181 TO WITHDRAW THE RESTRICTION REQUIREMENT made February 6, 2007.

On February 6, 2007, the Examiner issued a Restriction Requirement requiring Applicant to elect between Species A which the Examiner referenced by apparatus claims 1-11 and Species B, which the Examiner referenced by apparatus claims 12-21. Applicant elected with traverse the apparatus claims 12-21.

In an amendment filed on May 16, 2008 applicant cancelled claims 1-11 and claims 12-21 and amended claims 23-33, which applicant asserts are now directed to previous elected subject matter of Species B. New claims 45-54 were also presented. A review of application indicates that only claims 23-33 and 45-54 are present.

The restriction requirement was made on claims that are no longer pending in the application.

DECISION

Accordingly, the petition to withdraw the restriction requirement is **DISMISSED**.

JMStone

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

Robert E. Bushnell
1522 K Street, Suite 300
Washington, D.C. 20005

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OFFICE OF PETITIONS

SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN 2041 AU AUSTRALIA

In re Application of	:	
Kia Silverbrook	:	
Application No. 10/968,920	:	ON PETITION
Filed: October 21, 2004	:	
Attorney Docket No. **ZG037US**	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 20, 2005, to accept an unintentionally delayed claim under 35 U.S.C § 120 for the benefit of priority to the prior-filed non-provisional application set forth in an amendment filed with the instant petition.

The petition under 37 CFR 1.78(a)(3) is **DISMISSED**.

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

In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

1. the reference required by 35 U.S.C § 120 and 37 CFR § 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;

2. the surcharge set forth in § 1.17(t), and

3. a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The petition under 37 CFR 1.78(a)(3) lacks item (1) above.

As to item (1), it is noted that the reference required by 35 U.S.C. § 120 and 37 CFR § 1.78(a)(2)(i) to the prior-filed non-provisional applications also includes an incorporation by reference statement incorporating the entire disclosure of prior-filed applications serial numbers 10/713,067 and 10/129,503. It is further noted that while the subject application did contain a statement incorporating by reference the entire disclosure of application 10/713, 067, the incorporation by reference statement that was present on filing did not include application 10/129,503. The incorporation by reference statement included in the

reference required by 35 U.S.C. § 120 and 37 CFR § 1.78(a)(2)(i) is improper as it seeks to include new matter in the application after filing. See 35 U.S.C. § 132. The reference required by 35 U.S.C. § 120 and 37 CFR § 1.78(a)(2)(i) is, therefore, made improper by the inclusion of the incorporation by reference statement referencing application 10/129,503.

Petitioner may wish to file a renewed petition under3 7 CFR 1.78(a)(3) with a proper reference under 35 U.S.C. § 120 and 37 CFR § 1.78(a)(2)(i).

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

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

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

Telephone inquiries concerning this decision may be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Frances Hicks

Frances M. Hicks
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN 2041 AU AUSTRALIA

In re Application of :
Kia Silverbrook :
Application No. 10/968,920 : ON PETITION
Filed: October 21, 2004 :
Attorney Docket No. **ZG037US** :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed September 22, 2005, to accept an unintentionally delayed claim under 35 U.S.C §120 for the benefit of priority to the prior –filed non-provisional application set forth in the amendment filed concurrently with the instant petition.

The renewed 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 pending application was filed on October 21, 2004, and was pending at the time of the filing of the instant petition. References to the prior-filed nonprovisional application and PCT application have been included in an amendment to the first page of the specification, as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed applications is submitted after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior filed application was submitted during the

pendency of the instant nonprovisional application for which the claim for benefit of priority is sought. See 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for benefit of priority under 35 U.S.C. § 120 to the prior-filed non-provisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

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

Any inquiries concerning this decision may be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

This matter is being referred to Technology Center 2800, Art Unit 2853 for appropriate action on the amendment filed September 22, 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 non-provisional application and PCT application.

Frances Hicks
Lead Petitions Examiner
Office of Petitions

Enclosure: Corrected Filing Receipt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7-12-06

TO SPE OF : ART UNIT 2853

SUBJECT : Request for Certificate of Correction on Patent No.: 7029100

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:

OK

STEPHEN MEIER
SUPERVISORY PATENT EXAMINER
SPE

2857
Art Unit

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE UTILITY PATENT APPLICATION OF:

APPLICANT	:	**McDonald**
SERIAL NO.	:	**10/968,926**
FILED	:	**October 21, 2004**
EXAMINER	:	**E.M. Cole**
ART UNIT	:	**1771**
FOR	:	**Concrete Curing Blanket**
CUSTOMER NO.	:	**56500**
DATE	:	**December 1, 2005**

CERTIFICATE OF FACSIMILE TRANSMISSION

Facsimile No.: 571/273-8300 Transmission Date: December 1, 2005

I certify that this correspondence is being transmitted via facsimile, under 37 C.F.R. §1.8, on the date indicated above to the facsimile number indicated above.

William A. Bonk, III

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

Sir:

PETITION TO MAKE APPLICATION SPECIAL
35 U.S.C. §131; 37 C.F.R. §1.102

Applicant petitions to make special to advance out of turn for examination or further action the above-identified Application because of actual infringement of claims of the Application. Assignee of the Application submits herewith a Statement by the Assignee, a certificate under 37 C.F.R §3.73(b) verifying Assignee's right to prosecute same and this Petition.

A. ACTUAL INFRINGEMENT

A device or product actually is on the market and/or a process actually is in use that falls within the claims of the Application. Applicant submits copies of documents evidencing same.

12/02/2005 MBINAS 00000023 10968926
01 FC:1464 130.00 OP

Docket No. 7006.003

PETITION GRANTED

William Krynski
Special Program Examiner
Technology Center 1700
DEC 2 2 2005

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United States Patent and Trademark Office
P.O. Box 1450
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MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON DC 20005-3096

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JAN 19 2007

OFFICE OF PETITIONS

In re Application of	:	
Acquaviva et al.	:	
Application No. 10/968,932	:	ON PETITION
Filed: October 21, 2004	:	
Attorney Docket No. 76223.012600	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed November 1, 2006, to revive the above-identified application.

The petition is **GRANTED.**

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

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.

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

Cc: GREENBERG TRAURIG, LLP
77 WEST WACKER DRIVE
SUITE 2500
CHICAGO, IL 60601-1732

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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Babak Akhlaghi
McDermott Will & Emery
600 Thirteenth Street, N.W.
Washington, D.C. 20005-3096

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APR 2 2 2008

OFFICE OF PETITIONS

In re Application of	:	
Shunpei Yamazaki et al.	:	
Application No. 10/968,953	:	DECISION ON PETITION
Filed: October 21, 2004	:	TO WITHDRAW
Attorney Docket No. 07977-015005	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 14, 2007.

The request is **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 Babak Akhlaghi. Babak Akhlaghi 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 Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **3M Innovative Properties Company**
PO Box 3347
St. Paul, MN 55133-3427

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BAKER & HOSTETLER LLP
Washington Square, Suite 1100
1050 Connecticut Avenue, N.W.
WASHINGTON, DC 20036

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OFFICE OF PETITIONS

In re Application of

Charles Wayne Ivey

Application No. 10/968,954

Filed: October 21, 2004

Attorney Docket No. 87340.2060

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed April 3, 2006.

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

This application was held abandoned on August 2, 2005, after it was believed that no response was received to the non-final Office action mailed May 2, 2005, which set a shortened statutory period for reply of three (3) months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A Notice of Abandonment was mailed on February 8, 2006, indicating that a reply was not received.

A review of the record reveals that an amendment intending to be responsive to the non-final Office action was received on July 15, 2005, as evidenced by a review of the application file record and the Office date-stamped postcard that accompanied the instant petition. It is noted, however, that the amendment was filed with application serial number 10/968,354 because the amendment cited that incorrect application serial number as did the postcard evidencing the USPTO receipt of the same. The undersigned has taken the necessary action to have the amendment removed from application 10/968,354 and placed in application 10/968,954.

The abandonment will be withdrawn as a proper response was received by the USPTO prior to the expiration of the shortened statutory period for reply to the non-final Office action. Petitioner is cautioned to make sure the correct application serial number is cited on any further communications filed.

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

The application file is being forwarded Technology Center 3700, GAU 3749, for further processing.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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APR 04 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

STERNE, KESSLER, GOLDSTEIN & FOX
PLLC
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

In re Application of
Carver, et al..
Application No. 10/969,016
Filed: October 21, 2004
For: ROLLED PRINT PRISM AND SYSTEM

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. §1.102 to make special filed February 16, 2005 which is considered as pursuant to MPEP §708.02 (IV), applicant's age.

A petition to make special under MPEP §708.02, IV, must show that petitioner is 65 years of age, or more. Acceptable evidence includes a birth certificate, copy of a driver's license, or simply a statement by the applicant. No fee is required.

The petition includes a statement by John F. Carver indicating that he is over 65 years of age.

Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

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

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

MAR 12 2007

OFFICE OF PETITIONS

In re Application of	:	
Yutaka Miyamoto, et al.	:	
Application No. 10/969,024	:	DECISION ON PETITION
Filed: October 21, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. Q84134	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 10, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **GRANTED**.

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

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

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

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

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3726 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Frances M. Hicks
Lead, 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
10/969,024	10/21/2004	3726	790	Q84134	4	1

CONFIRMATION NO. 2041
CORRECTED FILING RECEIPT
OC000000022800435
OC000000022800435

23373
SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

Date Mailed: 03/08/2007

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

Applicant(s)

Yutaka Miyamoto, Shizuoka, JAPAN;
Shigeji Kudo, Shizuoka, JAPAN;
Hiroo Suzuki, Shizuoka, JAPAN;
Tsutomu Nakayama, Shizuoka, JAPAN;
Jiro Aikawa, Shizuoka, JAPAN;

Assignment For Published Patent Application

YAZAKI CORPORATION

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a DIV of 09/761,689 01/18/2001 ABN
which is a DIV of 09/140,669 08/26/1998 PAT 6,195,884

Foreign Applications

JAPAN P. HEI. 9-230711 08/27/1997

If Required, Foreign Filing License Granted: 12/08/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is
US10/969,024

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Wire harness and method and apparatus for manufacturing the same

Preliminary Class

029

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

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

retroactive.

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

NOT GRANTED

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

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WASHINGTON, DC 20036

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JUL 31 2007

OFFICE OF PETITIONS

In re Application of	:	
Kenichiro Yazawa et al	:	
Application No. 10/969,062	:	DECISION ON PETITION
Filed: October 21, 2004	:	
Attorney Docket No. SON-3134	:	

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

The petition is **GRANTED**.

A Notice of Abandonment has not been mailed in this case. However, this application became abandoned by operation of law for failure to file a timely reply to the Restriction Requirement, mailed April 12, 2006, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). A three (3) month extension of time was obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on August 13, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the reply to the Office action of April 12, 2006 is accepted as being unintentionally delayed.

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

This application is being referred to Technology Center AU 3682 for appropriate action in the normal course of business on the reply to the Office action of April 12, 2006.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

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ALEXANDRIA, VA 22320

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OFFICE OF PETITIONS

In re Application of :
Matsuda, et al. :
Application No. 10/969,066 :
Filed: October 21, 2004 :
Attorney Docket No. 120341.10 :

ON PETITION

This is a decision on the petition under 37 CFR 1.53, filed March 23, 2005, requesting that the above-identified application be accorded a filing date of October 21, 2004, including pages 119, 127, 136 and 137 of the specification.

The application was filed on October 21, 2004. However, on January 26, 2005, the Office of Initial Patent Examination (OIPE) mailed a "Notice to File Missing Parts of Nonprovisional Application" (Notice) that stated the application had been accorded a filing date, but pages **119 – 127, 136 & 137** of the specification appear to have been omitted.

In response, on March 23, 2005, the instant petition and a copy of pages 119, 127, 136 and 137 of the specification were submitted. Petitioner contends that pages 119, 127, 136 and 137 of the specification were originally filed on October 21, 2004. However, the Notice mailed January 26, 2005 stated pages **119 – 127, 136 & 137** of the specification appear to have been omitted. This includes pages 120, 121, 122, 123, 124, 125 and 126, in addition to pages 119, 127, 136 and 137, to which petitioner has addressed. Petitioner has not addressed the omitted pages 120, 121, 122, 123, 124, 125 and 126 of the specification, nor has petitioner submitted a copy of these missing pages (as originally submitted on October 21, 2004). Therefore, a complete review of the omitted items is not possible based on the petition as filed.

At the present time, the petition must be dismissed. However, this decision is made without prejudice to reconsideration. Petitioner should address the omitted pages 120, 121, 122, 123, 124, 125 and 126 of the specification and submit a copy of said pages (as originally submitted on October 21, 2004). No additional petition fee is required for such a request.

Any request for reconsideration should be filed within TWO MONTHS of the date of this decision in order to be considered timely. This time period may not be extended pursuant to 37 CFR 1.136.

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

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

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

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

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

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

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OFFICE OF PETITIONS

In re Application of :
Matsuda, et al. :
Application No. 10/969,066 :
Filed: October 21, 2004 :
Attorney Docket No. 120341.10 :

ON PETITION

This is a decision on the request for reconsideration of petition under 37 CFR 1.53, filed July 14, 2005, requesting that the above-identified application be accorded a filing date of October 21, 2004, including pages 119 – 127, 136 & 137 of the specification.

The application was filed on October 21, 2004. However, on January 26, 2005, the Office of Initial Patent Examination (OIPE) mailed a "Notice to File Missing Parts of Nonprovisional Application" (Notice) that stated the application had been accorded a filing date, but pages 119 – 127, 136 & 137 of the specification appear to have been omitted.

In response, on March 23, 2005, the original petition and copies of pages 119, 127, 136 and 137 of the specification were submitted. On July 14, 2005, the instant request for reconsideration and copies of pages 120-126 of the specification were submitted. The original petition is accompanied by a copy of applicants' postcard receipt that acknowledges receipt of "301 pp. spec" on October 21, 2004. A review of the application file indicates the presence of two-hundred ninety (290) pages of specification. It is assumed that pages 119 – 127, 136 & 137 of the specification were misplaced by the Office.

In view of the above, the petition is granted.

The petition fee will be refunded to deposit account no. 15-0461.

This application will be returned to OIPE for further processing with a filing date of October 21, 2004, using the copies of pages 119, 127, 136 and 137 of the specification, supplied on March 23, 2005, and the copies of pages 120-126 of the specification, supplied on July 14, 2005.

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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ALEXANDRIA, VA 22320-4850

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OFFICE OF PETITIONS

In re Application of
Makoto Matsuda, et al.
Application No. 10/969,066
Filed: October 21, 2004
Attorney Docket No. 120341.10

: 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 April 2, 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 February 25, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2617 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement

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

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

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BEYER LAW GROUP LLP/APPLE INC.
P.O. BOX 1687
CUPERTINO, CA 95015-1687

Mail Date: 04/20/2010

Applicant	: Skip T. Orvis	: DECISION ON REQUEST FOR
Patent Number	: 7636446	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/969,103	: 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 **1239** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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KLEIN, O'NEILL & SINGH, LLP
43 CORPORATE PARK, SUITE 204
IRVINE, CA 92606

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SEP 25 2006

OFFICE OF PETITIONS

In re Application of	:	
SCALFANI, et al.	:	
Application No. 10/969,107	:	DECISION ON PETITION
Filed: October 20, 2004	:	TO WITHDRAW
Attorney Docket No. 937-02-PA-T	:	FROM RECORD
	:	

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, 2006.

The request is **NOT APPROVED**.

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

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

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being

submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number). The power of attorney filed on August 15, 2006 does not include a proper chain of title.

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

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

Denise Pothier
Petitions Examiner
Office of Petitions

cc: **KNOBBE MARTENS OLSON & BEAR LLP**
2040 Main Street 14th Floor
Irvine, CA 92614

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RUTAN & TUCKER, LLP
611 ANTON BOUELVARD, SUITE 1400
COSTA MESA, CA 92626

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JUN 22 2009

OFFICE OF PETITIONS

In re Application of

Todd MILLER, et al.
Application No. 10/969,112
Filed: October 19, 2004
Attorney Docket No. **101014.0001US3**

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 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 Hani Z. Sayed 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 as it 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 Todd Miller at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding non-final Office action mailed December 9, 2008 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: **TODD MILLER**
865 FIRST AVENUE, SUITE 15E
NEW YORK, NY 10017

cc: **TIM PATULA, ESQ.**
PATULA & ASSOCIATES
116 S. MICHIGAN AVENUE, 14TH FLOOR
CHICAGO, IL 60603

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Jan Vetrovec
8276 Eagle Road
Larkspur, CO 80118

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AUG 1 5 2007

OFFICE OF PETITIONS

In re Application of :
Jan Vetrovec, et al. :
Application No.: 10/969,114 : ON PETITION
Filed: October 20, 2004 :
Attorney Docket No:20620A :

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

The petition is DISMISSED.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition" under 37 CFR 1.137(b)."

This application became abandoned for failure to respond in a timely manner to the non-final Office action mailed May 31, 2006. The notice set a shortened statutory period for reply of three months from its mailing date. No response was received within the allowable period, and the application became abandoned on September 2, 2006. A Notice of Abandonment was mailed on January 3, 2007.

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

(1) the required reply, unless previously filed. In a non-provisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee, or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

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

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

The instant petition does not satisfy the requirements of item (1) above.

A reply to the Office action was not received. A copy of the non-final Office action is enclosed for petitioner's convenience. The renewed petition must be accompanied by an either an amendment or a continuing application. Questions regarding the preparation of the amendment should be directed to Examiner Nasser Ahmad.

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—Non-Final Office action mailed May 31, 2006

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/969,114	10/20/2004	Jan Vetrovec	20620A	3747

7590 05/31/2006

Jan Vetrovec
2583 Rikkard Drive
Thousand Oaks, CA 91362

EXAMINER
AHMAD, NASSER

ART UNIT	PAPER NUMBER
1772	

DATE MAILED: 05/31/2006

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

Office Action Summary	Application No.	Applicant(s)
	10/969,114	VETROVEC ET AL.
	Examiner	Art Unit
	Nasser Ahmad	1772

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

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on 20 October 2004.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☐ Claim(s) 1-30 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-5,8-17 and 19-30 is/are rejected.

7)☒ Claim(s) 6,7,18 and 23 is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on 20 October 2004 is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date 10/20/04.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-2, 8-14, 16, 19, 21-22, 27-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Leiter (6228485).

Leiter relates to an adhesive film (10) comprising a flexible substrate (12) and an adhesive coating 916) adhered to a first surface of the substrate. A plurality of microscopic holes (14) are installed, each extending at least through said substrate connecting said first surface to said second opposite surface. As shown in figure-1, the holes are perpendicular to the first surface. The venting material can be polyester or polypropylene (col. 2, lines 66-67) which are known as transparent material. The adhesive is understood to be pressure sensitive adhesive (PSA) because it is provided with release liner (180 over it. The adhesive can be in a discontinuous pattern with at least some holes being in the adhesive-free portions.. with 5-2000 perforations per square inch, it teaches at least one microscopic hole per square inch and the pattern of adhesive coating would provide for less than 100% area with the coating. The substrate is substantially air permeable (abstract). The substrate is 10 microns thick (col. 3, lines 2-3).

Regarding claim 19, it is directed to a method of making the claimed product and is not found to be germane to the issue of patentability of the product itself. Hence, said process has not been given any patentable weight.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 3-5, 17 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leiter.

Leiter, as discussed above, fails to teach that the hole diameter is 1-300 microns and that the hole density is 1-10,000 per sqin., or that the air permeability is 1-1000 Gurley seconds. It would have been obvious to one having ordinary skill in the art to modify Leiter's 0.6-0.7 micron diameter, based on optimization through routine experimentation, providing the hole diameter to be 1-300 microns for optimum permeability.

Regarding the hole density, obtaining the 1-10000 holes per sqin. would have been optimization through routine experimentation because Leiter's density is 5-2000 perforations per sqin.

The substrate thickness of 10-1500 microns would have obvious optimization as the Leiter reference teaches a thickness of 10 microns.

Similarly, the air permeability of 1-1000 Gurley seconds would have also been obvious, based on optimization through routine experimentation because Leiter's substrate is already air permeable.

For claim 17, it would have been obvious duplication of parts to provide the substrate with adhesive coating on both the surfaces thereof.

5. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Leiter. Leiter, as discussed above, fails to teach that the adhesive can be a variety of patterns. It would have been obvious matter of design choice to modify Leiter by having adhesive in a variety of pattern as it would have involved a mere change in the shape of the adhesive coating.

6. Claims 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leiter.

Leiter, as discussed above, fails to teach that the uncoated by adhesive area is 5-80%. It would have been obvious to optimize the uncoated area because the adhesive can be in a discontinuous pattern.

Allowable Subject Matter

7. Claims 6-7, 18, 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art uncovered fails to teach the presence of a layer of print ink or a coating on the second surface with the hole penetrating said layer, that the adhesive is water soluble.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nasser Ahmad whose telephone number is 571-272-1487. The examiner can normally be reached on 7:30 AM to 5:00 PM, and on alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Nasser Ahmad 5/29/06
Nasser Ahmad
Primary Examiner
Art Unit 1772

N. Ahmad.
May 29, 2006.

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Jan Vetrovec
8276 Eagle Road
Larkspur, CO 80118

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OFFICE OF PETITIONS

In re Application of

Jan Vetrovec, et al. :

Application No. 10/969,114

: DECISION ON PETITION

Filed: October 20, 2004

:

Attorney Docket No. 20620A

This is a decision on the renewed petition under 37 CFR 1.137(b), filed October 15, 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 May 31, 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 September 2, 2006. A Notice of Abandonment was mailed on January 3, 2007. A petition under 37 CFR 1.137(b) was first filed on June 19, 2007, and dismissed by a decision mailed August 15, 2007.

The amendment filed October 15, 2007, is noted.

The application is being forwarded to Technology Center 1700, GAU 1772 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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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

Mail Date: 06/16/2010

Applicant	: Edward Harrison Teague	: DECISION ON REQUEST FOR
Patent Number	: 7636328	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/969,117	: 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 **1033** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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FELLERS, SNIDER, BLANKENSHIP, BAILEY & TIPPENS, PC
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SUITE 1700
OKLAHOMA CITY, OK 73102-8820

MAILED
JUL 0 5 2005
Technology Center 2100

In re Application of: Lubbers et al.
Application No. 10/969,147
Filed: October 20, 2004
For: GENERIC STORAGE CONTAINER FOR ALLOCATING MULTIPLE DATA FORMATS

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed May 20, 2005, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

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

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

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

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

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

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

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

The petition filed May 20, 2005 fails to adequately meet requirement (e) of the criteria set forth above. With respect to requirement (e) applicant must provide a detailed discussion of each reference cited. See for instance US 6,745,284 granted to Lee wherein Petitioner merely provides a terse sentence summarizing the reference. Since Applicant has deemed it as one of the most closely related references, a detailed discussion in compliance is required. 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 in requirement (d) above. Reference is made to the statement that Lee is silent, however, regarding allocating a generic container of data storage capacity in accordance with embodiments of the present invention as claimed is not sufficient to meet the requirement of a detailed discussion as required by 37 CFR 1.111 (b) and (c). In particular, none of the independent claims, in the instant application, contain the above language (i.e. "allocating a generic container of data storage . . .").

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

AWK

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/969,147	10/20/2004	Clark Edward Lubbers	STL12362	4412

7590 08/31/2009
Fellers, Snider, Blankenship, Bailey & Tippens, PC
Bank One Tower
100 North Broadway
Suite 1700
Oklahoma City, OK 73102-8820

EXAMINER
ROJAS, MIDYS

ART UNIT	PAPER NUMBER
2185	

MAIL DATE	DELIVERY MODE
08/31/2009	PAPER

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

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

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AUG 3 1 2009

TECHNOLOGY CENTER 2100

In re Application of:
CLARK EDWARD LUBBERS et al.
Serial No.: 10/969147
Filed: October 20, 2004
Docket: STL12362

Title: GENERIC STORAGE CONTAINER FOR ALLOCATING MULTIPLE DATA FORMATS

DECISION ON PETITION TO WITHDRAW THE FINALITY OF AN OFFICE ACTION

This paper provides the decision on the petition filed May 6, 2009, under 37 C.F.R. § 1.181 requesting the withdrawal of the Final Rejection, mailed December 29, 2008 and the entry of the amendments in the After-Final Response filed March 02, 2009.

The Petition is **DISMISSED**.

Applicable Prosecution History

March 11, 2008: RCE with new claims 21-40.

May 28, 2008: Examiner issued a Non-final Office action rejecting claims 21-40 as being unpatentable over Cassidy (6,502,166) in view of Stallmo (5,708,769).

September 29, 2009: Applicant filed a response to the Non-final action above: Petitioner asserted the Examiner erred in regard the limitation of "each domain's total storage capacity". Further, Applicant amended claims 21, 29, and 38 by introducing the limitations of "each stripe in the same row from a different physical storage device"; applicant also amended the limitation in question from "each **domain's** total storage capacity" to "each **physical storage device's** storage capacity".

December 29, 2008: Examiner issued a Final office action with the addition of Mansur (6,192,448) to address the new limitation of "the generic storage container occupies less than each physical storage device's total storage capacity."

March 02, 2009: Applicant filed a response to the Final office action above. Applicant requested for the withdrawal of the Final Rejection, mailed December 29, 2008. Further, Applicant amended claims 21, 24, 26, 28, 29, 32, 34, 36, and 38.

March 17, 2009: Examiner issued an Advisory office action indicating the amendments have not been entered because they require further search and consideration.

May 06, 2009: Applicant filed a petition under 37 C.F.R. § 1.181 requesting the entry of the amendments in the After-Final Response filed March 02, 2009.

June 29, 2009 RCE filed.

RELIEF REQUESTED

The Applicant respectfully that
1. The finality of the office action mailed December 29, 2008 be withdrawn.
2. The amendment filed on March 02, 2009 be entered.

RULES AND PROCEDURE

37 CFR § 1.181 Petition to the Director.

(a) Petition may be taken to the Director:
(1) From any action or requirement of any examiner in the ex parte prosecution of an application, or in ex parte or inter partes prosecution of a reexamination proceeding which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court;

.....

(f) The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

37 CFR § 1.114 Request for continued examination.

(a) If prosecution in an application is closed, an applicant may request continued examination of the application by filing a submission and the fee set forth in §

1.17(e) prior to the earliest of:

.....

(b) Prosecution in an application is closed as used in this section means that the application is under appeal, or that the last Office action is a final action (§ 1.113), a notice of allowance (§ 1.311), or an action that otherwise closes prosecution in the application.

.....

(d) **If an applicant timely files a submission and fee set forth in § 1.17(e), the Office**
will withdraw the finality of any Office action and the submission will be entered and considered. .....

MPEP 706.07(h) [R-6] III D

Treatment of Proper RCE...**If the conditions for filing an RCE have been satisfied, the technical support personnel will process the proper RCE. Any previously filed unentered amendments, and amendments filed with the RCE will normally be entered.**

DECISION

The filing of Request for Continued Examination with the appropriate fee have been entered. As indicated above, the finality of the Office Action, mailed December 29, 2008, has been withdrawn and the amendment, file June 29, 2009, has been entered in light of the entry of the RCE. Therefore, the arguments presented in the Petition Under 37 CFR § 1.181, filed May 06, 2009, is moot in light of the entry of the RCE. The case is forwarded to examiner for further action.

For the reasons set forth above, the petition is **DISMISSED**.

for Nestor Ramirez, Director
Technology Center 2100
Computer Architecture, Software, and Information Security

NRR:mp

DECISION ON PETITION ROUTING SLIP

Application No.: 10969147

Art Unit: 2185

For Director's Secretary:

☐ **Granted** ☐ **Denied** ☑ **Dismissed**

- ☑ Decision to be reviewed and signed by Director
- ☑ Mail Decision & enter decision in Petition Database
- ☑ Forward a copy of the mailed decision to IFW for scanning
- ☑ Enter Paper Nos xxx and the decision in PALM
- ☐ Other

For TECH Support Staff:

- ☐ Process and enter Paper Nos.
- ☐ Charge fee to D.A. No
- ☐ Other
- ☑ Forward file to examiner

Quality Assurance Specialist No. 1:	Quality Assurance Specialist No. 2:	Quality Assurance Specialist No. 3:	Quality Assurance Specialist No. 4:
Vincent Trans WQAS 2160 RND-4B07 (571) 272-3613	Brian Johnson, WQAS 2110, RND 4A01 (571) 272-3595		Tod Swann

Quality Assurance Specialist No. 5:	Quality Assurance Specialist No. 6:	Quality Assurance Specialist No. 7:	Quality Assurance Specialist No. 8:
Gail Hayes	Kakali Chaki WQAS 2120, RND 5A05 (571)272-3719	Rehana Perveen, WQAS 2100, RND 3A75, (571)272-3676	Mano Padmanabhan WQAS 2180, RND 2A79 (571) 272-4210

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July 2005

DAVID LUCENTE
SEAGATE TECHNOLOGY, LLC
INTELLECTUAL PROPERTY DEPT. – COL2LGL
389 DISC DRIVE
LONGMONT, CO 80503-9364

SEP 01 2005

In re Application of:	:	
AYMAN GHANEM ET AL.	:	DECISION ON PETITION TO
Serial No.: 10/969,149	:	MAKE SPECIAL UNDER 37
Filed: 20 October 2004	:	C.F.R. § 1.102(d)
Docket: STL12359	:	

This is a decision on the petition filed on June 20, 2005, to make the above-identified application special under the accelerated examination procedure set forth in MPEP § 708.02(VIII) in accordance with 37 C.F.R. § 1.102(d).

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

In support of the petition, petition provides: a) the applicable petition fee; b) a statement that applicant will make an election without traverse if required by the Office; c) a statement that a pre-examination search was made, including the areas searched; d) copies of the references stated as being most closely related to the claimed subject matter; and e) a discussion of some of the references.

For accelerated examination under MPEP § 708.02(VIII) in accordance with 37 C.F.R. § 1.102(d), a showing of the following is required: a) a petition to make special accompanied by the applicable petition fee; b) all claims are directed to a single invention; c) a statement that a pre-examination search was made, not including the search areas; d) a copy of each of the references deemed most closely related to the claimed subject matter; and e) a detailed discussion of the references pointing out with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is distinguishable over the references.

The requirements of MPEP § 708.02(VIII)(a), (b), and (d) are considered to have been met. However, petitioner fails to point out with the particularity required by 37 CFR § 1.111 (b) and (c), how the claimed subject matter is distinguishable over the *each* of the references. Therefore, petitioner fails to meet the requirement of MPEP § 708.02(VIII)(e). Furthermore, the petition fails to meet the requirement of MPEP § 708.02(VIII)(c), since the field of search was not presented.

37 CFR § 1.111 (b) states"[a] general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section." 37 CFR § 1.111 (c) states in part "the applicant or patent owner must clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made."

Petitioner presents a brief discussion of the supplied references. However, a *detailed discussion* of how each of the references overcomes each of the independent claims is required for the petition to be granted. For the references which were summarized on pages 2 and 3, a detailed discussion must discuss what features are disclosed or taught for each independent claim, and what features are neither disclosed nor taught for each independent claim. A statement that the references do not teach the "generally featured" limitations of all of the claims is insufficiently specific. Furthermore, the remaining references in the IDS, which were stated as being included as the most relevant references, were neither summarized nor discussed. Additionally, the scope of claims 17 and 18 are noticeably different from petitioner's characterization of what is "generally featured" in the claims. Petitioner is required to provide a detailed discussion for *each* reference and *each* independent claim.

While Technology Center Directors may have granted petitions that do not comply with the detailed discussion requirement of the Accelerated Examination procedure, Technology Center Director decisions on petitions are not binding precedent of the Patent Examining Corps, and the application of an improper standard in certain cases does not require the Office to continue to apply the improper standard in all cases. *See In re The Boulevard Entertainment, Inc.*, 334 F.3d 1336, 1343, 67 USPQ2d 1475, 1480 (Fed. Cir. 2003)).

For the above-mentioned reasons, the petition is dismissed. The application will therefore be taken up by the examiner for action in its regular turn.

Any request for reconsideration of this decision must be submitted within 2 (two) months of the date of this decision in order to be considered timely. The essential purpose of the accelerated examination procedure cannot be achieved without discussion of how petitioner believes the claimed invention is distinguished from the prior art; therefore, any resubmission of the petition must provide a detailed discussion of how each of the independent claims is not met by each of the references presented as relevant.

Any inquiry regarding this decision should be directed to Hien H. Phan, Special Program Examiner, at (571) 272-1606.

Henry Phan

Hien H. Phan, Special Program Examiner
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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Bailey & Tippens P.C.
100 North Broadway, Suite 1700
Oklahoma City OK 73102-8820

In re Application of: GHANEM et al.
Application No. 10/969149
Filed: October 20, 2004
For: FAILOVER CONTROL OF DUAL CONTROLLERS IN A REDUNDANT DATA STORAGE SYSTEM

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a decision on the petition filed 30 June 2005, and the request for reconsideration of adverse decision filed November 1, 2005, under 37 C.F.R. 102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

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

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

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

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

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

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

Applicant's submission meets all the criteria set out above, accordingly, the Petition is **GRANTED**.

The application file is being returned to the Board of Patent Appeals and Interferences for further processing.

Any inquiry concerning this decision should be directed to Mano Padmanabhan whose telephone number is (571) 272-4210.

Mano Padmanabhan

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

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.
10/969,149	10/20/2004	Ayman Mohammad Ghanem	STL12359	4395

7590 09/23/2008
Fellers, Snider, Blankenship,
Bailey & Tippens P.C.
100 North Broadway, Suite 1700
Oklahoma City, OK 73102-8820

EXAMINER
ROJAS, MIDYS

ART UNIT	PAPER NUMBER
2185	

MAIL DATE	DELIVERY MODE
09/23/2008	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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Aldo J. Test
Dorsey & Whitney LLP
Intellectual Property Department
850 Hansen Way, Suite 200
Palo Alto CA 94304-1017

COPY MAILED

JUL 21 2005

OFFICE OF PETITIONS

In re Application of	:
Danielzadeh and Olson	: DECISION ACCORDING STATUS
Application No. 10/969,170	: UNDER 37 CFR 1.47(a)
Filed: October 17, 2004	:
For: COMPOSITIONS AND METHODS FOR	:
ANALYSIS OF TARGET ANALYTES	:

This is in response to the petition under 37 CFR 1.47(a), filed on June 6, 2005 (certificate of mailing dated June 2, 2005).[1]

The petition is granted.

Petitioner showed that Robert Danielzadeh, the non-signing inventor, refused to join in the filing of the above-identified application after having been mailed the application papers. Specifically, the statement of facts of established that petitioner mailed the application papers, including the specification, claims and drawings by certified mail, return receipt requested to the last known address of the non-signing inventor. The certified mail was returned as unclaimed. Copies of the letter to the non-signing inventor and the certified mail envelope accompany the 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 matter is being referred to Technology Center Art Unit 1641 for examination in due course.

[1] Petitioner obtained an extension of time for response within the second month and paid a $225.00 fee. To avoid abandonment of the application, petitioner must obtain an extension of time for response within the fourth month and pay the difference in the extension of time fees in the amount of $570.00 ($795.00 - $225.00 = $570.00). Additionally, petitioner paid a $130.00 fee for filing the present petition under 37 CFR 1.47(a). Effective December 8, 2004, the fee for the present petition increased to $200.00. Therefore, petitioner's Deposit Account will be charged $70.00, the amount due for filing the petition, as well as the $570.00 extension of time fee.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Robert Danielzadeh
6537 Cobbleston Court
San Jose CA 95120

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JUL 21 2005

OFFICE OF PETITIONS

In re Application of :
Danielzadeh and Olson :
Application No. 10/969,170 :
Filed: October 17, 2004 :
For: COMPOSITIONS AND METHODS FOR :
ANALYSIS OF TARGET ANALYTES :

LETTER

Dear Mr. Danielzadeh:

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 T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Aldo J. Test
Dorsey & Whitney LLP
Intellectual Property Department
850 Hansen Way, Suite 200
Palo Alto CA 94304-1017

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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
10/969,170	09/17/2004	1641	594	076920-0802	11	30	4

CONFIRMATION NO. 3887

CORRECTED FILING RECEIPT

OC000000020325437

38706
FOLEY & LARDNER LLP
1530 PAGE MILL ROAD
PALO ALTO, CA 94304

Date Mailed: 09/06/2006

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)

Robert Danielzadeh, San Jose, CA;
Keith R. Olson, Oakland, CA;

Power of Attorney: The patent practitioners associated with Customer Number **38706**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/537,261 01/16/2004
and claims benefit of 60/504,563 09/17/2003

Foreign Applications

If Required, Foreign Filing License Granted: 12/02/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/969,170

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Compositions and methods for analysis of target analytes

Preliminary Class

435

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

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

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

NOT GRANTED

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

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AUG 22 2008

In re Application of	:	
Robert **DANIELZADEH**, et al	:	
Application No. 10/969,170	:	DECISION ON PETITION
Filed: September 17, 2004	:	TO WITHDRAW
Attorney Docket No. 7028-0802	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 9, 2008.

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

A review of the file record indicates that the power of attorney to Foley & Lardner LLP, has been revoked by the assignee of the patent application on May 8, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the address indicated below.

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: TIANUN HOU
HOUST CONSULTING
P.O. BOX 2688
SARATOGA, CA 95070

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YOUNG & THOMPSON
745 SOUTH 23RD STREET
2ND FLOOR
ARLINGTON, VA 22202

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SEP 12 2005

OFFICE OF PETITIONS

In re Application of
Alessandro Caporusso
Application No. 10/969,180
Filed: October 21, 2004
Attorney Docket No.: 059581-0101

ON PETITION

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 12, 2005, in the above-identified application, cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

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

The application is being referred to Technology Center AU 3723 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: LINDA E.B. HANSEN
FOLEY AND LARDNER
777 E WISCONSIN AVE
MILWAUKEE, WI 53202

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ARLINGTON, VA 22202

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NOV 17 2005

OFFICE OF PETITIONS

In re Application of	:	
Alessandro Caporusso	:	
Application No. 10/969,180	:	DECISION ON PETITION
Filed: October 21, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 059581-0101	:	37 CFR 1.102(d)
	:	

This is a decision on the renewed petition under 37 CFR §1.102(d), filed October 19, 2005, to make the above-identified application special based on actual infringement as set forth in M.P.E.P. § 708.02, Section II.

The petition is **DISMISSED**.

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

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

The petition filed October 19, 2005 includes all of the requirements above except item (A). The statement of facts does not state that there is an infringing device or product actually on the market or method in use.

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

This matter is being referred to Technology Center Art Unit 3723 for action in its regular turn.

Denise Pothier
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/969,194	09/17/2004	1751	1060	A39.2-11515US01		35	3

CONFIRMATION NO. 3514

CORRECTED FILING RECEIPT

OC000000015393938

490
VIDAS, ARRETT & STEINKRAUS, P.A.
6109 BLUE CIRCLE DRIVE
SUITE 2000
MINNETONKA, MN 55343-9185

Date Mailed: 03/09/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

James A. Forst, Holmen, WI;

Assignment For Published Patent Application

Alliant Techsystems Inc, Edina, MN

Power of Attorney: None

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 02/10/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/969,194

Projected Publication Date: To Be Determined - pending completion of Missing Parts

Non-Publication Request: No

Early Publication Request: No

Title

Gun cleaning system, method, and compositions therefor

Preliminary Class

510

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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SUNIL K. SINGH
DORSEY & WHITNEY
INTELLECTUAL PROPERTY DEPARTMENT
FOUR EMBARCADERO CENTER, SUITE 3400
SAN FRANCISCO, CA 94111-4187

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APR 20 2005

OFFICE OF PETITIONS

In re Application of	:	
Ronald W. Barrett et al	:	DECISION GRANTING
Application No. 10/969,196	:	PETITION
Filed: September 17, 2004	:	
Attorney Docket No. 34549/US/5/AMP/SKS	:	

This is a decision on the petition under 37 CFR 1.53(e), filed February 28, 2005, which is being treated under 37 CFR 1.10(c), requesting that the above-identified application be accorded a filing date of September 17, 2004, rather than the presently accorded filing date of October 17, 2004.

Applicants request the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on September 17, 2004, pursuant to the requirements of 37 CFR 1.10. In support, applicants provided a copy of the Express Mail label, receipt No. EV442861877US, showing a Date-In of September 17, 2004, the same Express Mail number found on the Utility Patent Application Transmission accompanying the original application papers located in the official 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. In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on September 17, 2004. Accordingly, the instant application is entitled to a filing date of September 17, 2004, and has been so accorded.

The petition is granted. The $400.00 petition fee is unnecessary and will be credited to petitioner's deposit account in due course.

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

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

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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DORSEY & WHITNEY, LLP
INTELLECTUAL PROPERTY DEPARTMENT
370 SEVENTEENTH STREET
SUITE 4700
DENVER CO 80202-5647

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OCT 08 2008

OFFICE OF PETITIONS

In re Application of	:	
Ronald W. Barrett et al.	:	
Application No. 10/969,196	:	NOTICE
Filed: September 17, 2004	:	
Attorney Docket No. 34549/US/5	:	

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 undersigned at (571) 272-3213.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

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DIW Aug-07

DENNISON, SCHULTZ & MACDONALD
1727 KING STREET
SUITE 105
ALEXANDRIA VA 22314

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AUG 23 2007

OFFICE OF PETITIONS

In re Patent No. 7040275	:	
Issue Date: 05/09/2006	:	
Application Number: 10/969211	:	ON PETITION
Filing Date: 10/21/2004	:	
Attorney Docket Number: 04185	:	

This is a decision on the petition styled under 37 CFR 1.183, filed on 20 March, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee data on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **dismissed**.

Petitioner requests that a Certificate of Correction be issued to add Aisin Seiki Kabushiki Kaisha as an assignee. 37 CFR 3.81(a) permits the patent to issue to the assignee, provided that, at the time the issue fee is paid, the name of an assignee is provided. 37 CFR 3.81(b) permits the patent to issue in the name of an assignee if the assignment was submitted after payment of the issue fee but ***prior to issuance of a patent***. U.S. Patent and Trademark Office assignment records disclose that no assignment in the name of "Aisin Seiki Kabushiki Kaisha" was ever recorded.

Specifically, the Recordation Cover Sheet filed with the assignment document recorded on 3 December, 2004, lists "Aisan

[1] See Official Gazette of 22 June, 2004.

Seiki Kabushiki Kaisha"[2] as a receiving party, the underlying assignment document names only Aichi Machine Industry Co., Ltd. as the assignee. As such, the assignment does not appear to confer any interest to "Aisan Seiki Kabushiki Kaisha."

As the assignment document does not support a finding that the party sought to be added as an assignee had an interest in the patent at the time it issued, issuance of a certificate of correction would not be proper.[3]

If petitioner desires to request reconsideration, evidence should be provided that an assignment in the name of the desired assignee was recorded prior to issuance of the present patent.

As a certificate of correction is not in order, the certificate of correction fee will be credited to counsel's deposit account. Additionally, the processing fee for a request under 37 CFR 3.81 is only $130.00. Accordingly, the overpayment of $270.00 will also be credited to counsel's deposit account.

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

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

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

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

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[2] A corrective assignment recordation cover sheet correcting the spelling of the name of the entity sought to be added as an assignee was recorded after issuance on 14 March, 2007.

[3] See also MPEP 307.

Telephone inquires concerning this matter may be directed to the undersigned at 571.272.3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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DIW Sep-08

DENNISON, SCHULTZ & MACDONALD
1727 KING STREET
SUITE 105
ALEXANDRIA VA 22314

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SEP 03 2008

OFFICE OF PETITIONS

In re Patent No. 7040275	:	
Issue Date: 05/09/2006	:	
Application Number: 10/969211	:	ON PETITION
Filing Date: 10/21/2004	:	
Attorney Docket Number: 04185	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PETITION PURSUANT TO 37 C.F.R. § 1.183," filed on October 2, 2007, which is treated as a renewed request under 37 CFR 3.81(b)[1] to correct the assignee data on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is again **dismissed**.

Petitioner requests that a Certificate of Correction be issued to add Aisin Seiki Kabushiki Kaisha as an assignee. 37 CFR 3.81(a) permits the patent to issue to the assignee, provided that, at the time the issue fee is paid, the name of an assignee is provided. 37 CFR 3.81(b) permits the patent to issue in the name of an assignee if the assignment was submitted after payment of the issue fee but ***prior to issuance of a patent***. U.S. Patent and Trademark Office assignment records disclose that no assignment in the name of "Aisin Seiki Kabushiki Kaisha" was recorded prior to issuance of a patent.

Specifically, while the Recordation Cover Sheet filed with the assignment document recorded on December 3, 2004, lists "Aisan

[1] See Official Gazette of 22 June, 2004.

Seiki Kabushiki Kaisha" as a receiving party, the underlying assignment document names only Aichi Machine Industry Co., Ltd. as the assignee. As such, the assignment does not appear to confer any interest to "Aisin Seiki Kabushiki Kaisha."

A corrective assignment document was recorded on March 14, 2007, subsequent to the issuance of the patent, to correct the spelling of the second named assignee on the recordation cover sheet. However, a review of the papers submitted with the corrective assignment document reveals that the corrective assignment is a copy of the originally recorded document. which does not appear to confer any interest to "Aisin Seiki Kabushiki Kaisha."

Simply put, the assignment document does not support a finding that the part sought to be added as an assignee had an interest in the patent at the time it issued. Accordingly, issuance of a certificate of correction would not be proper.[2]

As a certificate of correction is not in order, the certificate of correction fee was previously refunded to counsel. Additionally, the processing fee for a request under 37 CFR 3.81 of $130.00 will be refunded.

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

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

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

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

---

[2] See also MPEP 307.

Telephone inquires concerning this matter may be directed to the undersigned at 571.272.3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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EDELL, SHAPIRO & FINNAN, LLC
1901 RESEARCH BOULEVARD
SUITE 400
ROCKVILLE MD 20850

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FEB 27 2008

OFFICE OF PETITIONS

In re Application of
Berger et al.
Application No. 10/969,216
Filed: October 21, 2004
Attorney Docket No. 0267.0004C

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

This is a decision on the petition under 37 CFR 1.78(a)(6), filed November 1, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application no. 60/348,363 set forth in the concurrently filed amendment.

The petition is **GRANTED.**

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

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

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

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

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C.

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

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

Any inquiries concerning this decision may be directed to 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.

The application is being forwarded to Technology Center AU 3714 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

Anthony Knight
Supervisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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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
10/969,216	10/21/2004	3714	560	0267.0004C	24	2

CONFIRMATION NO. 9610

CORRECTED FILING RECEIPT

27896
EDELL, SHAPIRO & FINNAN, LLC
1901 RESEARCH BOULEVARD
SUITE 400
ROCKVILLE, MD 20850

OC000000028489921

Date Mailed: 02/26/2008

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)

Ronald M. Berger, Dayton, MD;
Kevin Luddy, Mount Airy, MD;

Power of Attorney: The patent practitioners associated with Customer Number 27896

Domestic Priority data as claimed by applicant

This application is a CIP of 10/345,402 01/16/2003
and claims benefit of 60/512,770 10/21/2003
and said 10/345,402 01/16/2003
claims benefit of 60/348,363 01/16/2002

Foreign Applications

If Required, Foreign Filing License Granted: 01/13/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/969,216**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

Remote screening and/or therapy tool and method of remotely screening and/or providing therapy over the internet for aspects of vision development and processing related to learning with replay of performance

Preliminary Class

434

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

Mail Date: 05/21/2010

Applicant	: Joel K. Young	: DECISION ON REQUEST FOR
Patent Number	: 7644160	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/969,225	: 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 **1216** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

Mail Date: 04/30/2010

Applicant	: Joel K. Young	: DECISION ON REQUEST FOR
Patent Number	: 7624452	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/969,231	: 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 **1161** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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RICHARD C. PEET
FOLEY & LARDNER LLP
WASHINGTON HARBOUR
3000 K STREET, N.W., SUITE 500
WASHINGTON DC 20007-5143

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OFFICE OF PETITIONS

In re Application of	:
Paul L. Hermonat	:
Application No. 10/969,248	: DECISION GRANTING PETITION
Filed: October 21, 2004	: UNDER 37 CFR 1.137(b)
Attorney Docket No. 023533-0130	:

This is a decision on the petition under 37 CFR 1.137(b), filed October 24, 2005, to revive the above-identified application.

The petition is **GRANTED**.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice To File Missing Parts Of Nonprovisional Application of December 7, 2004, is accepted as having been unintentionally delayed.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $1080 extension of time submitted with the petition on October 24, 2005 was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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JAN 22 2008

OFFICE OF PETITIONS

JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

In re Application of	:	
ALEMANY, Maria	:	
Application No. 10/969,249	:	DECISION ON PETITION
Filed: October 18, 2004	:	TO WITHDRAW
Attorney Docket No. **7409-185-999**	:	FROM RECORD
	:	

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

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being

submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **OFICINA SUGRANES'CARE OF LLUIS VILALTA**
304, CALLE PROVENZA
BARCELONA, ES 08008
SPAIN

UNITED STATES PATENT AND TRADEMARK OFFICE

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222 EAST 41ST ST
NEW YORK, NY 10017

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OCT 27 2008

OFFICE OF PETITIONS

In re Application of	:	
Maria Alemany	:	
Application No. 10/969,250	:	DECISION ON PETITION
Filed: October 18, 2004	:	TO WITHDRAW
Attorney Docket No. 7409-183-999 (CAM # 20937	:	FROM RECORD
	:	

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 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 Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, "assignee of above-identified application has requested that responsibility for this application be transferred", do not meet any the conditions set forth in 37 CFR 10.40.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary

evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: OFFICINA SUGRANES,
C/O LLUIS VILALTA
304, CALLE PROVENZA
BARCELONA, SPAIN 08028

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LAURENCE C. BEGIN
L.C. BEGIN & ASSOCIATES, PLLC
510 HIGHLAND AVE, PMB 403
MILFORD MI 48381-1586

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AUG 2 9 2008

OFFICE OF PETITIONS

In re Application of
Jeffery Blackburn
Application No. 10/969,254
Filed: October 20, 2004
Attorney Docket No. 5702-01050

DECISION ON PETITION

This is a decision on the petition, filed August 4, 2008, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of January 11, 2008, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before April 11, 2008.

Petitioner states that a timely reply was mailed via certificate of transmission on April 11, 2008, which included the following papers: amendment. Petitioner has submitted a copy of the previously mailed correspondence, which bears a certificate of transmission, dated April 11, 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 January 11, 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 April 11, 2008.

This application is being referred to Technology Center AU 3616 for appropriate action in the normal course of business on the reply received with petition.

Charlema Grant

Charlema Grant
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE 9-3-09 Paper No.: _____

TO SPE OF : ART UNIT 3616

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/969254 Patent No.: 7527240

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

FOR IFW FILES: Should case be Approved

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

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

FOR PAPER FILES:

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

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

Ennis Young
Certificates of Correction Branch
703-756-1542

Thank You For Your Assistance

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

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

Comments: _____

/Paul N. Dickson/
SPE

3616
Art Unit

SPE Art Unit

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

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Alexandria, VA 22313-1450
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ST. ONGE STEWARD JOHNSTON & REENS, LLC
986 BEDFORD STREET
STAMFORD CT 06905-5619

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NOV 28 2006
OFFICE OF PETITIONS

In re Application of :
Angela SINGLETON et al. :
Application No. 10/969,259 :
Filed: October 20, 2004 :
Attorney Docket No. 04074- P0001B :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 28, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed July 10, 2006, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on October 10, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue Fee; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the Issue Fee payment is accepted as having been unintentionally delayed.

It is noted that the petition to withdrawal from issue is unnecessary and has therefore will not be acted upon.

Telephone inquiries concerning this decision should be directed to David A. Bucci at (571) 272-7099.

David Bucci
Petitions Examiner
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

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AUG 0 9 2007

OFFICE OF PETITIONS

In re Application of	:	
David R. Fischell	:	
Application No. 10/969,260	:	DECISION ON PETITION
Filed: October 20, 2004	:	
Attorney Docket No. CRD-1054DIV	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 21, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed April 5, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on July 6, 2006. A Notice of Abandonment was mailed on November 8, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of a request for continued examination, $790 filing fee, and submission as required by 37 CFR 1.114, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the final Office action of April 5, 2006 is accepted as being unintentionally delayed.

This application is being referred to Technology Center AU 3738 for processing the request for continued examination and for appropriate action in the normal course of business on the submission under 37 CFR 1.114 received November 21, 2006.

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

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

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APR 2 0 2009

OFFICE OF PETITIONS

HAYNES AND BOONE, LLP
IP Section
2323 Victory Avenue
Suite 700
Dallas TX 75219

In re Application of	:	
Cowin et al.	:	
Application No. 10/969286	:	
Filing or 371(c) Date: 10/20/2004	:	ON PETITION
Title of Invention:	:	
BEHAVIOR AGENT BASED SYSTEM AND	:	
PROCESS FOR MACHINE TO MACHINE	:	
APPLICATIONS AND SERVICES	:	

This is a decision on the "Petition to Withdraw Holding of Abandonment Under 37 CFR § 1.181," filed January 30, 2008.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Office action, mailed March 27, 2007. The Office action set a one (1) month period for reply. No response having been received, the application became abandoned on April 28, 2007. A Notice of Abandonment was mailed December 28, 2007.

With the present petition, Applicant has demonstrated non-receipt of the Office action by a preponderance of the evidence in accordance with the MPEP 711.03(c)[1].

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

[1] A review of Office records reveals that Petitioner timely filed a proper Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address, and thereafter this Office inadvertently mailed the Office action to the prior correspondence address of record.

It is also noted that while the petition fails to include accompanying declarations verifying that the Office action was not received as stated in the petition, in view of the foregoing the petition is grantable.

No petition fee has been charged and none is due.

The application will be referred to Technology Center Art Unit 2183 for re-mailing of the Office action and re-setting the period for reply, in the normal course of business.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

./Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MORRISON & FOERSTER LLP
555 WEST FIFTH STREET
SUITE 3500
LOS ANGELES, CA 90013-1024

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SEP 29 2008
OFFICE OF PETITIONS

In re Application of David Wake Application No. 10/969,294 Filed: October 19, 2004 Attorney Docket No. 556592000900	: : : : : :	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 16, 2005.

The request is **MOOT**.

A review of the file record indicates that the power of attorney to MORRISON & FOERSTER LLP, has been revoked by the assignee of the patent application on July 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 correspondence address of record until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4914.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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RUTAN & TUCKER, LLP
611 ANTON BLVD., SUITE 1400
COSTA MESA, CA 92626

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OFFICE OF PETITIONS

In re Application of	:	
Earl J. VOTOLATO	:	
Application No. 10/969,298	:	DECISION ON PETITION
Filed: October 19, 2004	:	TO WITHDRAW
Attorney Docket No. 019502.0026US2	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed October 29, 2008.

The request is **NOT APPROVED**.

A review of the file record indicates that Todd Wight does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: ROBERT FISH
FISH & ASSOCIATES, PC
2603 MAIN STREET, SUITE 1050
IRVINE, CA 92614

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RUTAN & TUCKER, LLP
611 ANTON BLVD., SUITE 1400
COSTA MESA CA 92626

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OFFICE OF PETITIONS

In re Application of	:	
Michael OWENS	:	
Application No. 10/969,299	:	DECISION ON PETITION
Filed: October 19, 2004	:	TO WITHDRAW
Attorney Docket No. 101232.0001US1	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed October 1, 2008.

The request is **NOT APPROVED**.

A review of the file record indicates that Todd W. Wight does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: ROBERT FISH
FISH & ASSOCIATES, PC
2603 MAIN STREET, SUITE 1050
IRVINE, CA 92614

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THORPE NORTH & WESTERN, LLP.
P.O. Box 1219
SANDY, UT 84091-1219

Mail Date: 06/09/2010

Applicant	: Harold Dee Gardiner	: DECISION ON REQUEST FOR
Patent Number	: 7710416	: RECALCULATION of PATENT
Issue Date	: 05/04/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/969,313	: OF WYETH
Filed	: 10/19/2004	:
		:

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

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

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

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

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

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

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

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

or

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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WILLIAM C. STEFFINS, ESQ.
LEWIS, BRISBOIS, BISGAARD & SMITH LLP
SUITE 1200
221 NORTH FIGUEROA STREET
LOS ANGELES, CA 90012

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OCT 12 2006

OFFICE OF PETITIONS

In re Application of	:	
Sanford, et al.	:	
Application No. 10/969,318	:	DECISION ON PETITION
Filed: October 19, 2004	:	TO WITHDRAW
Attorney Docket No. 26641-7	:	FROM RECORD
	:	

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 16, 2006.

The request is **NOT APPROVED**.

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

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

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: LEANNE HOLLAND
KEY DATA SYSTEMS
570 CENTRAL AVENUE
SUITE J2
LAKE ELSINORE, CA 92530

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WILLIAM C. STEFFINS, ESQ.
LEWIS, BRISBOIS, BISGAARD & SMITH LLP
SUITE 1200
221 NORTH FIGUEROA STREET
LOS ANGELES, CA 90012

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OCT 24 2006
OFFICE OF PETITIONS

In re Application of	:	
Sanford, et al.	:	
Application No. 10/969,318	:	DECISION ON PETITION
Filed: October 19, 2004	:	TO WITHDRAW
Attorney Docket No. 26641-7	:	FROM RECORD
	:	

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 18, 2006.

The request is **APPROVED**.

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

The request was signed by William C. Steffin on behalf of all attorneys of record who are associated with this application.

All attorneys/agents associated with this application have been withdrawn.

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

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

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There is an outstanding Office action mailed November 24, 2006 that requires a reply from the applicant.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: FAY G. SANFORD
32100 FEDCO HEIGHTS DRIVE
WILDOMAR, CA 92595

cc: LEANNE HOLLAND
KEY DATA SYSTEMS
570 CENTRAL AVENUE
SUITE J2
LAKE ELSINORE, CA 92530

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/969,318	10/19/2004	Fay G. Sanford	26641-7

CONFIRMATION NO. 5830

OC000000020961182

OC000000020961182

William C. Steffin, Esq.
LEWIS, BRISBOIS, BISGAARD & SMITH LLP
Suite # 1200
221 North Figueroa Street
Los Angeles, CA 90012

Date Mailed: 10/24/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/18/2006.

- 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
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

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Foley and Lardner LLP
Suite 500
3000 K Street NW
Washington, DC 20007

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OFFICE OF PETITIONS

In re Application of	:	
Tapesh Yadav, et al.	:	
Application No. 10/969,353	:	DECISION ON PETITION
Filed: October 21, 2004	:	TO WITHDRAW
Attorney Docket No. 037768-0122	:	FROM RECORD
	:	

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 5, 2008.

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

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

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

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

T. Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **PPG Industries Inc.**
Intellectual Property Dept.
One PPG Place
Pittsburgh, PA 15272

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DIW Feb-06

FORD GLOBAL TECHNOLOGIES, LLC.
SUITE 600 - PARKLANE TOWERS EAST
ONE PARKLANE BLVD.
DEARBORN MI 48126

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FEB 17 2006

OFFICE OF PETITIONS

In re Patent No. 6,918,624	:
Issued: 19 July, 2005	: DECISION DISMISSING PETITION
Application No. 10/969,413	: UNDER 37 CFR 3.81(b)
Filed: 20 October, 2004	:
Atty Docket No. 81097863	:

This is a decision on the petition, filed on 2 December, 2005, under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **DISMISSED**.

Petitioner requests the addition of MULTIMATIC, INC. as an assignee.

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). As petitioner has failed to comply with the provisions of 37 CFR 3.81(a), the request cannot be granted.

---

[1] *See* Official Gazette of June 22, 2004.

A review of Office database assignment records reflects that assignment to MULTIMATIC, INC. has been recorded. Therefore, upon submission of the required certificate of correction and fee, it would be appropriate for the Office to issue a certificate of correction to correct the front page of the Letters Patent to reflect that MULTIMATIC, INC. was an assignee of record at the time of issuance of the instant application into a patent. *Note also* 35 U.S.C. § 152.

In view of the above **the Certificates of Correction Branch is instructed to issue a certificate of correction upon submission by petitioner of a request for a certificate of correction (and fee) which sets forth MULTIMATIC, INC. an 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, as this decision operates as an instruction to the Certificates of Correction Branch to issue the requested certificate of correction.

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

After the submission by petitioner of the request for a certificate of correction to correct the assignee data on the front page of the Letters Patent, any questions pertinent thereto should be directed to the Certificates of Correction Branch at (703) 305-8309.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/969,457	10/20/2004	Yukinori Takahashi	00527D/LH	3796

1933 7590 05/18/2006

FRISHAUF, HOLTZ, GOODMAN & CHICK, PC
220 Fifth Avenue
16TH Floor
NEW YORK, NY 10001-7708

EXAMINER
SPECTOR, DAVID N

ART UNIT	PAPER NUMBER
2873	

DATE MAILED: 05/18/2006

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Application of	:	
Tatsuji HIGUCHI et al.	:	DECISION ON PETITION
Serial No.: 10/969,457	:	UNDER 37 CFR 1.48(a)
Filed: 10/20/2004	:	
For: ELECTRONIC IMAGING DEVICE	:	

In view of the papers filed on December 01, 2005 under 37 CFR 1.48(a), the inventorship in this nonprovisional application has been changed by the deletion of Tatsuji HIGUCHI and Masaaki DAIGAKU. Thus, the Petition is granted.

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of Office records to reflect the inventorship as corrected.

Ricky L. Mack
Supervisory Patent Examiner
Art Unit 2873

01933
FRISHAUF, HOLTZ, GOODMAN & CHICK, PC
220 FIFTH AVENUE, 16TH FLOOR
NEW YORK , NY 10001-7708

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Commissioner for Patents
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Paper No.

DARBY & DARBY P.C.
P.O. BOX 770
Church Street Station
New York NY 10008-0770

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SEP 12 2008

OFFICE OF PETITIONS

In re Patent No. 7,316,997	:
Abribat et al.	: DECISION ON
Issue Date: January 8, 2008	: REQUEST FOR RECONSIDERATION
Application No. 10/969,463	: OF
Filed: October 20, 2004	: PATENT TERM ADJUSTMENT
Atty Docket No. 04518/0202035-US0	:

This is a decision on the "REQUEST FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d)," filed February 7, 2008. Patentees request that the patent term adjustment indicated on the patent be corrected from zero (0) days to seventy-seven (77) days.

The request for reconsideration of the patent term adjustment under § 1.705(d) is **DISMISSED**.

Patentees are given TWO (2) MONTHS from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

On January 8, 2008, the above-identified application matured into U.S. Patent No. 7,316,997. The instant request for reconsideration filed February 7, 2008, was timely filed within 2 months of the date the patent issued. See § 1.705(d). The Patent issued with a revised Patent Term Adjustment of 0 days. The PTA of 77 days was reduced by 99 days pursuant to 37 CFR § 1.704(c)(10) for the submission of a supplemental application data sheet after the mailing of the notice of allowance. Patentees dispute the 99 day reduction.

The reduction has been considered and found to be proper. It is undisputed that a supplemental application data sheet was filed after the mailing of the Notice of Allowance. This is properly a basis for reduction of patent term adjustment pursuant to § 1.704(c)(10).

37 CFR § 1.704(c)(10) provides that:

Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:

(i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper;

or

(ii) Four months;

As stated in MPEP 2732:

> 37 CFR 1.704(c)(10) establishes submission of an amendment under 37 CFR 1.312 or other paper after a notice of allowance has been given or mailed as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. The submission of amendments (or other papers) after an application is allowed may cause substantial interference with the patent issue process.
>
> Certain papers filed after allowance are not considered to be a failure to engage in reasonable efforts to conclude processing or examination of an application. See *Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed*, 1247 Off. Gaz. Pat. Office 111 (June 26, 2001). The submission of the following papers after a "Notice of Allowance" is not considered a failure to engage in reasonable efforts to conclude processing or examination of an application: (1) Fee(s) Transmittal (PTOL-85B); (2) Power of Attorney; (3) Power to Inspect; (4) Change of Address; (5) Change of Status

(small/not small entity status); (6) a response to the examiner's reasons for allowance or a request to correct an error or omission in the "Notice of Allowance" or "Notice of Allowability;" and (7) letters related to government interests (e.g., those between NASA and the Office). Papers that will be considered a failure to engage in reasonable efforts to conclude processing or examination of an application include: (1) a request for a refund; (2) a status letter; (3) amendments under 37 CFR 1.312; (4) late priority claims; (5) a certified copy of a priority document; (6) drawings; (7) letters related to biologic deposits; and (8) oaths or declarations.

A supplemental application data sheet is not identified as a paper which will not be considered a failure to engage. Further, patentees are incorrect in their assertion that the supplemental application data sheet is a change of address, as noted above, that is not considered a failure to engage. The change of address identified in the notice refers to a change of address of the application. A change of address of the application does not substantially interfere with the patent application process. Moreover, a supplemental application data sheet filed to correct inventor addresses and priority information is more like a late priority claim and an oath or declaration, both the filing of which, constitutes a failure to engage within the meaning of 37 CFR 1.704(c)(10). It is concluded that the filing of a supplemental application data sheet after the mailing of the notice of allowance may substantially interfere with the patent issuance process and thus, is properly a basis for reduction under 37 CFR 1.704(c)(10). The reduction of 99 days is proper.

In view thereof, it is concluded that the patent properly issued with a revised Patent Term Adjustment of zero (0) days.

Receipt is acknowledged 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) 272-3219.

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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MAR 2 9 2010

OFFICE OF PETITIONS

In re Patent No. 7,316,997	: DECISION ON REQUEST FOR
Abribat et al.	: RECONSIDERATION OF
Issue Date: January 8, 2008	: PATENT TERM ADJUSTMENT
Application No. 10/969,463	: and
Filed: October 20, 2004	: NOTICE OF INTENT TO ISSUE
Atty Docket No. 04518/0202035-US0	: CERTIFICATE OF CORRECTION

This is in response to the RESPONSE TO DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT filed November 11, 2008. Patentee requests that the patent term adjustment indicated on the patent be corrected from zero (0) days to seventy-seven (77) days.

The request for reconsideration of the patent term adjustment under § 1.705(d) is **GRANTED**.

On January 8, 2008, the above-identified application matured into U.S. Patent No. 7,316,997, with a revised patent term adjustment of 0 days. By decision mailed September 12, 2008, the initial request for reconsideration filed February 7, 2008, was dismissed. On instant renewed request, patentee continues to dispute the reduction of 99 days pursuant to 37 CFR § 1.704(c)(10) for the submission of a supplemental application data sheet after the mailing of the notice of allowance.

The reduction of 99 days has been reconsidered and it has been determined that in this instance, the entry of a period of reduction for the filing of the supplemental application data sheet on October 2, 2007 is not warranted. The reduction of 99 days is being removed.

In view thereof, it is concluded that the patent should have issued with a revised Patent Term Adjustment of seventy-seven (77) days.

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 seventy-seven (77) days.

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

Nancy Johnson

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 : 7,316,997 B2

DATED : **January 8, 2008** **DRAFT**

INVENTOR(S) : Abribat et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 0 days

Delete the phrase "by 0 days" and insert – by 77 days--

SCAN! Please forward case and paper to address shown below.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/14/08

TO SPE OF : ART UNIT 2614 Tsang FAN (Spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/969487 Patent No.: 7227930

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

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

HENRY RANDALL
Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

/FAN TSANG/
SPE, AU2614

SPE — Art Unit

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VALLEY FORGE, PA 19482-0980

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OFFICE OF PETITIONS

In re Application of	:
Gerhard Stengl et al	:
Application No. 10/969,493	: DECISION GRANTING PETITION
Filed: October 20, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. MAT-0010	:

This is a decision on the petition, filed May 4, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 27, 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 2881 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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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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THOMSON LICENSING LLC
TWO INDEPENDENCE WAY
SUITE 200
PRINCETON, NJ 08540

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JAN 25 2008

OFFICE OF PETITIONS

In re Application of
Wolfgang Endress, et al.
Application No. 10/969,529
Filed: October 20, 2004
Attorney Docket No. PD 030099

ON PETITION

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

The petition is **GRANTED**.

The application became abandoned for failure s to timely pay the issue and publication fees on or before October 1, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed June 29, 2007, which set a statutory period for reply of three (3) months. Accordingly, on October 3, 2007, the present petition was filed. A Notice of Abandonment was subsequently mailed on December 5, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $1,440 issue fee and the $300 publication fee; (2) the petition fee of $1,540; 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.

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

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: MICHAEL a. PUGEL
THOMSON LICENSING LLC
P.O. Box 5312
PRINCETON, NJ 08543

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ANTONIO R. DURANDO
6902 N. TABLE MOUNTAIN ROAD
TUCSON, AZ 85718-1331

MAILED

MAY 04 2010

OFFICE OF PETITIONS

In re Patent No. 7,074,017 :
Issue Date : July 11, 2006 :
Application No. 10/969,535 : NOTICE
Filed: October 20, 2004 :
Attorney Docket No.: 122100.00003

The above-identified patent has been referred to the Office of Petitions for consideration of a communication filed February 22, 2010 by Dennemeyer & Co LTD. The communication is being treated as a request under 37 CFR 1.28(c), as it includes authorization to charge a maintenance fee deficiency and a letter indicating that patentee is no longer entitled to claim status as a small entity.

The request for acceptance of a fee deficiency submission under 37 CFR 1.28 (c) is **DISMISSED.**

The instant request does not identify the status of the submitter Dennemeyer & Co. LTD, or the relationship of the party signing (which signature is illegible and a printed name does not appear) to Dennemeyer & Co. LTD. Consequently, the request is not signed by a proper party in accordance with 37 CFR 1.33(b) which reads:

> (b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
> (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
> (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
> (3) An assignee as provided for under §3.71(b) of this chapter; or
> (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

While the Office will accept maintenance fee payments from third party payers, such acceptance does not extend to prosecution papers, such as papers under § 1.28(c) to correct erroneous fee payments, or to requests that small entity status be removed.

Applicant is given **ONE MONTH** to submit a properly signed **paper requesting a change in small entity status, and a request under § 1.28(c), including a list** of the fees erroneously paid as a small entity and the total fee deficiency to avoid the return of the present fee deficiency paper **and fee**. This time period is not extendable under 37 CFR 1.136(a).

The file does not indicate a change of address has been submitted, although the address given on the request 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 request; however, the Office will mail all future correspondence solely to the address of record.

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]

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: DENNEMEYER & CO LTD
REGENT HOUSE HEATON LANE
STOCKPORT CHESHIRE
ENGLAND SK4 1BB

[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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JUL 29 2010

OFFICE OF PETITIONS

ANTONIO R. DURANDO
6902 N. TABLE MOUNTAIN ROAD
TUCSON, AZ 85718-1331

In re Patent No. 7,074,017	:	
Issued: July 11, 2006	:	
Application No. 10/969,535	:	NOTICE
Filed: October 20, 2004	:	
Attorney Docket No.: 122100.00003	:	

This notice is in response to the communication filed June 3, 2010, which is being treated as a supplement to the communication of February 22, 2010, requesting, in effect, acceptance of a fee deficiency submission under 37 CFR 1.28.

The present communication is not signed by a registered patent practitioner of record. However, in accordance with 37 CFR 1.34(a), the signature of Daniel DeJoseph appearing on the communication 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. While a courtesy copy of this communication is being mailed, the appropriate power of attorney or authorization of agent must be submitted if Mr. DeJoseph desires to receive future correspondence regarding this patent.

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

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED** and status as a small entity has been changed.

Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: DANIEL DEJOSEPH
FLSMIDTH
LEGAL DEPARTMENT
2040 AVENUE C
BETHLEHEM, PA 18017

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Paper No.

James M. Francis
Ste 507
271 W Short St
Lexington, KY 40507

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APR 19 2005

OFFICE OF PETITIONS

In re Application of	:	
Russell Brown	:	DECISION ON
Application No. 10/969,548	:	PETITION
Filed: October 19, 2004	:	
Atty Docket No. 125-PA-0406	:	
	:	

This is in response to the paper styled "PETITION AND AMENDMENT" filed February 1, 2005, requesting that the Office grant a filing date for the above-identified application.

The petition is **GRANTED** to the extent indicated herein. The application is accorded a filing date of October 19, 2004[1], with no drawings present in the application.

Application papers in the above-identified nonprovisional application were filed on October 19, 2004. However, on December 2, 2004, the Initial Patent Examination Division mailed applicant a "Notice of Incomplete Nonprovisional Application," stating that the application papers filed October 19, 2004 had not been accorded a filing date because the application was deposited without drawings.

[1] Although the originally application papers were filed with a Certificate of Mailing stating that the application was deposited in Express Mail on October 18, 2004, the record does not support a conclusion that the application papers were deposited on October 18, 2004 in compliance with 37 CFR 1.10 such that the application is entitled to a filing date of October 18, 2004. Nor does applicant contend such on petition.

In response, applicant timely filed the instant petition. Therein, petitioner stated that the application is entitled to a filing date on the grounds that a drawing is not necessary for the understanding of the subject matter sought to be patented. However, petitioner also included four (4) sheets of drawings; an "amendment" to the specification seeking to amend the original specification to include the attached drawings; a declaration referring to an amendment filed January 27, 2005; with a check for $190 to cover both the petition fee and the late declaration surcharge. Petitioner also requests refund of the petition fee.

RELEVANT STATUTES AND REGULATIONS

35 U.S.C. 111(a)(4) provides that:

> 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.

However, as stated in MPEP 601.01(f)

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

MPEP § 601.01(f) also states that:

> a nonprovisional application having at least one claim ..., directed to subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g), so long as the application contains something that can be construed as a written description.

And, MPEP § 601.01(g) further provides that:

> If the application is filed without all of the drawing figure(s) referred to in the specification, ..., OIPE will mail a "Notice of Omitted Item(s)" indicating that the application papers so deposited have been accorded a filing date, but are lacking some of the figures of the drawings described in the specification.

DISCUSSION

The instant petition is ambiguous as to the filing date desired. Petitioner states that the application is entitled to a filing date on the basis that a drawing is not necessary for the understanding of the subject matter sought to be patented. This statement is interpreted as an assertion that the application is entitled to a filing date of October 19, 2004, the original date of filing of the application papers, without drawings present in the application.

Yet, petitioner submits an amendment, the drawings and a new declaration. This submission is consistent with a desire to submit the omitted drawing(s) in a nonprovisional application and accept the date of such submission as the application filing date. Except, the required petition under 37 CFR 1.182 and fee does not accompany the submission.

At the same time, petitioner does not establish (or even assert) prior receipt in the Office of the drawings at issue (which is generally by way of a date-stamped postcard receipt (MPEP 503)). Moreover, the application is not entitled to a filing date of October 19, 2004 with the four (4) sheets of drawings, containing figures 1-3, supplied on petition. Figures not present on the filing date cannot be considered a part of the original disclosure of the application. The application file is the Official record of the papers received in an application. As Figures 1-3 were not present in the Office on October 19, 2004, the application cannot be accorded the October 19, 2004 filing date with the drawings of Figures 1-3 as a part of the original disclosure.

Regarding omitted figures 1-3, petitioner has the following options:

> (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)).

Petitioner is given **two (2) months** from the mail date of this decision to take such action.

Nonetheless, a review of the application confirms that as filed it contained at least one method claim. Pursuant to § 601.01(f), a drawing is not considered essential for a filing date. Thus, the application is entitled to a filing date without drawings present in the application.

However, as the specification in the instant nonprovisional application contained reference to drawing figures 1 through 3 (Brief Description of Drawings, p. 12 of Specification), mailing of a Notice requiring submission of those drawings was appropriate. The Office should have mailed a "Notice of Omitted Items" rather than a "Notice of Incomplete Nonprovisional Application." To the extent that the Notice denied a filing date, the "Notice of Incomplete Nonprovisional Application" mailed December 2, 2004, was mailed in error and is hereby **withdrawn**.

In view thereof, the application as originally deposited without drawings is entitled to a filing date of October 19, 2003.

Given the basis for granting the petition, the petition fee is being refunded. Petitioner is reminded that effective November 22, 2004, the fee for consideration of a petition to accord a filing date under § 1.53(e) increased to $400. Thus, the instant petition filed with a petition fee of $130 was subject to dismissal for failure to include the proper fee. (The

petition did not include an authorization to charge any deficiencies to a Deposit Account). As the petition fee is being refunded, and under the circumstances of this case, the petition is not on this occasion being dismissed for failure to pay the proper fee.

CONCLUSION

The Office of Initial Patent Examination (OIPE) has been advised of this decision. Pursuant to this decision, the application has been referred to OIPE for **correction of the filing date to October 19, 2004** and for indication in Office records, as appropriate, that "0" sheets of drawings were present on filing.

Telephone inquiries specific 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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CRAIG W RODDY
HALLIBURTON ENERGY SERVICES
PO BOX 1431
DUNCAN OK 73536-0440

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SEP 28 2007

OFFICE OF PETITIONS

In re Application of Dealy, et al Application No. 10/969,570 Filed: October 20, 2004 Attorney Docket No. HES 2004-IP-013420U1	: : : : :	ON PETITION

This is a decision on the petition to revive under 37 CFR 1.137(b), filed August 24, 2007.

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

The above-identified application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed May 23, 2007. This Notice set a statutory period for reply of three (3) months for issue fee transmittal. No issue fee having been received, the application became abandoned on August 24, 2007. A Notice of Abandonment was mailed on August 29, 2007.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of the issue fee.

The matter is being forwarded to the Office of Patent Publication for processing into a patent.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Fellers, Snider, Blankenship, Bailey & Tippens, P.C.
Bank One Tower
100 North Broadway, Suite 1700
Oklahoma City, OK 73102-8820

In re Application of: Roberson, et al.
Application No. 10/969,580
Filed: 20 October 2004
For: METADATA FOR A GRID BASED DATA STORAGE SYSTEM

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P.§708.02(VIII)

This is a decision on the petition filed 16 December 2004 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 16 December 2004 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 16 December 2004, however, provides only a terse summary of the invention and then asserts that none of the references teach Applicant's claimed features. Petitioner mentions "[s]ome previously attempted solutions" in a general summary of some related references. Simply citing (without discussion) 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."

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.

for

Vincent Trans
Special Program Examiner 5/25/05
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3613

GO

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

Fellers, Snider, Blankenship,
Bailey & Tippens
100 North Broadway
Suite 1700
Oklahoma City, OK 73102-8820

MAILED

DEC 1 5 2005

Technology Center 2100

In re Application of:
Randy L. ROBERSON, et al.
Application No. 10/969,580
Filed: October 20, 2004
For: METADATA FOR A GRID BASED DATA STORAGE SYSTEM

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition, filed on December 16, 2004 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. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
>
> (E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR §§ 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

> In those instances where the request for this special status does not meet all the prerequisites set forth above, applicant will be notified and the defects in the request will be stated. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

Applicant's submission of December 16, 2004 fails to meet requirement (E) as set forth above. Responsive to requirement (E), the discussion does not sufficiently distinguish the patentable feature in the claimed subject matter relative to the prior art references. Applicant must bring out the specific feature that defines the claimed invention as set forth in the independent claims in order to properly discuss the same with relevant details from each of the references. Section (E) explicitly mandates that the "discussion points out, with the particularity required by 37 CFE 1.111 (b) and (c), how the claimed subject matter is patentable over the references." Applicant's petition, however, does not distinctly identify the claim component that distinguishes the claimed invention from the reference prior art.

Applicant's petition provided no statement that a pre-examination search was made and no discussions of the references and how the claimed subject matter is patentable over the references.

Accordingly, the petition is **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.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

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

Fellers, Snider, Blankenship, Bailey & Tippens, PC
Bank One Tower
100 North Broadway, Suite 1700
Oklahoma City, OK 73102-8820

Mail Date: 04/21/2010

Applicant	: Randy L. Roberson	: DECISION ON REQUEST FOR
Patent Number	: 7594075	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/969,580	: 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 **470** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

MAR 18 2005

In re Application of	:	
Darrick Yokomi	:	
Serial No. 10/969,605	:	DECISION ON PETITION
Filed: October 20, 2004	:	TO MAKE SPECIAL
For: PLURAL SIDED ROLLING GAME	:	
PIECE AND METHOD OF PLAY	:	

Applicant's petition, filed October 20, 2004, seeks to have this application made special pursuant to the Accelerated Examination Program. The petition is GRANTED.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(VIII) of the Manual of Patent Examining Procedures (MPEP).

Applicant is advised that the examiner's search will be restricted to the subject matter encompassed by the claims. In the event that the application receives a first action rejection, applicant is encouraged to arrange for an interview with the examiner, and to provide the examiner with a working copy of any proposed amendment one working day prior to the interview. Any amendment filed in response to a first action rejection which would require broadening of the field of search will be treated as an improper response.

PETITION GRANTED

E. R. Kazenske, Director
Technology Center 3700

Gene Scott
Patent Law & Venture Group
3140 Red Hill Avenue, Suite 150
Costa Mesa, CA 92626-3440

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

MAR 10 2005

BROWN, RAYSMAN, MILLSTEIN,
FELDER & STEINER LLP
900 THIRD AVENUE
NEW YORK, NY 10022

MAILED
MAR 10 2005
OFFICE OF THE DIRECTOR
TC 3600

In re application of Johnathan Schull Application No. 10/969,623 Filed: October 20, 2004 For: SYSTEM AND METHOD FOR PROCESSING PROTECTED AUDIO INFORMATION	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)**

This is a decision on the petition under 37 C.F.R §1.102(d) filed February 7, 2005 to make the above-identified application special. The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(h); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market or method in use; (B) that a rigid comparison of the alleged infringing device, product or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed February 7, 2005 lacks requirement 2(C) above. In this regard, petitioner states, "Applicant has caused to be made a careful and thorough search of prior art, and has good knowledge of the pertinent art." However, the application file has been reviewed, and no copies provided by applicant, of the most closely related prior art, have been located. In view of this deficiency, 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.

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

KJD/slb: 02/17/05

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JUL 25 2005

BROWN, RAYSMAN, MILLSTEIN,
FELDER, & STEINER LLP
900 THIRD AVENUE
NEW YORK, NY 10022

In re application of Johnathan Schull Application No. 10/969,623 Filed: October 20, 2004 For: SYSTEM AND METHOD FOR PROCESSING PROTECTED AUDIO INFORMATION	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)**

This is a decision on the petition under 37 C.F.R § 1.102(d) filed April 11, 2005 to make the above-identified application special.

The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market or method in use; (B) that a rigid comparison of the alleged infringing device, product or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed April 11, 2005 meets all of the requirements above and, therefore, the petition is **GRANTED**.

With regards to element 2(C) above, an Information Disclosure Statement was filed on April 11, 2005.

The examiner is directed (1) to make an interference search for possible interfering applications; (2) to promptly examine this application out of turn; and (3) if any interfering application is discovered, to examine such application

simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

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

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

SNM/slb: 07/19/05

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

SONNENSCHEIN NATH & ROSENTHAL, LLP
P.O. BOX 061080
WACKER DRIVE STATION, SEARS TOWER
CHICAGO, IL 60606-1080

COPY MAILED
JUN 26 2006
OFFICE OF PETITIONS

In re Application of	:	
Moskowitz, et. al.	:	DECISION ON REQUEST
Application No. 10/969,629	:	TO WITHDRAW FROM
Filed: October 20, 2004	:	RECORD
Attorney Docket No. 60019190-1064	:	

This is a decision on the request to withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed by facsimile transmission on March 14, 2006.

The request to withdraw as attorney or agent is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to all the attorneys or agents of record have been revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is moot.

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

There is an outstanding Office action mailed February 10, 2006 that requires a reply from the applicant.

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

Andrea Smith
Petitions Examiner
Office of Petitions

Conferee:

cc: BLACKWELL SANDERS PEPER MARTIN, LLP
720 OLIVE STREET
SUITE 2400
ST. LOUIS, MO 63101

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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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/969633	10/20/2004	Willey	9777

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI OH 45224

DATE MAILED: November 29, 2004

PETITION DECISION

Dear Applicant:

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

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

Kalethia King

Signature of Reviewer, Office of Pre-Grant Publication

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FELLERS, SNIDER, BLANKENSHIP, BAILEY
& TIPPENS, P.C.
100 NORTH BROADWAY
SUITE 1700
OKLAHOMA CITY, OK 73102-8820

MAILED
DEC 01 2006
Technology Center 2100

In re Application of: ROBERSON, et al.
Application No. 10/969,648
Filed: October 20, 2004
For: UPDATING SYSTEM CONFIGURATION INFORMATION

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 June 30, 2005. The status letters filed December 1, 2005 and April 21, 2006 are acknowledged.

The Petition is **DISMISSED**.

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

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

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

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

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

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

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

With respect to requirement (c) above, the instant petition does not contain the required statement that "a pre-examination search was made", and corresponding listing of 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 and a statement to this effect should appear in the petition. A search made by a foreign patent office satisfies this requirement, as identified above. The instant petition merely states "a search has been made by attorney".

With respect to requirement (e) above, the petition does not contain 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 pending independent claims (i.e. 1, 11 & 18) is specifically distinguishable and patentable from the references provided in requirement (d) above. Note, with particular reference to independent claims 1 and 18, a careful review of the claim recitation identified by the Petitioner, i.e. "*a first processor* ... a ***portion of system*** .. *and second processor* .. ***said portion*** *independently of the first processor*" does not appear in those claims, as indicated. Petitioner should ensure that the comparison of language that defines over the most closely related reference(s) is consistent with the claim language present in the instant application. The petition does not specifically recite language or limitations from the independent claims to properly compare/contrast the claimed invention (each of the independent claims) with respect to the prior art in the identified references. Petitioner is required to submit a **detailed discussion that includes identifying claim limitations with particularity for each independent claim** that shows how the claimed invention distinguishes over the relevant teachings of each reference.

Applicant's petition fails to provide a "detailed discussion of the references" with the requisite particularity that illuminates the salient prior art issues relative to the claimed subject matter. Petitioner's **cursory treatment** of the references does not detail, with the particularity called for under section (e), the relevancy of the prior art pedagogy in order to sufficiently set forth a case distinguishing the limitations claimed to be patentable in relation to the given reference.

In the discussion of the references, Petitioner is required to point out (substantively detail) the prior art elements and associations germane to the claims to fully flesh-out the comparison between the referenced prior art and Applicant's claimed features. The petition must specifically show, for each independent claim, specific language that distinguishes over each given reference in order to specify "how the claimed subject matter is patentable over the references." In addition, the petition is silent as to the pertinence of "the remaining references of record" specifically, as to their relevance to the instant claims. Also, in the discussion of the references, Petitioner refers to claim 1-21 of which only claims 1-20 appear in the instant application. Finally, the reference to Stallmo (6,708,769), identified in requirement (d) above, does not appear to have been listed on an attached PTO-1449 or PTO/SB/08. Petitioner should provide a proper listing of such reference to ensure consideration by the Examiner.

Because the petition fails to satisfy all of the criteria set forth above, the petition to make special is **DISMISSED**.

Any requests for reconsideration must be filed within TWO (2) MONTHS from the mailing date of this decision.

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, 571-272-3595
Workgroup Quality Assurance Specialist, Tech. Center 2100
Computer Architecture, Software and Information Security

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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FEB 2 7 2007

Technology Center 2100

Fellers, Snider, Blankenship, Bailey, & Tippens, PC
100 North Broadway, Suite 1700
Oklahoma City, OK 73102-8820

In re Application of: Roberson, et al.
Application No. 10/969,648
Filed: October 20, 2004
For: UPDATING SYSTEM CONFIGURATION INFORMATION

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER M.P.E.P. §708.02 (VIII)

This is a decision on the petition, filed 30 June, 2005, and the request for reconsideration of adverse decision, filed February 1, 2007, requesting the grant of special status based on M.P.E.P. §708.02, Section VIII.

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.

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

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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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/969668	10/20/2004	Willey	9776

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI OH 45224

DATE MAILED: November 29, 2004

PETITION DECISION

Dear Applicant:

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

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

Kalethia King

Signature of Reviewer, Office of Pre-Grant Publication

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Calfee Halter & Griswold, LLP
800 Superior Avenue
Suite 1400
Cleveland, OH 44114

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AUG 0 8 2006
OFFICE OF PETITIONS

In re Application of	:	
Horatiu M. Popescu	:	
Application No. 10/969,670	:	DECISION ON PETITION
Filed: October 21, 2004	:	TO WITHDRAW
Attorney Docket No.	:	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 February 10, 2006.

The request is **NOT APPROVED**.

A review of the file record indicates that Joan N. Drew and the attorney(s) or agents(s) associated with Customer Number 24024 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 Terri Williams at 571-272-2991.

David Bucci
Petitions Examiner
Office of Petitions

cc: Horatiu M. Popescu
1209 St. Paul Ave.
Windsor, Ontario N85 4T6
Canada

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.

Sheldon S. L. Chang
5 Seaside Drive
P.O. Box 273
Port Jefferson NY 11777-0273

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JAN 07 2008

OFFICE OF PETITIONS

In re Application of :
Sheldon S. L. Chang :
Application No. 10/969,676 :
Filed: October 21, 2004 :
Title: ROTOR DRIVEN LINEAR FLOW :
BLOOD PUMP :

DECISION ON PETITION
UNDER 37 C.F.R. § 1.137(A)

This is a decision on the petition filed December 3, 2007, pursuant to 37 C.F.R. § 1.137(a)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed January 31, 2007, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time pursuant to the provisions of 37 C.F.R.

---

1 A grantable petition pursuant to 37 C.F.R. § 1.137(a) must be accompanied by:

(1) the required reply (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;

(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) a terminal disclaimer (and fee as set forth in §1.20(d)) required pursuant to paragraph (d) of this section.

§ 1.136(a) was requested. Accordingly, the above-identified application became abandoned on May 1, 2007. A notice of abandonment was mailed on August 8, 2007.

The present petition has not been executed.

37 C.F.R. § 10.18(a) sets forth, *in toto*:

> 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, personally signed by such practitioner, in compliance with § 1.4(d)(1) of this chapter.

Since the present petition has been submitted without a signature, the petition cannot be processed. For this reason, the petition under 37 C.F.R. § 1.137(a) must be **DISMISSED.**

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

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[2], hand-delivery[3], or facsimile[4]. Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web[5].

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

It is noted in passing that Petitioner has submitted a letter that addresses both the reason for the period of delay in submitting a response to the non-final Office action and amendments to the claims. Petitioner will note that 37 C.F.R. § 1.4(c) sets forth, *in toto*:

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2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
3 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
4 (571) 273-8300- please note this is a central facsimile number.
5 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

> Since different matters may be considered by different branches or sections of the United States Patent and Trademark Office, each distinct subject, inquiry or order must be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subjects.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[6]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions

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

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

JENKINS, WILSON, TAYLOR & HUNT, P. A.
Suite 1200 UNIVERSITY TOWER
3100 TOWER BLVD.,
DURHAM, NC 27707

Mail Date: 04/21/2010

Applicant	: Donald B. Grosser	: DECISION ON REQUEST FOR
Patent Number	: 7660259	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/969,678	: 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 **804** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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MCNEES WALLACE & NURICK LLC
100 PINE STREET, P.O. BOX 1166
HARRISBURG, PA 17108-1166

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OCT 2 2 2008

OFFICE OF PETITIONS

In re Application of	:	
Anthony A. BOIARSKI	:	
Application No. 10/969,679	:	DECISION ON PETITION
Filed: October 20, 2004	:	TO WITHDRAW
Attorney Docket No. 24315-0001-U1	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 30, 2008.

The request is **APPROVED**.

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

The request was signed by Courtney Miller on behalf of the attorneys of record associated with Customer No. 26587.

The attorneys of record associated with Customer No. 26587 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 until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must

have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: ANTHONY A. BOLARSKI
P.O. BOX 2656
MENLO PARK, CA 94026

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

Timothy Chan
200 Rector Pl #23H
New York NY 10280-1168

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OCT 15 2007

OFFICE OF PETITIONS

In re Application of Timothy Chan Application No.: 10/969686 Filing or 371(c) Date: 10/20/2004 Title of Invention: METHOD AND SYSTEM FOR ATTACHMENT OF LIGHT EMMITING DIODES TO CIRCUITRY FOR USE IN LIGHTING	:	DECISION ON PETITION

This is a decision in response to the "Request Withdrawing of Abandonment", filed August 1, 2007. The correspondence is properly treated as a Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181 (no fee), and a petition to accord a filing date of correspondence based upon express mail.

This Petition is **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the "Notice of Panel Decision from Pre-Appeal Brief Review," ("Notice"), mailed February 6, 2007. The Notice informed Applicant that the Pre-Appeal Brief failed to specify a clear error in the examiner's rejection by concisely pointing out the supposed errors. Applicant was given one (1) month from the mail date of the Notice to reply.

Applicant files the instant petition and asserts that a timely reply to the Office action was filed on March 5, 2007, using the Express Mail Service Post Office to Addressee. Applicant does not file a copy of the reply[1], but includes a copy of an Express Mail mailing label, No. EB264118135US and a statement attesting to the previous timely filing only[2].

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[1] In addition to a copy of the reply, the MPEP provides the following guidance on proving that correspondence was filed in this Office: The MPEP 711.03(c)B. Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed, states; 37 CFR 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 CFR 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

A review of office records reveals that Applicant filed "Supplemental Arguments for Pre-Appeal Brief Review" on March 5, 2007.

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 2163 for processing of the Reply.

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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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 CFR 1.8**, but not a postcard receipt, is relied
upon in a petition to withdraw the holding of abandonment, see 37 CFR 1.8(b) and MPEP § 512. As stated in 37 CFR 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 CFR 1.8). 37 CFR 1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 CFR 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.
[2] Among the requirements of a grantable petition under 37 CFR 1.10 is a showing that the express mail mailing number was placed on the correspondence putatively mailed to this Office. A copy of the correspondence is required. In this instance, the Office received the correspondence. As such, the requirement has been satisfied.

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

Timothy Chan
200 Rector Pl #23H
New York NY 10280-1168

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NOV 19 2007

OFFICE OF PETITIONS

In re Application of Timothy Chan Application No.: 10/969686 Filing or 371(c) Date: 10/20/2004 Title of Invention: METHOD AND SYSTEM FOR ATTACHMENT OF LIGHT EMMITING DIODES TO CIRCUITRY FOR USE IN LIGHTING	: : : : : : : : :	DECISION VACATING PRIOR DECISION AND NOTICE OF ABANDONMENT

This is a decision vacating a prior decision on petition mailed in response to the "Request Withdrawing of Abandonment," requesting this Office accord a filing date of correspondence based upon express mail, filed August 1, 2007.

The Decision on Petition, mailed October 15, 2007, is hereby vacated.

The petition filed August 1, 2007 is dismissed.

The application is abandoned.

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

Background

The above-identified application became abandoned for failure to timely and properly reply to the "Notice of Panel Decision from Pre-Appeal Brief Review," ("Notice"), mailed February 6, 2007. The Notice informed Applicant that the Pre-Appeal Brief failed to specify a clear error in the examiner's rejection by concisely pointing out the supposed errors. Applicant was given one (1) month from the mail date of the Notice to file a timely reply. The Notice stated further that "The time period for filing a response continues to run from the receipt date of the Notice of Appeal or from the mail date of the last Office communication, if no Notice of Appeal has been received."

Applicant filed the present petition and asserted that a timely reply to the Office action was filed on March 5, 2007, using the Express Mail Service Post Office to Addressee. Applicant did not file a copy of the reply, but included a copy of an Express Mail mailing label, No. EB264118135US and a statement attesting to the previous timely filing only.

A review of office records reveals that Applicant filed "Supplemental Arguments for Pre-Appeal Brief Review" on March 5, 2007.

Applicable Law, Rules and MPEP

The New Pre-Appeal Brief Conference Pilot Program became effective on July 12, 2005, with the publication of 1296 OG 67. The Program provided applicants an opportunity to request a review of identified matters on appeal employing an appeal conference, prior to filing an appeal brief. "If the request is filed with a Notice of Appeal, the period of time for filing the appeal brief will be the later of the two month period set in 37 CFR 41.37(a) or one month from the mail date of the decision on the request."

Item 4 of the OG Notice states: Content of Remarks or Arguments: The request should specify-clear errors in the examiner's rejections; or the examiner's omissions of one or more essential elements needed for a prima facie rejection. For example, the request should concisely point out that a limitation is not met by a reference or the examiner failed to show proper motivation for making a modification in an obviousness rejection (35 U.S.C. 103).

Item 6 of the OG Notice states: Format of Panel Decision: After the review is complete, the Office will mail a decision on the status of the application. The decision will state one of the following:

> Finding 1: The application remains under appeal because there is at least one actual issue for appeal.
>
> Finding 2: Prosecution on the merits is reopened and an appropriate Office communication will follow in due course. In appropriate circumstances, a proposed amendment may accompany the panel's decision proposing changes that, if accepted, may result in an indication of allowability for the contested claim(s).
>
> Finding 3: The application is allowed on the existing claims and prosecution remains closed.
>
> Finding 4: The request fails to comply with the submission requirements and is dismissed.

Finally, item 8 of Notice Administrative Matters, states: Applicants should ensure that requests are mailed or faxed with the notice of appeal to ensure timely filing. The request should contain a certificate of mailing or transmission under 37 CFR 1.8 and be listed on any postcard receipt (MPEP 503). No supplemental requests or arguments will be accepted. The notice of appeal fee is not refundable, even in the event of a decision favorable to applicant. A request filed after the date of receipt of the notice of appeal will be dismissed as untimely. This procedure does not affect petitions to invoke supervisory authority under 37 CFR 1.181 because such petitions address procedural matters, not appealable, matters. . Panel decisions will not be petitionable because a decision to maintain a rejection is subject to appeal.

Opinion

This Office mailed Applicant the Notice of Panel Decision from Pre-Appeal Brief Review," ("Notice"), mailed February 6, 2007. The Notice informed Applicant that the Pre-Appeal Brief failed to specify a clear error in the examiner's rejection by concisely pointing out the supposed errors. Applicant was given one (1) month from the mail date of the Notice to file a timely reply. The Notice further stated: "The time period for filing a response continues to run from the receipt date of the Notice of Appeal or from the mail date of the last Office communication, if no Notice of Appeal has been received."

Applicant is advised that the "timely reply" identified in the Notice is a reply to the filing of the Notice of Appeal, (or to the last Office communication if no appeal had been received). Under item 8 in the OG Notice, No supplemental requests or arguments will be accepted. After the Panel Decision, Applicant's options were to file an Appeal Brief, or to withdraw the appeal. No reconsideration of the Panel Decision was available. Here, Applicant filed the request for pre-appeal review with the filing of a Notice of Appeal on October 3, 2006. As stated in the Notice: If the request is filed with a Notice of Appeal, the period of time for filing the appeal brief will be the later of the two month period set in 37 CFR 41.37(a) or one month from the mail date of the decision on the request. Moreover, Panel decisions will not be petitionable because a decision to maintain a rejection is subject to appeal.

In this instance, the Notice was mailed on February 6, 2007. Applicant filed "Supplemental Arguments for Pre-Appeal Brief Review," on March 5, 2007; however, because no supplemental requests or arguments will be accepted, the reply was not a proper reply as the condition of the case required. The application subsequently became abandoned on March 7, 2007, for failing to file a complete and proper reply as the condition of the case required. See, 35 U.S.C. § 133 and 35 CFR 1.135.

Decision

In view of the foregoing, the Decision on Petition, mailed October 15, 2007, is hereby vacated. The petition filed August 1, 2007 is dismissed.

The application is abandoned.

Alternate venue

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

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

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

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

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

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

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Timothy Chan
200 Rector PI #23H
New York NY 10280-1168

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MAR 2 4 2008

OFFICE OF PETITIONS

ON PETITION

In re Application of
Timothy Chan
Application No.: 10/969686
Filing or 371(c) Date: 10/20/2004
Title of Invention:
METHOD AND SYSTEM FOR ATTACHMENT OF LIGHT EMMITING DIODES TO CIRCUITRY FOR USE IN LIGHTING

This is a decision on the renewed petition under 37 CFR 1.137(b), filed December 26, 2007, to revive the above-identified application. The delay in treating this petition is regretted.

This Petition is hereby **dismissed**.

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

Background

The above-identified application became abandoned for failure to timely and properly reply to the "Notice of Panel Decision from Pre-Appeal Brief Review," ("Notice"), mailed February 6, 2007. The Notice informed Applicant that the Pre-Appeal Brief failed to specify a clear error in the examiner's rejection by concisely pointing out the supposed errors. Applicant was given one (1) month from the mail date of the Notice to file a timely reply. The Notice stated further that "The time period for filing a response continues to run from the receipt date of the Notice of Appeal or from the mail date of the last Office communication, if no Notice of Appeal has been received." Applicant filed "Supplemental Arguments for Pre-Appeal Brief Review," on March 5, 2007; however, because no supplemental requests or arguments will be accepted, the reply was not a proper reply as the condition of the case required. The application subsequently became abandoned on March 7, 2007, for failing to file a complete and proper reply as the condition of the case required. See, 35 U.S.C. § 133 and 35 CFR 1.135.

The present petition

Petitioner files the present petition and a reply in the form of a Appeal Brief and fee.

Applicable law, Rules and MPEP

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

Opinion

As to item (1), Applicant has again failed to file a proper Appeal Brief. The MPEP 1205.01 states:

> If the time for filing a brief has passed and the application has consequently become abandoned, the applicant may petition to revive the application under 37 CFR 1.137, as in other cases of abandonment. See MPEP § 711.03(c). In addition to the petition and petition fee, appellant must file:
> (A) A request for continued examination (RCE) under 37 CFR 1.114 accompanied by a submission (i.e., a reply under 37 CFR 1.111) and the fee as set forth in 37 CFR 1.17(e) if the application is a utility or plant application filed on or after June 8, 1995, or a continuing application under 37 CFR 1.53(b) (or a CPA under 37 CFR 1.53(d) if the application is a design application); or
> (B) An appeal brief and the appeal brief fee to reinstate the appeal. A proper

---

[1] If the time for filing a brief has passed and the application has consequently become abandoned, the applicant may petition to revive the application under 37 CFR 1.137, as in other cases of abandonment. See MPEP § 711.03(c). If the appeal is dismissed, but the application is not abandoned because there is at least one allowed claim, the applicant may file a petition to reinstate the claims and the appeal, but a showing equivalent to that in a petition to revive under 37 CFR 1.137 is required. See MPEP § 711.03(c). In addition to the petition and petition fee, appellant must file:
(A) A request for continued examination (RCE) under 37 CFR 1.114 accompanied by a submission (i.e., a reply under 37 CFR 1.111) and the fee as set forth in 37 CFR 1.17(e) if the application is a utility or plant application filed on or after June 8, 1995, or a continuing application under 37 CFR 1.53(b) (or a CPA under 37 CFR 1.53(d) if the application is a design application); or
(B) An appeal brief and the appeal brief fee to reinstate the appeal. A proper brief and the required fee must be filed before the petition will be considered on its merits.

[2] The petition fee was originally filed on January 3, 2005.

The Examiner has reviewed the Appeal Brief and provides the following:

> The brief submitted lacks a mapping of the actual claim limitations to the specification such as to include figure numbers and/or pertinent portions of the disclosure (spec).

Conclusion:

The petition is dismissed.

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

By mail:	Director for Patents PO Box 1450 Alexandria, VA 22313-1450
By FAX:	(571) 273-8300 Attn: Office of Petitions
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries concerning the Appeal Brief should be directed to the Examiner. Telephone inquiries regarding this petition Decision 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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Timothy Chan
200 Rector PI #23H
New York NY 10280-1168

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APR 21 2008

OFFICE OF PETITIONS

In re Application of
Timothy Chan
Application No.: 10/969686
Filing or 371(c) Date: 10/20/2004
Title of Invention:
METHOD AND SYSTEM FOR
ATTACHMENT OF LIGHT EMMITING
DIODES TO CIRCUITRY FOR
USE IN LIGHTING

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed April 3, 2008, to revive the above-identified application. The delay in treating this petition is regretted.

This Petition is hereby **granted**.

Background

The above-identified application became abandoned for failure to timely and properly reply to the "Notice of Panel Decision from Pre-Appeal Brief Review," ("Notice"), mailed February 6, 2007. The Notice informed Applicant that the Pre-Appeal Brief failed to specify a clear error in the examiner's rejection by concisely pointing out the supposed errors. Applicant was given one (1) month from the mail date of the Notice to file a timely reply. The Notice stated further that "The time period for filing a response continues to run from the receipt date of the Notice of Appeal or from the mail date of the last Office communication, if no Notice of Appeal has been received." Applicant filed "Supplemental Arguments for Pre-Appeal Brief Review," on March 5, 2007; however, because no supplemental requests or arguments will be accepted, the reply was not a proper reply as the condition of the case required. The application subsequently became abandoned on March 7, 2007, for failing to file a complete and proper reply as the condition of the case required. See, 35 U.S.C. § 133 and 35 CFR 1.135.

Applicant files the present renewed petition, and an Appeal Brief previously filed on December 26, 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 Appeal Brief; (2) the petition fee; and (3) the required statement of unintentional delay have been filed with the present petition. Accordingly, the reply is accepted as having been unintentionally delayed. The Appeal is reinstated. Accord MPEP 1215.

The application is being referred to Technology Center Art Unit 2163 for processing of the Appeal Brief.

Telephone inquiries concerning this petition Decision 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.go

WALKER DIGITAL
FIVE HIGH RIDGE PARK
STAMFORD, CT 06905

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FEB 14 2005

OFFICE OF PETITIONS

In re Application of	:	
Walker et al.	:	
Application No. 10/969,687	:	DECISION GRANTING
Filed: September 3, 2004	:	STATUS UNDER
FOR: METHODS AND APPARATUS FOR	:	37 CFR 1.47(a)
FACILITATING PLAY OF A	:	
GAME OF KNOWLEDGE	:	

This is in response to a Petition Under 37 CFR 1.47(a), filed January 3, 2005, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor.

The petition is **granted**.

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

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

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

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

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

Derek L. Woods
Attorney/Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Thomas Sparico
525 East 72nd Street
Apartment 23F
New York, NY 10021

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FEB 14 2005

OFFICE OF PETITIONS

In re Application of	:	
Walker et al.	:	
Application No. 10/969,687	:	LETTER
Filed: September 3, 2004	:	
FOR: METHODS AND APPARATUS FOR	:	
FACILITATING PLAY OF A	:	
GAME OF KNOWLEDGE	:	

Dear Mr. Sparico:

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. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

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

Derek L. Woods
Attorney/Advisor
Office of Petitions

cc: WALKER DIGITAL
FIVE HIGH RIDGE PARK
STAMFORD, CT 06905

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

Mail Date: 04/30/2010

Applicant	: Anoop Sharma	: DECISION ON REQUEST FOR
Patent Number	: 7617486	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/969,736	: 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 **1422** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Paper No. 062705

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

JUL 2 2 2005

In re Application of:	:	
Anoop Sharma	:	
Serial No.: 10/969,738	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Filed: October 19, 2004	:	
Attorney Docket No.: **03801.P221**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed November 22, 2004.

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

The request meets all the above stated requirements. The request was signed by Tarek N. Fahmi on behalf of himself and all the attorneys/agents of record. There is no outstanding office action at this time.

The request is **APPROVED**.

There are no attorneys of record at this time.

All future communications from the Office will be directed to Andre L. Marals, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Clayton E. LaBalle at (571) 272-1594.

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Andre L. Marals
1600 TCF Tower
121 South Eighth Street
Minneapolis, MN 55402

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1000 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
SALT LAKE CITY UT 84111

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JUL 10 2008

OFFICE OF PETITIONS

In re Application of	:	
Steven N. Bathiche et al	:	
Application No. 10/969,746	:	DECISION GRANTING PETITION
Filed: October 19, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 13768.810.21	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 8, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 2, 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 2629 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.*

APR 13 2005
PATENT & TRADEMARK OFFICE

HW 29

Practitioner's Docket No. 117245.00010 **PATENT**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Sprinkle
Application No.: 10/969,763
Filed: October 20, 2004
For: MIXING SYSTEM AND PROCESS

Group No.: not known 1722
Examiner: not known

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

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

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

1. **Accompanying material**

Accompanying this petition is:

(a) a Statement by the practitioner in Support of Petition to Make Special Because of Actual Infringement

(b) article, describing the alleged infringing product ("The Next Generation in Poultry Processing Solutions")

(c) prior art references known to Applicant that are not currently of record

2. **Fee** (37 C.F.R. section 1.17(h))

The fee required is to charged to deposit account 15-0450 in the amount of $130.00.
Please charge deposit account 15-0450 for any amount due by this paper.

Date: 4/11/05

Signature of Practitioner

Reg. No.: 32,712
Tel. No.: 330-864-5550
Customer No.: 021324

Scott M. Oldham
Hahn Loeser + Parks LLP
One GOJO Plaza
Suite 300
Akron, OH 44311-1076

04/14/2005 AWONDAF1 00000018 150450 10969763
01 FC:1464 130.00 DA

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC 1700

MAY - 3 2005

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SHLESINGER ARKWRIGHT & GARVEY LLP
1420 King Street
Suite 600
Alexandria VA 22314

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MAY 2 0 2008

OFFICE OF PETITIONS

In re Application of	:	
Frank K. Fu et al.	:	
Application No. 10/969,778	:	DECISION ON PETITION
Filed: October 20, 2004	:	UNDER 37 CFR 1.55(c)
Attorney Docket No. 20242/1202038-US1	:	

This is a decision on the petition under 37 CFR 1.55(c), filed August 15, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for the benefit of priority to foreign People's Republic of China Utility Model Application No. 200320117822.5, filed November 6, 2003.

The petition is **GRANTED**.

This pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional (the Director

may require additional information where there is a question whether the delay was unintentional); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

This application was filed on October 20, 2004, which is after November 29, 2000 and within 12 months of November 6, 2003 (the filing date of the foreign application to which benefit is now being claimed). On January 19, 2007, an executed oath/declaration was received which identifies the foreign application for which priority is claimed by application number, country and filing date. The required petition fee of $1370.00 was received with the petition. Lastly, petitioner has provided an adequate statement of unintentional delay.

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

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.55(c) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 119(a)-(d) and 37 CFR 1.55(a)(1) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

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

This application is being referred to Technology Center AU 3781 for examination in due course and for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a)-(d).

Any inquiries directly pertaining to this matter may be directed to Christopher Bottorff at (571) 272-6692.

David Bucci
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/969,778	10/20/2004	3781	1270	20242/1202038-US1	23	4

CONFIRMATION NO. 2540

CORRECTED FILING RECEIPT

SHLESINGER ARKWRIGHT & GARVEY LLP
1420 King Street
Suite 600
Alexandria, VA 22314

OC000000030048873

Date Mailed: 05/20/2008

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)

Frank K. Fu, Shatin. New Territories, CHINA;
Becky Fu, Shatin, New Territories, CHINA;

Assignment For Published Patent Application

Gerber Far East 1959 Ltd.

Power of Attorney: None

Domestic Priority data as claimed by applicant

Foreign Applications

CHINA 200320117822.5 11/06/2003

If Required, Foreign Filing License Granted: 01/12/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/969,778**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Ceramic metallic liquid holding vessel

Preliminary Class

220

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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Old, Maier & Richardson, PLLC
PO Box 20245
Alexandria, VA 22320-1245

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OCT 30 2007

OFFICE OF PETITIONS

In re Application of
Binder, Andrew S.

Application No. 10/969,792
Filed: October 21, 2004
Atty. Docket No.: ORCA-0101-RE

DECISION ACCEPTING

SHOWING OF CAUSE

This is a decision on applicant's response titled, Response to Second Show Cause Order filed June 18, 2007, and applicant's TRANSMITTAL OF MAINTENANCE FEE STATEMENT filed June 18, 2007. These papers are being taken as a renewed response to the show cause order that was issued March 26, 2007.

Applicant's renewed response is before the Office of Patent Legal Administration (OPLA) for consideration.

In the renewed response, applicant has shown cause why the Office should reinstate the patent for which the present application requests reissue, and then continue the prosecution of the reissue application.

BACKGROUND

1. The present application was filed October 21, 2004, for reissue of U.S. patent 6,468,211 (the '211 patent) issued October 22, 2002.

2. The record reveals that prosecution of the application has not closed for the present application.

3. The Office's financial records reveal that the 3.5 year maintenance fee due for the '211 patent by October 22, 2006 (the end of the maintenance fee grace period), was not paid by October 23, 2006 (a Monday). As a result, the '211 patent expired at midnight on October 22, 2006, for failure to pay the 3.5 year maintenance fee due, since the maintenance fee were not paid.[1]

4. The expiration of the '211 patent for failure to pay the 3.5 year maintenance fee was

[1] See last paragraph of MPEP 2506.

published in the *Official Gazette* - see 1313 *Official Gazette,* 89, 90 (December 19, 2006).

5. On February 1, 2007, an Order To Show Cause was mailed stating that the Office's records showed the '211 patent had expired for failure to pay the first maintenance fee, the Director of the USPTO no longer had the authority under 35 U.S.C. § 251 to reissue the '211 patent, and the Office intended to terminate the present reissue proceeding and hold the application for reissue of the '211 patent to be an abandoned application. Applicant was given a period of 30 DAYS from the mailing of the ORDER to show cause why the Office should not terminate the present reissue proceeding.

6. In response, on February 28, 2007, a communication entitled Reply To Order To Show Cause was filed. Applicant requested that prosecution of the application not be terminated, as the '211 patent owner filed, on February 28, 2007, the requisite first maintenance fee and surcharge along with a petition under 37 CFR 1.378(b) to accept late payment of the maintenance fee based upon the patent owner's unintentional failure to timely pay the maintenance fee.

7. On March 27, 2007 a Second Order to Show Cause was issued by the Office, as the response to the first Show Cause Order of February 1, 2007 was not sufficient to provide basis to resume examination of the application. Applicants were provided with a period of six months to again show cause why the Office should not terminate the present reissue proceeding. Applicants were advised that if applicants proposed to show cause why the present reissue proceeding should not be terminated, applicants' showing must include either: A) a copy of a favorable determination on the merits of the February 28, 2007 petition to accept late payment of the first maintenance fee, or B) an explanation of why the proceeding should not be terminated at that point in time even though the original patent has expired. Applicants were also required show due diligence

8. Applicants filed the present reply on June 18, 2007, entitled **Response To Second Order To Show Cause.**

n

DECISION

The papers filed by applicant show that a favorable decision has been issued on a petition to accept late payment of the 3.5 year maintenance fee of the '211 patent. The Office of Petitions mailed a decision granting the petition on May 22, 2007.

The papers filed by applicant show payment of the 3.5 year maintenance fee for the '211 patent on February 28, 2007. Further, a review of the Office's records reveals that maintenance fee payment of $450, was "accounted" to the '211 patent on May 22, 2007. Thus, the '211 patent is not expired for failure to pay the first maintenance fee. In addition, the present reissue proceeding has been properly brought before the Office of Patent Legal Administration for consideration, and it has now been shown that the original patent is not expired. The applicant also demonstrated due diligence in filing the required responses. Accordingly, consideration of

the application will be resumed, and jurisdiction over the application is being forwarded to the examiner for further examination, as appropriate, in due course.

CONCLUSION

1. Applicant is deemed to have shown cause as to why the Office should not vacate and terminate the instant reissue proceeding.

2. Consideration of the reissue application will be resumed.

3. Jurisdiction over the application file is being returned to Technology Center Art Unit 3735 for further examination including consideration, in due course.

4. Any further communications as to the merits of the reissue application should be directed to examiner Robert Nasser, in Technology Center Art Unit 3735, who can be reached at 571-272-4731.

5. Telephone inquiries related to this decision should be directed to Maria Nuzzolillo, Legal Advisor, at (571) 272-8150.

Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner for Patent Examination Policy

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

Mail Date: 04/28/2010

Applicant	: Chiyo Ono	: DECISION ON REQUEST FOR
Patent Number	: 7614076	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/969,800	: 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 **1356** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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CENTENNIAL CAMPUS
RALEIGH, NC 27606

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AUG 15 2008

In re Application of Shanklin et al. :
Application No. 10/969,801 : Decision on Petition
Filing Date: October 20, 2004 :
Attorney Docket No. HAYESPR.051A :

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

The petition is **granted**.

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed November 29, 2007, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on March 1, 2008. A Notice of Abandonment was mailed on March 25, 2008.

The instant petition requests revival of the application.

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

(1) the reply required to the outstanding Office action or notice, unless previously filed,
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Petitioner has met the requirements listed above. Therefore, the petition is granted and the application is revived.

The $300 publication fee was charged to petitioner's deposit account twice on March 22, 2008. Therefore, the Office has credited $300 (of the $600 charged) back to petitioner's deposit account.

The Office of Data Management, Patent Publication Branch, will be informed of the instant decision and the application will be issued as a patent in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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www.uspto.gov

FOLEY & LARDNER
P.O. BOX 80278
SAN DIEGO, CA 92138-0278

COPY MAILED

DEC 0 5 2005

OFFICE OF PETITIONS

In re Application of	:	
Andrew Vaillant et al	:	
Application No. 10/969,812	:	DECISION ON PETITION
Filed: October 19, 2004	:	TO WITHDRAW
Attorney Docket No. 16051-11US	:	FROM RECORD
	:	

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 2, 2005.

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

While an attorney or agent at Foley & Lardner LLP submitted the above-identified application, a review of the file record indicates that Barry S. Wilson, Ph.D and those practitioners associated with Customer No. 30542 were never given power of attorney. Accordingly, the request to withdraw under 37 C.F.R. § 1.136(b) is moot.

All future communications from the Office will be directed to Customer No. 020988, which was given power of attorney on March 8, 2005 until otherwise notified by a registered practitioner given power of attorney in this application, an assignee, or the applicants. See 37 CFR 1.33(a)(2).

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

David Bucci
Petitions Examiner
Office of Petitions

CC: OGILVY RENAULT
1981 MCGILL COLLEGE AVENUE
SUITE 1600
MONTREAL, CANADA H3A2Y-3

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

MAGIQ TECHNOLOGIES, INC
171 MADISON AVENUE, SUITE 1300
NEW YORK NY 10016-5110

COPY MAILED

OCT 26 2007

OFFICE OF PETITIONS

In re Application of :
Harry VIG et al. :
Application No. 10/969,813 :
Filed: October 20, 2004 :
Attorney Docket No. 024-03US1 :

ON PETITION

This is a decision on the petition under 37 CFR 1.78(a)(6), filed October 12, 2007 to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of a prior-filed provisional application.

The petition is **GRANTED**.

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

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

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 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.

Petitioner submitted $1370 with the petition; however as of September 30, 2007 the petition fee due is $1410. Accordingly, $40 is being charged to petitioner's deposit account no. 50-2992.

The application is being forwarded to Technology Center AU 2613 for appropriate action on the amendment submitted October 12, 2007, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/515,969.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7099.

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
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/969,813	10/20/2004	2613	395	024-03US1	6	2

CONFIRMATION NO. 5067

CORRECTED FILING RECEIPT

36522
MAGIQ TECHNOLOGIES, INC
171 MADISON AVENUE, SUITE 1300
NEW YORK, NY 10016-5110

OC000000026472501

Date Mailed: 10/26/2007

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Harry Vig, N. Billerica, MA;
Alexei Trifonov, Boston, MA;

Assignment For Published Patent Application

MagiQ Technologies, Inc.

Power of Attorney:
Joseph Gortych--41791

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/515,969 10/30/2003

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 **US 10/969,813**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

Timing error reduction in QKD systems

Preliminary Class

398

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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HAROLD O. STEWART JR.
3006 BAKER AVE.
NORTH CHARLES SC 29405

COPY MAILED
FEB 05 2010

In re Application of	:	
Harold O. STEWART, JR. et al	:	
Application No. 10/969,816	:	DECISION ON PETITION
Filed: October 21, 2004	:	
Attorney Docket No.	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 2, 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 11, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 12, 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 $810; and (3) an adequate statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and

Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to Technology Center AU 3688 for appropriate action by the Examiner in the normal course of business.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: JOHN R. CROSSAN
CROSSAN INTELLECTUAL
PROPERTY LAW, LLC
70 W. MADISON ST., #5050
CHICAGO, IL 60602-4214

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AMGEN INC.
U.S. Patent Operations/GPR
Dept. 4300, M/S 27-4-A
One Amgen Center Drive
Thousand Oaks CA 91320-1799

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SEP 29 2006
OFFICE OF PETITIONS

In re Application of :
Elbaum, et al. :
Application No. 10/969,826 : ON PETITION
Filed: October 20, 2004 :
Attorney Docket No. A-851 :
For: SUBSTITUTED HETEROCYCLIC COMPOUNDS AND METHODS OF USE

This is a decision on the petition, filed May 25, 2006, under 37 CFR 1.137(b) to revive the above-identified application.

The above-identified application became abandoned for failure to timely submit a reply within three (3) months of the mailing of the November 21, 2005 non-final Office action. No response being received and no extensions of time being obtained, this application became abandoned on February 22, 2006. The filing of the present petition precedes the mailing of a Notice of Abandonment.

Applicants have submitted an amendment in reply to the November 21, 2005 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the November 21, 2005 non-final Office action, and the petition fee.

The petition is **GRANTED**.

A review of Office financial records indicates that the petition fee was charged twice. Pursuant to petitioners' authorization, deposit account no. 01-0519 will be credited one $1,500.00 petition fee.

After the mailing of this decision the application will be forwarded to Technology Center AU 1624 for consideration of the amendment filed on May 25, 2006.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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HEDMAN & COSTIGAN P.C.
1185 AVENUE OF THE AMERICAS
NEW YORK NY 10036

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MAY 0 8 2007

OFFICE OF PETITIONS

In re Application of	:	
Cherif-Cheikh et al.	:	
Application No. 10/969,833	:	ON PETITION
Filed: October 21, 2004	:	
Attorney Docket No. 427.058	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 1, 2007, to revive the above-identified application.

The petition is **GRANTED.**

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1020.00 extension of time fee submitted with the petition on March, 1, 2007, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner's credit card.

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/969,842	10/22/2004	Chikako Matsumoto	260305US0CONT	4844

22850 7590 10/17/2008
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
DELCOTTO, GREGORY R

ART UNIT	PAPER NUMBER
1796	

NOTIFICATION DATE	DELIVERY MODE
10/17/2008	ELECTRONIC

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

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

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

UNITED STATES PATENT and TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

Mailed: 10/17/08

hp
Paper Number _____

In re application of
Chikako Matsumoto et al.
Serial No. 10/969,842
Filed: October 22, 2004
For: DETERGENT COMPOSITION

DECISION ON PETITION

This is a decision on the PETITION UNDER 37 CFR 1.182 TO WITHDRAW THE FINALITY OF THE OFFICE ACTION mailed July 21, 2008.

On January 31, 2008, a first action on the merits was mailed. A final official action was mailed July 21, 2008 in response to applicants' response filed April 21, 2008. A response was filed by applicants on April 21, 2008. A final office action was mailed to applicants on July 21, 2008.

Petitioner has argued that the finality of the last office action is improper. Petitioner request that the Director 1) withdraw the finality of the official action of July 21, 2008 and 2) compel the examiner to provide an English language translation of Japanese Patent 06-212,190.

DECISION

In the office action of July 21, 2008, the examiner made the final rejection of claims 10-31 under 35 U.S.C. 102(b) or in the alternative under 35 U.S.C. 103(a) over Japanese Patent 06-212,190 (hereinafter JP '190), relying on an English language abstract and a machine language translation of JP '190 submitted by applicants. In the office action, the examiner takes the position that the abstract of JP '190 is the same as that which is disclosed by applicant's machine language translation of JP '190.

In response to the Office action mailed on July 21, 2008, applicants request that the examiner provide the English language translation of the JP '190 from the STIC library at the USPTO and withdraw the finality of the office action mailed July 21, 2008.

In the final rejection mailed on July 21, 2008, the examiner maintained the rejection under 35 USC 102(b) or in the alternative under 35 U.S.C. 103(a) over JP '190 and stated in the office action that the examiner was relying on applicants' submitted a machine language translation of JP 190. A detailed explanation was provided by the examiner on pages 4 and 5 of the final office action explaining why it was the position of the examiner that the claimed properties were inherent in the teachings of the reference. The examiner specifically stated that he was relying on the machines translation provided by applicant (page 6 of the final rejection). Note that, the basis of the rejection used in the final rejection is the exact same as the basis in the non-final office action mailed on January 30, 2008. In other words, the exact claims were rejected under 35 USC 102/103 in both office actions mailed on January 30, 2008 and July 21, 2008 for the same reasons.

Applicants argue that by not providing the English language translation of JP '190 to applicants as requested, the final rejection was not proper and that a new non-final rejection containing said English language translation of JP '190 from the STIC library at the USPTO should be issued. It is further argued that the aforementioned English language translation of the JP '190 from the STIC library at the USPTO is needed to overcome the deficiencies of the rejection. As to the issue of whether the final office action was complete, 1) the rejection was clearly set forth by the examiner and the office action was in fact complete, 2) the English language translation of JP '190 from the STIC library at the USPTO is not necessary nor required; the examiner has made a reasoned and complete rejection based on a prior art abstract which is further supported by English language machine translation submitted by applicants on April 21, 2008.

The Petition is **DENIED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXXANDRIA, VIRGINIA 22314

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/3/09

TO SPE OF : ART UNIT 1796 SEIDLECK, James (Spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/969842 Patent No.: 7504370

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

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

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

Comments: _____

SPE

1796
Art Unit

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

COPY MAILED

JUN 22 2009

OFFICE OF PETITIONS

In re Application of	:	
Lee	:	
Application No. 10/969,904	:	DECISION
Filed/Deposited: 22 October, 2004	:	
Attorney Docket No. Q78136	:	

This is a decision on the petition filed on 1 June, 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 under 37 C.F.R. §1.181 is **DISMISSED**.

Any request for reconsideration of this decision or any petition in the alternative is to be filed **within two (2) months** from the mail date of this decision. *Note* 37 C.F.R. §1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 C.F.R. §1.181 to Withdraw the Holding of Abandonment."

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

Petitioner may, in the alternative, file a petition (with fee) pursuant to 37 C.F.R. §1.137(b) with a reply and statement of unintentional delay.

As to the Request to Withdraw
the Holding of Abandonment

Petitioner is directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness requirements for relief under 37 C.F.R. §1.181.

Petitioner appears not to comply with the guidance in the Commentary at MPEP §711.03(c)(I)—as discussed below, Petitioner has failed to satisfy the showing requirements set forth there. Petitioner may find it beneficial to review that material and move step-wise through that guidance in the effort to satisfy the showing requirements (statements and supporting documentation).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the non-final Office action (copy enclosed) mailed on 4 September, 2008, with reply due absent extension of time on or before 4 December, 2008.

The application went abandoned by operation of law after midnight 4 December, 2008.

The Office mailed the Notice of Abandonment on 2 April, 2009.

On 1 June, 2009, Petitioner Ellen R. Smith (Reg. No 43,042) (Petitioner):

- filed a petition—consisting of 11 lines in three paragraphs on two pages—purported to be pursuant to 37 C.F.R. §1.181 and with Petitioner expressly invoking the provisions of "MPEP §711.03(c)(I),"and an averment of non-receipt; and

- dumped into the record more than 150 pages of documents.

In so doing, Petitioner appears to have ignored the requirements expressly set forth in the guidance in the Commentary at MPEP §711.03(c)(I), which require in general:

- a copy, *inter alia,* of the Petitioner's/firm due-date docket/calendar (usually not more than five to ten pages for even the largest firms/companies) and a copy of the docket sheet (or file jacket cover) for the instant application and;

- Petitioner's recitations, *inter alia*, as to a statement of non-receipt "at the correspondence address of record," a statement of search of the file and non-discovery, a description of the docketing system, a statement of system reliability, and other such requirements as set forth in the guidance in the Commentary at MPEP 711.03(c)(I).

The guidance in the Commentary at MPEP 711.03(c)(I) provides specifically 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.[1]

***

Petitioner is requested to:

- review the requirements as set forth in the guidance in the Commentary at MPEP 711.03(c)(I); and
- satisfy those requirements.

If Petitioner cannot satisfy the required showing pursuant to 37 C.F.R. §1.181, Petitioner may, in the alternative, file a petition to revive pursuant to the regulations at 37 C.F.R. §1.137(b)—requirements include petition, petition fee, reply (to the Office action) and a terminal disclaimer and fee where appropriate. Petitioner should review the current fee schedule at the Office website for fees due at the time of filing.

---

[1] *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.[2]

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And the regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[3],[4]

Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(I) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

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.

---

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

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

[4] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

> If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[5]

Allegations as to the Request to
Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how it is to be made and supported.

Petitioner appears not to have made the showing required.

CONCLUSION

Accordingly, The petition 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 terminal disclaimer and fee where appropriate and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form available online.)

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

[5] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

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[6]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
10/969,904	10/22/2004	Byung-rae Lee	Q78136	8047

23373 7590 09/04/2008
SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

EXAMINER
WANG, HARRIS C

ART UNIT	PAPER NUMBER
2139	

MAIL DATE	DELIVERY MODE
09/04/2008	PAPER

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

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

Office Action Summary	Application No.	Applicant(s)	
	10/969,904	LEE ET AL.	
	Examiner	Art Unit	
	Harris C. Wang	2139	

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

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *22 October 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-26* is/are pending in the application.

4a) Of the above claim(s) *10-18 and 26* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-9, 19-25* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *22 October 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *See Continuation Sheet*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :5/21/2007, 8/02/2005, 10/22/2004.

DETAILED ACTION

Election/Restrictions

The Applicant has elected Group I, claims 1-9, 19-25 for examination. Claims 10-18, 26 are nonelected. The election was made without traverse.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 16 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The Applicant recites the claim limitation "storing information from the first device and information on the license; and searching the information." It is unclear what the Applicant is searching the information for, therefore the Examiner considers the phrase indefinite.

Claims 17-18 depend on claim 16 and are rejected for the same rationale.

Claim 25 claims the limitation "the method license provider" it is unclear what this term means.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-2, 5-7, 19-23 rejected under 35 U.S.C. 102(e) as being anticipated by Leung (7010808).

Regarding Claim 1, 6

Leung teaches a method of managing digital rights using a portable storage device, the method comprising:

a device performing primary authentication together with a license provider and establishing primary security association; *("Once the license server has received the license request information from the DRM system, the license server may then perform several checks for trust/authentication and for other purposes." Column 18, lines 52-55)*

the device performing secondary authentication together with the portable storage device and establishing secondary security association; *("Preferably, the signature/MAC is based on a secret shared by the computer and the portable device and derived by the portable device" Column 37, lines 14-17)*

receiving a license from the license provider and transmitting the license to the portable storage device. *("the computer obtains a license for corresponding digital content and then issues a sub-license to the portable device for rendering digital content on the portable device" Column 34, lines 17-21)*

Regarding Claim 2, 7

Leung teaches the method of claim 1, wherein the receiving of the license comprises decoding the license using an encryption key created as a result of the primary authentication. *("the encryption/decryption key that encrypts the digital content is a symmetric key...said decryption key (KD) is delivered to a user's computing device in a hidden from as part of license for such digital content." Column 6, lines 41-42) The Examiner interprets that KD is created as a result of primary authentication.*

Regarding Claim 5,

Leung teaches the method of claim 1, before the transmitting of the license, further comprising encrypting the license using an encryption key created as a result of the secondary authentication. *("the computer re-encrypts the content key for decrypting the content into a form that is more amenable to decryption by the portable device...the computer obtains the content key by applying the private key of the block box of the computer...then re-encrypts the content key (KD) according to a symmetric secret shared with the portable device (Column 34, lines 46-48, 55-57)*

Regarding Claims 19-21

Leung teaches an apparatus for managing digital rights using a portable storage device, the apparatus comprising:

a transmitting-receiving unit transmitting/receiving a license to/from the portable storage device; *(A receiving unit is inherently required in order to receive the license from the license server as shown in Figure 1)*

an authenticating unit performing authentication together with the portable storage device; *(Figure 4, shows a DRM system that performs authentication with the portable storage device wherein the authenticating unit performs encrypting and decoding.)*

wherein the transmitting-receiving unit receives the license from a license provider,

and the storage unit stores the received license. and the storage unit stores the received license. (Figure 4, License Store 38)

wherein the encrypting and decoding are performed using an encryption key created by performing authentication together with the portable storage device according to a symmetric key algorithm. *("the computer re-encrypts the content key for decrypting the content into a form that is more amenable to decryption by the portable device...the computer obtains the content key by applying the private key of the block box of*

the computer...then re-encrypts the content key (KD) according to a symmetric secret shared with the portable device (Column 34, lines 46-48, 55-57)

Leung teaches where the storage unit receives the license from the portable storage device and storing the same therein,

(Figure 5B, shows the DRM system checking for a valid, enabling license in the License Store, and if not to acquire the License from the License Server, Steps 515, 517) (Figure 4 shows the DRM system within the User's computing device)

Regarding Claims 22-23,

Leung teaches an apparatus for managing digital rights using a portable storage device, the apparatus comprising:

a transmitting-receiving unit transmitting/receiving a license to/from the portable storage device; *(A receiving unit is inherently required in order to receive the license from the license server as shown in Figure 1)*

an authenticating unit performing authentication together with the portable storage device; *(Figure 4, shows a DRM system that performs authentication with the portable storage device wherein the authenticating unit performs encrypting and decoding.)*

wherein the transmitting-receiving unit receives the license from a license provider,

and the storage unit stores the received license. and the storage unit stores the received license. (Figure 4, License Store 38)

wherein the encrypting and decoding are performed using an encryption key created by performing authentication together with the portable storage device according to a symmetric key algorithm. *("the computer re-encrypts the content key for decrypting the content into a form that is more amenable to decryption by the portable device...the computer obtains the content key by applying the private key of the block box of the computer...then re-encrypts the content key (KD) according to a symmetric secret shared with the portable device (Column 34, lines 46-48, 55-57)*

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 3-4, 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leung in view of Kawamura (6519701).

Regarding Claims 3-4, 8-9 (103)

Leung teaches the method of claim 1. Leung does not explicitly teach wherein the establishing of the secondary security association comprises:

selecting a random number and requesting the portable storage device for authentication using the random number as a parameter of a security request command; receiving a response to the authentication request from the portable storage device; and acquiring an encryption key composed of information contained in the response.

Kawamura teaches selecting a random number and requesting for authentication and receiving a response to the authentication request from the device and acquiring an encryption key composed of information contained in the response, wherein the information comprises the selected random number and a number randomly created by the portable storage device. (Figure 6)

Because using random numbers for mutual authentication is well know in the art it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Leung with the authentication method of Kawamura.

The motivation is although Leung already provides a way to generate a secret shared key (Column 37 lines 38-61) Kawamura provides another well known method of authentication.

Claims 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leung.

Regarding Claim 24-25, (103)

Leung teaches a security providing method in mobile digital rights management (DRM) service, wherein a portable storage device has an encryption key for performing authentication together with a mobile device, and a protocol for performing authentication together with the mobile device, the method comprising:

the portable storage device performing authentication with the mobile device; and the mobile device receiving the license received from a license provider after performing authentication. *("the computer obtains a license for corresponding digital content and then issues a sub-license to the portable device for rendering digital content on the portable device" Column 34, lines 17-21) ("the computer re-encrypts the content key for decrypting the content into a form that is more amenable to decryption by the portable device...the computer obtains the content key by applying the private key of the block box of*

the computer...then re-encrypts the content key (KD) according to a symmetric secret shared with the portable device (Column 34, lines 46-48, 55-57)

Leung does not explicitly teach that the portable storage device has a certificate.

The Examiner takes official notice that a certificate is a well known way of providing authentication.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the portable storage device of Leung with a certificate.

The motivation is to provide another way for authenticaiton.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harris C. Wang whose telephone number is 5712701462. The examiner can normally be reached on M-F 8-5:30, Alternate Fridays Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, AYAZ R. SHEIKH can be reached on (571)272-3795. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HCW

/Kristine Kincaid/
Supervisory Patent Examiner, Art Unit 2139

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

COPY MAILED

SEP 1 1 2009

OFFICE OF PETITIONS

In re Application of	:	
Lee	:	
Application No. 10/969,904	:	DECISION
Filed/Deposited: 22 October, 2004	:	
Attorney Docket No. Q78136	:	

This is a decision on the petition filed on 22 July, 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 under 37 C.F.R. §1.181 is **GRANTED**.

As to the Request to Withdraw
the Holding of Abandonment

Petitioners always are directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness 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 September, 2008, with reply due absent extension of time on or before 4 December, 2008.

The application went abandoned by operation of law after midnight 4 December, 2008.

The Office mailed the Notice of Abandonment on 2 April, 2009.

On 1 June, 2009, Petitioner Ellen R. Smith (Reg. No 43,042) (Petitioner):

- filed a petition—consisting of 11 lines in three paragraphs on two pages—purported to be pursuant to 37 C.F.R. §1.181 and with Petitioner expressly invoking the provisions of "MPEP §711.03(c)(I),"and an averment of non-receipt; and

- placed into the record more than 150 pages of documents.

In so doing, Petitioner appears to have ignored the requirements expressly set forth in the guidance in the Commentary at MPEP §711.03(c)(I), which require in general:

- a copy, *inter alia,* of the Petitioner's/firm due-date docket/calendar (usually not more than five to ten pages for even the largest firms/companies) and a copy of the docket sheet (or file jacket cover) for the instant application and;

- Petitioner's recitations, *inter alia*, as to a statement of non-receipt "at the correspondence address of record," a statement of search of the file and non-discovery, a description of the docketing system, a statement of system reliability, and other such requirements as set forth in the guidance in the Commentary at MPEP 711.03(c)(I).

The petition was dismissed on 22 June, 2009.

On 22 July, 2009, Petitioner sought reconsideration of the petition, and presented copies of the firm due-date calendar and the docket sheet for the application, and made the statements, *inter alia*, of non-receipt at the correspondence address of record, of search and non-discovery, description of the docketing system and statement of reliability—all in satisfaction of a showing consistent with the guidance in the Commentary at MPEP 711.03(c)(I).

The guidance in the Commentary at MPEP 711.03(c)(I) provides specifically 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.[1]

***

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), and those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation– since all owe to the Office the continuing duty to disclose.[2]

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And the regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[3],[4]

Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(I) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

---

[1] *See*: MPEP §711.03(c) (I)(A).

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

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

[4] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[5]

Allegations as to the Request to
Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how it is to be made and supported.

Petitioner appears to have made the showing required.

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.181 is **granted**, and the 2 April, 2009, Notice of Abandonment is **vacated**.

The instant application is released to the Technology Center/AU 2439 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

---

[5] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[6]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

[6] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 020605

APR 13 2005

Calvin S. McCamy
Wappingers Falls
44 All Angels Hill Road,
Wappingers Falls, NY 12590

In re Application of:	:	
McCamy *et al.*	:	
Serial No.: 10/969,940	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Filed: October 22, 2004	:	
Attorney Docket No.: **4031-7**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed January 25, 2005.

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

The request meets all the above stated requirements. The request was signed by Alan Kagen, on behalf of herself and all the attorneys/agents of record. There is no outstanding Office action at this time.

The request is **APPROVED**.

There are no attorneys/agents of record at this time.

All future communications from the Office will be directed the assignee, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Clayton E. LaBalle at (571) 272-1594.

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Carter B. McCamy, President
Environmental Quality Resources, L.L.C.
8711 Snouffer School Road
Gaithersburg MD 20879

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAY 29 2007

OFFICE OF PETITIONS

OBLON SPIVAK MCCLELLAND
MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

In re Application of :
Takahiro Ito :
Application No. 10/969,956 : ON PETITION
Filed: October 22, 2004 :
Attorney Docket No. 260874US8 :

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

The petition is **GRANTED**.

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

This matter is being referred to Technology Center AU 2872 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CLARK & BRODY
1090 VERMONT AVENUE, NW
SUITE 250
WASHINGTON DC 20005

In re Application of
Philip L. Rogers
Application No.: 10/969,964
Filed: October 22, 2004
Attorney Docket No: 11034-0020C

ON PETITION

This is in response to the petition under 37 CFR 1.137(b) filed July 31, 2007.

The petition is DISMISSED.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition" under 37 CFR 1.137(b)."

This application became abandoned for failure to respond in a timely manner to the non-final Office action mailed June 28, 2006. The notice set a shortened statutory period for reply of three-months from its mailing date. Extensions of time were available pursuant to 37 CFR 1.136(a). A proper response was not received within the allowable period and the application became abandoned on September 29, 2006. It is noted that a Notice of Appeal was filed on December 28, 2006. The Notice of Appeal was not accompanied by a request for an extension of time and is not a proper response to a non-final Office action.

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

(1) the required reply, unless previously filed. In a non-provisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee, or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

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

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

The instant petition does not satisfy the requirements of item (1) above.

A proper response to the non-final Office action did not accompany the petition. To be considered grantable, the renewed petition must be accompanied by an amendment or a continuing application.

The request for an extension of time within the third month filed July 31, 2007, is noted but cannot be granted as the request was made outside the maximum statutory period for reply to the non-final Office action. The amount of $510.00 will be refunded, in due course.

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

By mail:

Mail Stop Petitions
Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

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

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

Kenya A. McLaughlin
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

CLARK & BRODY
1090 VERMONT AVENUE, NW
SUITE 250
WASHINGTON DC 20005

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In re Application of

Philip L. Rogers :

Application No. 10/969,964

: DECISION ON PETITION

Filed: October 22, 2004

:

Attorney Docket No. 11034-0020C

This is a decision on the renewed petition under 37 CFR 1.137(b), filed, March 17, 2008, the above-identified application.

The renewed petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 28, 2006, which set a shortened statutory period for reply of three (3) months from its mailing date. A Notice of Appeal was filed on December 28, 2006, with an extension of time within the third month. An Appeal Brief was not filed within the allowable period and the application became abandoned on March 1, 2007. A Notice of Abandonment was mailed on May 29, 2008. A petition under 37 CFR 1.137(b) was filed on July 31, 2007, and dismissed by a decision mailed January 16, 2008.

The continuing application, 11/882,280, filed July 31, 2007, is noted.

The application is being forwarded to Technology Center 3600, GAU 3662 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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NOV 16 2007

OFFICE OF PETITIONS

Valentino J. LoSauro
Suite 11
7091 College Pkway
Ft. Myers FL 33907

In re Application of :
Valentino J. Losauro :
Application No. 10/969,973 : DECISION ON PETITION
Filed: October 22, 2004 : UNDER 37 C.F.R. § 1.181
Title: HAIR-CUTTING AND STYLING :
DEVICE & METHOD OF USE :

This is a decision on the submission of August 30, 2007, which is properly treated as a petition pursuant to 37 C.F.R. § 1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

The petition is **DISMISSED**.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (first notice), mailed December 1, 2004, which set a shortened statutory period for reply of two months. This notice indicated that the basic filing fee was deficient by $1, and that the $65 fee associated with the late submission of the same was required, along with additional claim fees of $9.

On December 8, 2004, the fee that is associated with the filing of additional fees increased from $9 to $25 as part of the restructuring of application fees.

On January 7, 2005, Applicant submitted $1 towards the basic filing fee deficiency, $65 towards the fee that is associated with the late submission of the basic filing fee, and $9 towards

the filing of one additional claim. Consequently, Applicant's submission was deficient in the amount of $16 ($25 - $9 = $16).

On January 24, 2005, the Office of Initial Patent Examination mailed a Notice of Incomplete Reply (Nonprovisional) (second notice), indicating that Applicant's submission was deficient in the amount of $16. This second notice did not extend the period for response that was set by the first notice, although extensions of time were available. No response to this second notice 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 February 2, 2005. A notice of abandonment was mailed on August 10, 2007.

RELEVANT PORTIONS OF THE MPEP AND C.F.R.

MPEP §711.03(c)(I)(A) sets forth, in toto:

> In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).
>
> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.
>
> The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

> 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).

37 C.F.R. § 1.134 sets forth, *in toto*:

> An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant is notified in writing that a reply is required in less than six months, a maximum period of six months is allowed.

37 C.F.R. § 1.135 sets forth, *in toto*:

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

ANALYSIS

As set forth above, the second notice did not extend the period for reply that was set by the first notice. As such, a response to the second notice was due no later than February 1, 2005. No response was received.

Petitioner has asserted that he failed to receive the second notice. The showing in the present petition is not sufficient to withdraw the holding of abandonment because (1) applicant did not include a statement that a thorough search of the file jacket and docket records were conducted, and (2) applicant did

not include a copy of the docket record where the non-received Office communication would have been entered and docketed.

Since Petitioner is a pro se applicant, it is possible that he does not have a file jacket, and does not maintain a docket record. If such is the case, he must state this. Petitioner must state that the Office communication was not received and that he searched the place where he normally would keep such communications and could not find it. Petitioner must explain his system for keeping track of patent matters - where he keeps the correspondence[1]; where he writes down due dates[2]; how he knows replies are due, etc. In essence, Petitioner must explain how he reminds himself of response due dates and show that the due date for the notice was not entered into that system. The Office would like to see documentary evidence and records as may exist which would substantiate that Petitioner exercised due diligence with respect to his most important business.

Any reply to this decision must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted.

The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. § 1.181(a)." This is not a final agency action within the meaning of 5 U.S.C § 704.

Any future submission concerning this matter should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[3], hand-delivery[4], or facsimile[5].

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner at the address that appears on this petition. However, all future correspondence

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1 Does Petitioner have a file/some means of organization where he keeps correspondence pertaining to this application?
2 This need not be a log. This may be in the form of a calendar or date book.
3 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
4 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
5 (571) 273-8300- please note this is a central facsimile number.

will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[6]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

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

cc: Valentino LoSauro
3300 North Key Drive/Sunset North
Apt: 8w
North Fort Myers, FL 33903

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

Valentino J. LoSauro
3300 North Key Drive/Sunset North
Apt: 8w
North Ft. Myers FL 33903

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FEB 04 2008

OFFICE OF PETITIONS

In re Application of	:	
Valentino J. Losauro	:	
Application No. 10/969,973	:	DECISION ON RENEWED PETITION
Filed: October 22, 2004	:	UNDER 37 C.F.R. § 1.181
Title: HAIR-CUTTING AND STYLING	:	
DEVICE & METHOD OF USE	:	

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

This renewed petition is **DISMISSED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (first notice), mailed December 1, 2004, which set a shortened statutory period for reply of two months. This notice indicated that the basic filing fee was deficient by $1, and that the $65 fee associated with the late submission of the same was required, along with additional claim fees of $9.

On December 8, 2004, the fee that is associated with the filing of additional fees increased from $9 to $25 as part of the restructuring of application fees.

On January 7, 2005, Applicant submitted $1 towards the basic filing fee deficiency, $65 towards the fee that is associated with the late submission of the basic filing fee, and $9 towards the filing of one additional claim. Consequently, Applicant's submission was deficient in the amount of $16 ($25 - $9 = $16).

On January 24, 2005, the Office of Initial Patent Examination mailed a Notice of Incomplete Reply (Nonprovisional) (second

notice), indicating that Applicant's submission was deficient in the amount of $16. This second notice did not extend the period for response that was set by the first notice, although extensions of time were available. No response to this second notice 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 February 2, 2005. A notice of abandonment was mailed on August 10, 2007.

An original petition pursuant to 37 C.F.R. § 1.181 was filed on August 30, 2007, and was dismissed via the mailing of a decision on November 16, 2007, for failure to establish that the second notice was not received.

It is noted that this renewed petition has not been executed.

37 C.F.R. § 10.18(a) sets forth:

> 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, personally signed by such practitioner, in compliance with § 1.4(d)(1) of this chapter.

Since this petition has been submitted without a signature, the petition cannot be processed. For this reason, this renewed petition pursuant to 37 C.F.R. § 1.181 must be **DISMISSED**.

Any reply to this decision must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted.

The reply should include a cover letter entitled "Second Renewed Petition Under 37 C.F.R. § 1.181(a)." This is not a final agency action within the meaning of 5 U.S.C § 704.

Any future submission concerning this matter should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[1], hand-delivery[2], or facsimile[3].

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[4]. All other inquiries

---

1 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
2 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
3 (571) 273-8300- please note this is a central facsimile number.
4 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is

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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reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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Paper No.

Valentino J. LoSauro
3300 North Key Drive/Sunset North
Apt: 8w
North Ft. Myers FL 33903

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FEB 29 2008

In re Application of	:	
Valentino J. Losauro	:	
Application No. 10/969,973	:	DECISION ON SECOND PETITION
Filed: October 22, 2004	:	RENEWED PURSUANT TO
Title: HAIR-CUTTING AND STYLING	:	37 C.F.R. § 1.181
DEVICE & METHOD OF USE	:	

This is a decision on the second renewed petition pursuant to 37 C.F.R. § 1.181, filed on February 12, 2008, requesting that the holding of abandonment in the above-identified application be withdrawn.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (first notice), mailed December 1, 2004, which set a shortened statutory period for reply of two months. This notice indicated that the basic filing fee was deficient by $1, and that the $65 fee associated with the late submission of the same was required, along with additional claim fees of $9.

On December 8, 2004, the fee that is associated with the filing of additional fees increased from $9 to $25 as part of the restructuring of application fees.

On January 7, 2005, Applicant submitted $1 towards the basic filing fee deficiency, $65 towards the fee that is associated with the late submission of the basic filing fee, and $9 towards the filing of one additional claim. Consequently, Applicant's submission was deficient in the amount of $16 ($25 - $9 = $16).

On January 24, 2005, the Office of Initial Patent Examination mailed a Notice of Incomplete Reply (Nonprovisional) (second

notice), indicating that Applicant's submission was deficient in the amount of $16. This second notice did not extend the period for response that was set by the first notice, although extensions of time were available. No response to this second notice 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 February 2, 2005. A notice of abandonment was mailed on August 10, 2007.

An original petition pursuant to 37 C.F.R. § 1.181 was filed on August 30, 2007, and was dismissed via the mailing of a decision on November 16, 2007, for failure to establish that the second notice was not received. A renewed petition was filed on December 18, 2007, and was dismissed via the mailing of a decision on February 4, 2008, since the renewed petition had not been executed.

Considering the facts and circumstances of the delay at issue, as set forth on this second renewed petition, it is concluded that Applicant has met his burden of establishing that the mailing was not received.

However, as set forth above, the second notice did not extend the period for response as set forth by the first notice.

37 C.F.R. § 1.135(a) and (b) set forth, *in toto*:

> (a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise:
> (b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.

Consequently, it follows that the failure to receive the second notice does not obviate Applicant's responsibility to have responded to the first notice in full. However, Applicant has established that the second notice was not received. Acordingly, the petition under 37 C.F.R. § 1.181(a) is **GRANTED TO THE EXTENT INDICATED HEREIN**.

This application remains abandoned.

Petitioner may wish to strongly consider filing a petition pursuant to 37 C.F.R. § 1.137(b). The fee that is associated with the filing of a petition pursuant to 37 C.F.R. § 1.137(b)

is presently set at $770 for a small entity. A form that Applicant may find useful has been included with this decision.

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

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

Encl. Form PTO/SB/64

---

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

PTO/SB/64 (01-08)
Approved for use through 02/29/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

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

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

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

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

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

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

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

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature	Date
Typed or printed name	Registration Number, if applicable
Address	Telephone Number
Address	

Enclosures:
- ☐ Fee Payment
- ☐ Reply
- ☐ Terminal Disclaimer Form
- ☐ Additional sheets containing statements establishing unintentional delay
- ☐ Other: _____

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

I hereby certify that this correspondence is being:

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

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

Date	Signature
	Typed or printed name of person signing certificate

Privacy Act Statement

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No.

Valentino J. LoSauro
3300 North Key Drive/Sunset North
Apt: 8w
North Ft. Myers FL 33903

COPY MAILED

JUL 21 2008

OFFICE OF PETITIONS

In re Application of	:	
Valentino J. Losauro	:	
Application No. 10/969,973	:	DECISION ON PETITION
Filed: October 22, 2004	:	PURSUANT TO
Title: HAIR-CUTTING AND STYLING	:	37 C.F.R. § 1.137(b)
DEVICE & METHOD OF USE	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application, filed on March 11, 2008.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (first notice), mailed December 1, 2004, which set a shortened statutory period for reply of two months. This notice indicated that the basic filing fee was deficient by $1, and that the $65 fee associated with the late submission of the same was required, along with additional claim fees of $9.

On December 8, 2004, the fee that is associated with the filing of additional fees increased from $9 to $25 as part of the restructuring of application fees.

On January 7, 2005, Applicant submitted $1 towards the basic filing fee deficiency, $65 towards the fee that is associated with the late submission of the basic filing fee, and $9 towards the filing of one additional claim. Consequently, **Applicant's submission was deficient in the amount of $16** ($25 - $9 = $16).

On January 24, 2005, the Office of Initial Patent Examination mailed a Notice of Incomplete Reply (Nonprovisional) (second

notice), indicating that **Applicant's submission was deficient in the amount of $16.** This second notice did not extend the period for response that was set by the first notice, although extensions of time were available. No response to this second notice 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 February 2, 2005. A notice of abandonment was mailed on August 10, 2007.

An original petition pursuant to 37 C.F.R. § 1.181 was filed on August 30, 2007, and was dismissed via the mailing of a decision on November 16, 2007, for failure to establish that the second notice was not received. A renewed petition was filed on December 18, 2007, and was dismissed via the mailing of a decision on February 4, 2008, since the renewed petition had not been executed. A second renewed petition pursuant to 37 C.F.R. § 1.181 was filed on February 12, 2008, and was dismissed via the mailing of a decision on February 29, 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 and the required statement of unintentional delay. As such, Petitioner has met requirements (2) and (3) of Rule 1.137(b). The fourth requirement is not applicable, as a terminal disclaimer is not required.

<u>Regarding the first requirement</u>, the requirement has not been satisfied because Petitioner did not submit the required reply to the Office action. The required reply is the reply sufficient to have avoided abandonment, had such reply been

timely filed[1]. In order for the application to be revived, petitioner must submit a reply that satisfies 37 C.F.R. §1.137(b)(1): to date, **Petitioner has not submitted the deficient $16.**

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

Petitioner may wish to consider submitting the deficient $16.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[2], hand-delivery[3], or facsimile[4]. Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web[5].

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

The general phone number for the Office of Petitions that 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[6].

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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1 See M.P.E.P. § 711.03(c).

2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
3 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
4 (571) 273-8300- please note this is a central facsimile number.
5 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
6 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any of Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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JUL 0 8 2009

OFFICE OF PETITIONS

In re Application of	:	
Valentino J. Losauro	:	
Application No. 10/969,973	:	DECISION ON RENEWED
Filed: October 22, 2004	:	PETITION PURSUANT TO
Title: HAIR-CUTTING AND STYLING	:	37 C.F.R. § 1.137(b)
DEVICE & METHOD OF USE	:	

This is a decision on the renewed petition pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application, filed on July 29, 2008.

This renewed 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 Notice of Missing Parts (first notice), mailed December 1, 2004, which set a shortened statutory period for reply of two months. This notice indicated that the basic filing fee was deficient by $1, and that the $65 fee associated with the late submission of the same was required, along with additional claim fees of $9.

On December 8, 2004, the fee that is associated with the filing of additional fees increased from $9 to $25 as part of the restructuring of application fees.

On January 7, 2005, Applicant submitted $1 towards the basic filing fee deficiency, $65 towards the fee that is associated with the late submission of the basic filing fee, and $9 towards the filing of one additional claim. Consequently, **Applicant's submission was deficient in the amount of $16** ($25 - $9 = $16).

On January 24, 2005, the Office of Initial Patent Examination mailed a Notice of Incomplete Reply (Nonprovisional) (second notice), indicating that **Applicant's submission was deficient in the amount of $16**. This second notice did not extend the period for response that was set by the first notice, although extensions of time were available. No response to this second notice 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 February 2, 2005. A notice of abandonment was mailed on August 10, 2007.

An original petition pursuant to 37 C.F.R. § 1.181 was filed on August 30, 2007, and was dismissed via the mailing of a decision on November 16, 2007, for failure to establish that the second notice was not received. A renewed petition was filed on December 18, 2007, and was dismissed via the mailing of a decision on February 4, 2008, since the renewed petition had not been executed. A second renewed petition pursuant to 37 C.F.R. § 1.181 was filed on February 12, 2008, and was dismissed via the mailing of a decision on February 29, 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.

An original petition pursuant to 37 C.F.R. § 1.137(b) was filed on March 11, 2008, along with the petition fee and the required statement of unintentional delay. The original petition pursuant to 37 C.F.R. § 1.137(b) was dismissed via the mailing of a decision on July 21, 2008, which indicated that requirements (2) and (3) of Rule 1.137(b) had been satisfied,

and that the fourth requirement is not applicable, as a terminal disclaimer is not required.

With this renewed petition, Petitioner has submitted the deficient $16, and as such, the first requirement of Rule 1.137(b) has been satisfied.

The Office of Patent Application Processing (OPAP) will be notified of this decision, and jurisdiction over the application is transferred to OPAP, so that the application may receive further processing.

Petitioner will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OPAP.

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 OPAP 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 OPAP where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status**.

The general phone number for OPAP is 571-272-4000. Telephone inquiries **regarding this decision** should be directed to the undersigned at (571) 272-3225.

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.

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
DIW Oct-05

LOWE HAUPTMAN GILMAN AND BERNER, LLP
1700 DIAGONAL ROAD
SUITE 300 /310
ALEXANDRIA VA 22314

COPY MAILED

OCT 0 5 2005

OFFICE OF PETITIONS

In re Application of	:	
David Anthony Di Cesare	:	DECISION ACCORDING STATUS
Application No. 10/969,982	:	UNDER 37 CFR 1.47(b)
Filed: 22 October, 2004	:	
Atty Docket No. 4559-012	:	

This is in response to the petition filed on 14 September, 2005, under 37 CFR 1.47(b).

The petition is **GRANTED**.

Petitioner has shown that the sole inventor has refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, petitioners shown via the declaration of Graham Leslie Cowin, that a copy of the application was sent to the non-signing inventor, via his attorney, Robin Broberg, and that the non-signing inventor's attorney orally stated that the inventor would not sign the declaration. In addition, petitioner has shown, via the agreement between David Anthony Di Cesare, Gull Management Pty., Ltd., and Paul Damien Burke and Julie Ann Thompson, that petitioner Profast Precast Panels Pty. Ltd. has a proprietary interest in the above-identified application. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63, signed by Paul Damien Burke, Director and Company Secretary of assignee Profast, and has demonstrated that such action is necessary to preserve the rights of the parties.

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

residence address listed on the declaration. Notice of the filing of this application will also be published in the *Official Gazette*.

The application file is being referred to Technology Center Art Unit 1732 for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

David Anthony Di Cesare
792 Acacia Street
Invermay, Victoria, 3352
AUSTRALIA

COPY MAILED

OCT 0 5 2005

OFFICE OF PETITIONS

In re Application of
David Anthony Di Cesare
Application No. 10/969,982
Filed: 22 October, 2004
For: VERTICAL CASTING APPARATUS AND METHOD

Dear Mr. Di Cesare:

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.

Telephone inquiries regarding this communication should be directed to the undersigned at 571/272-3231. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

LOWE HAPTMAN GILMAN AND BERNER, LLP
1700 DIAGONAL ROAD
SUITE 300/310
ALEXANDRIA VA 22314

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Mary Anthony Merchant Ph.D.
Troutman Sanders LLP
600 Peachtree Street, Suite 5200
Atlanta, GA 30308

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JAN 07 2005

OFFICE OF PETITIONS

In re Application of
Gow, et al.
Application No. 10/970,017
Filed: October 21, 2004
Attorney Docket No. HERB6
For: METHODS AND COMPOSITIONS COMPRISING ILEX

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed November 24, 2004.

The petition is granted.

Petitioners have shown that the non-signing inventor, Rodger M. Marentis, has constructively refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration/statement of facts of Attorney Mary Anthony Merchant establishes that the inventor was successfully mailed the application papers, including the specification and claims, but failed to respond to the request that he sign the declaration. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

Regarding finances, effective November 22, 2004, the petition fee for filing a petition under 37 CFR 1.47(a) is $200.00. Deposit account no. 20-1507 was charged $200.00 on November 30, 2004. In addition, a $65.00 late declaration surcharge will be charged to the same deposit account because the declaration submitted on October 21, 2004 was not fully executed and the grantable Rule 47 petition was not filed until November 24, 2004.

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

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

After this decision is mailed, the above-identified application will be forwarded to the Office of Initial Patent Examination for further processing.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-3873

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NOV 0 5 2007

OFFICE OF PETITIONS

In re Application of	:	
Tatsuyuki Saito et al	:	
Application No. 10/970,024	:	DECISION GRANTING PETITION
Filed: October 22, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 501.39868VX1	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 31, 2007, and resubmitted on November 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 19, 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 2823 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

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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.*

MELVIN KRAUS
WILLIAM I. SOLOMON*
GREGORY E. MONTONE
RONALD J. SHORE
DONALD E. STOUT
ALAN E. SCHIAVELLI
PAUL J. SKWIERAWSKI*
ALFRED A. STADNICKI*

DONALD R. ANTONELLI (1935-2005)
*ADMITTED OTHER THAN VA

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PATENT AGENT
LARRY N. ANAGNOS

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URGENT

Date: November 2, 2007
To: Office of Petitions (attention: Ms. Karen Creasy)
Fax No.: 1-571-273-0025
From: Larry N. Anagnos
Our Ref. No.: 1374.39868VX1
Total number of pages, including this cover sheet: 10
If there is any problem with this transmission, please call (703) 312-6600.
Confirmation copy __ will _XX_ will not be sent.

Comments:

Per telephone conference with Ms. Karen Creasy. Please find enclosed copies of the following papers filed on October 31, 2007 regarding serial no. 10/970,024:

1. Date stamped postcard receipt;
2. Petition to withdraw from Issue Under 37 C.F.R. §1.313;
3. RCE Transmittal;
4: IDS (including cover letter and listings form PTO/SB/08A); and
5. Authorized Credit Card form.

Expeditions handling of this matter will be greatly appreciate.

ANTONELLI, TERRY, STOUT & KRAUS, LLP

Larry N. Anagnos
Registration No.: 32,392

Patent Dkt. No. 1374.39868VX1
Application No. 10/970,024
Applicants (s) SAITO, et al.
Papers Filed Herewith on

Attorney Initials: LNA
Filing Date: 10/22/2004
Client Ref. No.: R310000113US2
October 31, 2007

Receipt is hereby acknowledged of the papers filed as indicated by the checked items in connection with the above-identified application:

☒ Credit Card Payment Form ☒ **Fees $940.00**

☒ Request for Continuation Examination

☒ Petition to Withdraw from Issue

☒ Information Disclosure Statement ☒ PTO 1449 (s) or PTO/SB/08A(s)08B(s) ☒ Cited Reference (s) Incl. Engl. Trans. + 2 For. O.A.

OIPE IAP42 OCT 31 2007 PATENT & TRADEMARK OFFICE

1374.39868VX1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Applicants:	T. SAITO et al
Serial No.:	10/970,024
Filed:	October 22, 2004
For:	A SEMICONDUCTOR INTEGRATED CIRCUIT DEVICE AND A METHOD OF MANUFACTURING THE SAME
Group:	2823
Examiner:	Fernando L. Toledo
Confirmation No.:	4312

PETITION TO WITHDRAW FROM ISSUE BASED ON 37 CFR § 1.313(c)(2)

Mail Stop: 313(c)
Commissioner for Patents
POB 1450
Alexandria, VA 22304-1450

October 31, 2007

Sir:

Applicants respectfully petition the Commissioner, under 37 CFR § 1.313(a) and pursuant to 37 CFR § 1.313(c)(2), to withdraw the above-identified application from issue, after payment of the Issue Fee on September 19, 2007. This Petition is being filed concurrently with a Request for Continued Examination (RCE) and the necessary Submission, in order to have the Examiner consider the Submission concurrently filed herewith. The accompanying Submission is an Information Disclosure Statement (IDS) and is being filed in accordance with 37 CFR §§ 1.114(a)(1), 1.114(b), and 1.114(c).

Submitted herewith, also, is the required fee under 37 CFR § 1.17(h) and pursuant to 37 CFR § 1.313(a). (This Petition Fee is included in the authorized fee amount covered by the accompanying authorized Credit Card Payment Form.)

Granting of this Petition and withdrawal of the above-identified application from issue for the purpose of receiving consideration of the aforementioned RCE as

well as of the aforementioned Submission, namely, the IDS, is respectfully requested.

Please charge any shortage in the fees due in connection with the filing of this paper to the Deposit Account of Antonelli, Terry, Stout & Kraus, LLP, Account No. 01-2135 (Docket No. 1374.39868VX1), and please credit any excess fees to such Deposit Account.

Respectfully submitted,

ANTONELLI, TERRY, STOUT & KRAUS, LLP

Larry N. Anagnos
Registration No. 32,392

LNA:mlh
Telephone: (703) 312-6600
Facsimile: (703) 312-6666

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OFFICE OF PETITIONS

PTO/SB/30 (08-03)
Approved for use through 07/31/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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Request For Continued Examination (RCE) Transmittal

Address to:
Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Application Number	10/970,024
Filing Date	10/22/2004
First Named Inventor	Tatsuyuki SAITO
Art Unit	2823
Examiner Name	Fernando L. Toledo
Attorney Docket Number	1374.39868VX1

This is a Request for Continued Examination (RCE) under 37 C.F.R. § 1.114 of the above-identified application.
Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

1. Submission required under 37 C.F.R. § 1.114 Note: If the RCE is proper, any previously filed un-entered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed un-entered amendment(s) entered, applicant must request non-entry of such amendment(s).
   a. ☐ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.
      i ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on
      ii ☐ Other
   b. ☒ Enclosed
      i ☐ Amendment/Reply
      ii ☐ Affidavit(s)/Declaration(s)
      iii. ☒ Information Disclosure Statement (IDS)
      iv. ☐ Other

2. Miscellaneous
   a. ☐ Suspension of action on the above-identified application is requested under 37 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 RCE is filed.
   a. ☒ The Director is hereby authorized to charge the following fees for any insufficiency directed thereto, or credit any overpayments, to
      Deposit Account No. 01-2135
      i ☒ RCE fee required under 37 C.F.R. § 1.17 (e)
      ii ☐ Extension of time fee (37 C.F.R. §§ 1.136 and 1.17)
      iii ☒ Other - Petition Fee set forth in 37 C.F.R. § 1.17(h) and pursuant to 37 C.F.R. § 1.313
   b. ☐ Check in the amount of $ enclosed
   c. ☒ Payment by credit card (Form PTO-2038 enclosed)

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

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Name (Print/Type)	Larry N. Anagnos	*Registration No. (Attorney/Agent)*	32,392
Signature	Larry N. Anagnos	*Date*	October 31, 2007

CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

Name (Print/Type)			
Signature		*Date*	

This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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1374.39868VX1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Applicants:	T. SAITO et al
Serial No.:	10/970,024
Filed:	October 22, 2004
For:	A SEMICONDUCTOR INTEGRATED CIRCUIT DEVICE AND A METHOD OF MANUFACTURING THE SAME
Group:	2823
Examiner:	Fernando L. Toledo
Confirmation No.:	4312

SUBMISSION INCLUDING INFORMATION DISCLOSURE STATEMENT PURSUANT TO 37 CFR § 1.114

Mail Stop: IDS
Commissioner for Patents
POB 1450
Alexandria, VA 22304-1450

October 31, 2007

Sir:

Subsequent to granting of the concurrently filed Petition To Withdraw From Issue based on 37 CFR § 1.313(c)(2), and subsequent to withdrawal of the above-identified application from issue, and upon granting of the concurrently filed Request for Continued Examination (RCE), consideration and entry therefore of this Information Disclosure Statement along with all enclosures submitted therewith are respectfully requested.

The present Information Disclosure Statement (IDS) is being filed as a replacement for the erroneously submitted paper filed in the USPTO on September 28, 2007, entitled Second Information Disclosure Statement. In that paper we recently realized that the IDS procedures under 37 CFR § 1.97(d) and 1.98 were inapplicable since the Issue Fee was already paid with regard to the above-referenced application. A review of the file history of the above-identified application shows that the application was allowed on September 5, 2007 and, based on the official Notice of Allowance papers received from the USPTO, that the Issue Fee

became due therefore on December 5, 2007. However, the undersigned did not realize at the time of the preparation of the paper filed on September 28, 2007 that, in fact, the Issue Fee due was already paid early. It is submitted, the above-noted erroneously filed IDS of September 28, 2007 was without any deceptive intent and any inconvenience to the USPTO personnel is regretted. Acceptance and formal entry therefor of the present paper as a correcting, replacement of the erroneously filed IDS is respectfully requested.

Accordingly, Applicants, though their undersigned representative, are submitting herewith copies along with a listing, in Form PTO/SB/08A, of four (4) foreign art documents cited in an Office Action with regard to a counterpart foreign (Japanese) patent application, for the USPTO's consideration. A copy of the foreign Office Action is also enclosed herewith. (It should be noted that one of the four cited Japanese Patent Publications, i.e., JP 11-016906A, was previously made of record in the present application and it is also of record in the parent application (now USP 6,818,546). However, since the earlier submission of this Japanese patent publication did not include an English language version thereof (except for an available English language Abstract), Applicants are submitting herewith an available computer-generated English language translation thereof, as well as another copy of the Japanese version thereof and of the English language Abstract thereof along with a listing of the same in the accompanying Form PTO/SB/08A, as a courtesy to the Examiner and in order to complete the record.

Also enclosed herewith is a copy of another recent foreign Office Action with regard to a counterpart Korean application which cites therein USP 6,028,362. It is noted, however, that this patent is of record in both the present and parent applications and, therefore, is not included in the attached listings. Incidentally, English language versions were not made available to the undersigned, at this time, of either of the above-named foreign Office Actions.

This Information Disclosure Statement (IDS) is being filed as a Submission Under 37 CFR § 1.114 and, therefore, meets the requirements pursuant to 37 CFR § 1.97(b)(4).

As to the requirement of 37 CFR § 1.98(a)(3), for a concise explanation of relevance to the extent that the listed foreign patent documents are not in the English language, this is met by: the submission of computer-generated English language

translations of all four listings along with the corresponding English language Abstracts thereto.

It is submitted that this IDS is in compliance with the rules of practice as well as USPTO guidelines. Therefore, Applicants respectfully request that it be entered and duly considered by the USPTO. Also, acknowledgement of such entry, as well as the formal consideration thereof by the Examiner, is respectfully requested.

If any costs are due in accordance with the filing of this Information Disclosure Statement, please charge the same to the Deposit Account of Antonelli, Terry, Stout & Kraus, LLP, Account No. 01-2135 (Docket No. 1374.39868VX1), and please credit any excess fees to such Deposit Account.

Respectfully submitted,

ANTONELLI, TERRY, STOUT & KRAUS, LLP

Larry N. Anagnos
Registration No. 32,392

LNA:mlh
Telephone: (703) 312-6600
Facsimile: (703) 312-6666

PTO/SB/08A (10-01)
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Substitute for form 1449A/PTO

INFORMATION DISCLOSURE STATEMENT BY APPLICANT

(use as many sheets as necessary)

Sheet	1	of	1

Complete if Known	
Application Number	10/970,024
Filing Date	October 22, 2004
First Named Inventor	T. SAITO et al
Art Unit	2823
Examiner Name	Fernando L. Toledo
Attorney Docket Number	1374.39868VX1

U.S. PATENT DOCUMENTS

Examiner Initials*	Cite No.[1]	Document Number Number-Kind Code[2] (if known)		Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		US-				
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FOREIGN PATENT DOCUMENTS

Examiner Initials*	Cite No.[1]	Foreign Patent Document Country Code[3]-Number[4]-Kind Code[5] (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T[6]
		JP 10-135153A	05-22-1998	Hitachi, Ltd.		√
		JP 10-229084A	08-25-1998	Nippon Telegraph & Telephone Corp.		√
		JP 09-064034A	03-07-1997	Toshiba Corp.		√
		JP 11-016906A	01-22-1999	Sony Corp.		

Examiner Signature		Date Considered	

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

[1]Applicant's unique citation designation number (optional). [2]See Kinds Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04. [3]Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). [4]For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. [5]Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST. 16 if possible. [6]Applicant is to place a check mark here if English language Translation is attached.

Burden Hour Statement: This form is estimated to take 2.0 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

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DUANE MORRIS LLP
IP DEPARTMENT
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103-4196

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JAN 16 2007

OFFICE OF PETITIONS

In re Application of	:	
David J. Mucko	:	
Application No. 10/970,030	:	DECISION ON PETITION
Filed: October 21, 2004	:	TO WITHDRAW
Attorney Docket No. H1799-00271	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed October 3, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Duane Morris, LLP has been revoked by the assignee of the patent application on January 8, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: CHRISTOPHER B. AUSTIN
MICHAEL BEST & FRIEDRICH, LLP
100 E. WISCONSIN AVENUE
SUITE 3300
MILWAUKEE, WI 53202

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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
10/970,030	10/21/2004	David Joseph Mucko	H1799-00271

CONFIRMATION NO. 5214

OC000000021985374

OC000000021985374

41396
DUANE MORRIS LLP
IP DEPARTMENT
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103-4196

Date Mailed: 01/12/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/08/2007.

- 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).

April M Wise

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

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United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/970,039	10/21/2004	1714	862	011895-9001		50	6

CONFIRMATION NO. 5211

CORRECTED FILING RECEIPT

OC000000016211547

23510
MICHAEL BEST & FRIEDRICH, LLP
ONE SOUTH PINCKNEY STREET
P O BOX 1806
MADISON, WI 53701

Date Mailed: 06/07/2005

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

Aicardo Roa-Espinosa, Madison, WI;

Power of Attorney: The patent practitioners associated with Customer Number **23510**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 12/01/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/970,039

Projected Publication Date: 04/27/2006

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Copolymer composition for particle aggregation BEST AVAILABLE COPY

Preliminary Class

524

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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MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC
8321 OLD COURTHOUSE ROAD
SUITE 200
VIENNA VA 22182-3817

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MAR 2 3 2009

OFFICE OF PETITIONS

In re Application of	:	
Richard F. CARROTT et al.	:	
Application No. 10/970,051	:	DECISION ON PETITION
Filed: October 21, 2004	:	
Attorney Docket No. **CAR.5000CONT**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 29, 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, April 06, 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 July 07, 2006.

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

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 **(here two (2)years and one (1) month)** 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 **July 07, 2006**. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC, was counsel of record at the time of abandonment, MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC should explain why this application became abandoned while it was under their control and what efforts were made to further reply of itself and with whom this matter was discussed outside of MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s), MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC, Richard F. Carrott, Hirshol H. Pheir and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons then at MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC, Richard F. Carrott, Hirshol H. Pheir, and the responsible person(s) having firsthand knowledge of

the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

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

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, two (2)years and one (1) month) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons then at MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC and the responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

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

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

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless

of the circumstances that originally resulted in the abandonment of the application. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

Any renewed petition may be addressed as follows:

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

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

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

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

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

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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2568-A RIVA ROAD SUITE 304
ANNAPOLIS MD 21401

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OFFICE OF PETITIONS

In re Application of	:	
Richard F. CARROTT et al.	:	
Application No. 10/970,051	:	DECISION ON PETITION
Filed: October 21, 2004	:	
Attorney Docket No. CAR.5000CONT	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, April 06, 2006, which set a shortened statutory period for reply of three (3) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 07, 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 $770.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of April 06, 2006 is accepted as having been unintentionally delayed.

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

The application file is being referred to Technology Center AU 3621 for appropriate action on the concurrently filed amendment.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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OIPE IAP
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AUG 01 2007

TECHNOLOGY CENTER 3600

Raymond Y. Chan
Suite 128
108 N. Ynez Avenue
Monterey Park, CA 91754

In re Application of:
Lomicka, Joc, et.al.
Application No. 10/970,057
Filed: October 19, 2004
Attorney Docket No. USP2433A-HTI

NOTICE OF WITHDRAWAL
FROM ISSUE
UNDER 37 CFR § 1.313(b)

The above-identified application is withdrawn from issue due to unpatentability of one or more claims. See 37 CFR § 1.313(b).

The above-identified application is hereby withdrawn from issue.

The issue fee and publication fee are refundable upon written request. Applicant may also request that the fee be credited to a specified Deposit Account. Applicant may, however, wait until such time as the application is either allowed or abandoned to make such request. If the application is subsequently allowed, upon receipt of a new Notice of Allowance and Issue and Publication Fee Due, applicant may further request that the previously submitted issue fee and publication fee be applied toward payment of the issue fee and publication fee in the amount identified in the new Notice of Allowance and Issue and Publication Fee Due. This request, and any balance due, must be received on or before the due date noted in the new Notice of Allowance and Issue and Publication Fee Due in order to prevent abandonment of the application. If the application is abandoned, applicant may request either a refund or a credit to a specified Deposit Account.

Telephone inquires should be directed to Supervisory Patent Examiner Jennifer Gay at (571)-272-7029.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Donald T. Hajec, Director
Technology Center 3600

cc: Office of Patent Publication

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SANTA CLARA, CA 95054

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OFFICE OF PETITIONS

In re Application of	:	
Kevin **D'Angelo** et al.	:	
Application No. 10/970,061	:	DECISION ON PETITION
Filed: October 20, 2004	:	
Attorney Docket No. AAT1014US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 07, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to reply in a timely manner to the Non-final Office action mailed April 05, 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) was obtained. Accordingly, the above-identified application became abandoned on July 06, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,540.00 and (3) a proper statement of unintentional delay. Accordingly, the reply to the Non-final Office action of December 07, 2007 is accepted as having been unintentionally delayed.

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

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

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

Telephone inquiries concerning this decision should be directed to Thuy Pardo at (571) 272-6052 or in her absence, the undersigned at (571) 272-7099.

This application is being referred to Technology Center AU 2816 for appropriate action by the Examiner in the normal course of business on the reply received.

Victor Bottrill

for David A. Bucci
Petitions Examiner
Office of Petitions

cc:
Joseph K. Hollinger
830 East Arques Avenue
Sunnyvale, CA 94085

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ROBERT D. FISH
RUTAN & TUCKER LLP
611 ANTON BLVD 14TH FLOOR
COSTA MESA CA 92626-1931

In re Application of	:	
Brenda Pando	:	
Application No. 10/970,063	:	
Filed: October 20, 2004	:	DECISION ON PETITION UNDER
Attorney Docket No.	:	37 C.F.R. §1.53
100580.0005US1	:	
Title: GLOVE WITH INSECT	:	
PROOFING	:	

This is a decision on the "response to notice of incomplete nonprovisional application," filed March 2, 2005, which is properly treated as a petition under 37 C.F.R. §1.53.

On October 20, 2004, the above-identified application was deposited. On January 26, 2005, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Incomplete Nonprovisional Application - Filing Date Not Granted (notice)", stating that the application had not been accorded a filing date, and advising applicants that a filing date would be accorded upon the receipt of drawings. The Notice set a two-month period for response.

On March 2, 2005, Petitioner submitted the present petition under 37 C.F.R. §1.53. The petition is further accompanied by a copy of three sheets of drawings, as well as a copy of applicants' postcard receipt acknowledging receipt of "drawings (3 sheets)" in the United States Patent and Trademark Office (Office) on

October 20, 2004. Applicant requests that the application, including these three sheets of drawings, be accorded a filing date of October 20, 2004.

Upon review of the electronic record, the above-mentioned sheets of drawings have not been located among the application papers. However, the evidence is convincing that the application papers deposited on October 20, 2004 included three sheets of drawings, and each of these sheets was subsequently misplaced in the Office.

Therefore, the application, including three sheets of drawings, was complete on filing and entitled to a filing date of October 20, 2004 as part of the original disclosure.

Accordingly, the petition is **GRANTED**.

The notice mailed January 26, 2005, was sent in error, and is hereby **VACATED**. Therefore, no petition fee is necessary. The petition fee has not been charged to Petitioner's Deposit Account.

OIPE will be notified of this decision so that this application may receive further processing with a filing date of October 20, 2004, using the original application papers filed on that date, as well as the three sheets of drawings submitted on March 2, 2005, and for noting in Office records that these three sheets were present on filing.

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
United States Patent and Trademark Office

---

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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Hani Z. Sayed, Esq.
c/o Rutan & Tucker, LLP
611 ANTON BLVD
SUITE 1400
COSTA MESA CA 92626

mailed 2/9/07

In re Application of: PANDO, BRENDA Serial No.: 10/970,063 Filed: Oct. 20, 2004 Docket: 100580.0005US1 Title: GLOVE WITH INSECT PROOFING	DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02 (VIII)

This is a decision on the petition filed on Mar. 2, 2005 to make the above-identified application special under the accelerated examination procedure set forth in MPEP § 708.02(VIII) and in accordance with 37 C.F.R. § 1.102(d). The petition fee of $130.00 has been charged to the Deposit Account provided in the petition.

The petition to make the application special is Granted.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02 (VIII) of the Manual of Patent Examining Procedures (MPEP).

Applicant is advised that the examiner's search will be restricted to the subject matter encompassed by the claims. In the event that the application receives a first action rejection, Applicant is encouraged to arrange for an interview with the examiner, and to provide the examiner with a working copy of any proposed amendment one working day prior to the interview. Any amendment filed in response to a first action rejection that would require broadening the field of search will be treated as an improper response. See MPEP 708.02 (VIII) for a full explanation of the handling of applications after petition grant.

While Technology Center Directors may have granted petitions that do not comply with the detailed discussion requirement of the Accelerated Examination procedure, Technology Center Director decisions on petitions are not binding precedent of the Patent Examining Corps, and the application of an improper standard in certain cases does not require the Office to continue to

apply the improper standard in all cases. *See* *In re The Boulevard Entertainment, Inc.*, 334 F.3d 1336, 1343, 67 USPQ2d 1475, 1480 (Fed. Cir. 2003).

Petition GRANTED

Henry C. Yuen, Special Programs Examiner
Technology Center 3700 – Mechanical Engineering,
Manufacturing and Products
571-272-4856

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In re Application of	:	
Weinberg, et al.	:	
Application No. 10/970,067	:	DECISION GRANTING PETITION
Filed: October 21, 2004	:	
Attorney Docket No. DR-37IJ	:	

This is a decision on the petition filed June 12, 2006, under 37 CFR 1.10(c) requesting that the above-cited application be accorded a filing date of October 21, 2004, rather than the presently accorded filing date of October 20, 2004.

Petitioner alleges that the application was deposited with the Express Mail Service on October 21, 2004. In support of the allegation, the petition is accompanied by a copy of the Express Mail tracking sheet with a tracking number EV524742805US showing a "date-in" of October 21, 2004. The tracking number cited is the same number found on the application transmittal sheet that accompanied the original application papers. The evidence is convincing that the application papers were deposited on October 21, 2004.

In view of the above, the petition is granted. The new filing date for the above-cited application is October 21, 2004.

The Office of Initial Patent Examination will further process the application with a filing date of October 21, 2004, and issue a corrected filing receipt.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Choate, Hall & Stewart, LLP/Wyeth LLC
Patent Group
Two International Place
Boston, MA 02110

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In re Application of	:	
Jonathan Laird Gross et al.	:	
Application No. 10/970,103	:	DECISION ON PETITION
Filed: October 21, 2004	:	TO WITHDRAW
Attorney Docket No. 2004658-2318 (AM101187)	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 20, 2009.

The request is **NOT APPROVED.**

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because the customer number provided on the request is not of record in this application.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified.

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

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Patent No. 7,531,623
Liu et al.
Issue Date: May 12, 2009
Application No. 10/970,128
Filed: October 21, 2004
Attorney Dkt. No. P-158-US1
Title: Hydrochlorine Salts of A Glycopeptide Phosphonate Derivative

DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED ON ISSUED PATENT (37 C.F.R. §1.705)" filed June 9, 2009. This petition is properly treated under 37 CFR 1.705(d). Patentees request that the patent term be adjusted from 766 days to 802 days.

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

On May 12, 2009, the above-identified application matured into US Patent No. 7,531,623 with a patent term adjustment of 766 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 submit that the total period of adjustment for Office delay is 802 days (the sum of the period of three-year delay (36 days) and the period of examination delay (766 days). As such, patentees assert entitlement to a patent term adjustment of 802 days (766 days *plus* 36 days).

Pursuant to 35 U.S.C 154(b)(1)(B), the term of a 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. This period does not include any time consumed by continued examination of the application requested by the applicant under section 132(b).

Thus, the relevant period in considering this overlap ends with applicants' filing of the request for continued examination (RCE) pursuant to section 132(b). Further, the period for over three-year pendency does not include any period of adjustment which overlaps with the period of adjustment for Office delay accorded pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a).

The Office finds that as of the filing of the request for continued examination (RCE) on November 27, 2007, the application was pending three years and 37 days after its filing date. Moreover, as of the filing of the RCE, 492 days of adjustment for Office delay had been accorded pursuant to 35 U.S.C. 154(b)(1)(A) and § 1.702 (a)(1).[1] At issue is whether the period of adjustment of 37 days attributable to the Office taking in excess of three years to issue the patent overlaps with the adjustment of 492 days attributable to the Office's failure to issue a first Office action no later than fourteen months after the application filing date.

The Office contends that the 37-day period overlaps. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

Likewise, 37 CFR 1.703(f) provides that:

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

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office

---

[1] 274 days of adjustment under § 1.702 (a)(4) were accorded subsequent to the filing of the RCE and thus, are not considered in determining overlap with the 3-year period.

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 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). 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. The period for over 3 year

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

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the filing date October 21, 2004 until the filing of the RCE on November 27, 2007. 492 days of adjustment for Office delay were accorded prior to the filing of the RCE. The 37 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 492 days attributable to grounds specified in § 1.702(a)(1)(274 days were accorded subsequent to the filing of the RCE).

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

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 766 days.

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

Theravance Inc.
901 Gateway Boulevard
South San Francisco, CA 94080

In re Patent No. 7,531,623	:
Liu et al.	: DECISION UPON REMAND AND
Issue Date: May 12, 2009	: RECONSIDERATION OF
Application No. 10/970,128	: PATENT TERM ADJUSTMENT
Filed: October 21, 2004	: AND NOTICE OF INTENT
Attorney Docket No. P-158-US-1	: TO ISSUE CERTIFICATE OF
Title: Hydrochloride Salts of A	: CORRECTION
Glycopolypeptide Phosphonate	:
Derivative	

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 eight hundred and two (802) 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 eight hundred and two (802) 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 : 7,531,623 B2

DATED : **May 12, 2009** **DRAFT**

INVENTOR(S) : Liu 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 766 days

Delete the phrase "by 766 days" and insert – by 802 days--

Day : Tuesday
Date: 5/18/2010

PALM INTRANET

Time: 13:00:08

PTA Calculations for Application: 10/970128			
Application Filing Date:	10/21/2004	PTO Delay (PTO):	766
Issue Date of Patent:	05/12/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	802
PTO Delay Adjustment:	36		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
70	05/18/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	36		
59.5	04/22/2009	PTA 36 MONTHS			
59	05/12/2009	PATENT ISSUE DATE USED IN PTA CALCULATION	274		51
58	06/26/2008	MAIL EXAMINER'S AMENDMENT			
57	06/20/2008	EXAMINER'S AMENDMENT COMMUNICATION			
56	06/09/2008	PUBS CASE REMAND TO TC			
55	06/09/2008	WORKFLOW - QUERY REQUEST - BEGIN			
54	04/16/2008	EXPORT TO FINAL DATA CAPTURE			
53	04/15/2008	DISPATCH TO FDC			
52	04/15/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
51	04/11/2008	ISSUE FEE PAYMENT VERIFIED			
50	04/11/2008	ISSUE FEE PAYMENT RECEIVED			
49	01/15/2008	EXPORT TO INITIAL DATA CAPTURE			
48	01/14/2008	MAIL NOTICE OF ALLOWANCE			
47	01/14/2008	MAIL EXAMINER'S AMENDMENT			
46	01/10/2008	ISSUE REVISION COMPLETED			
45	01/10/2008	DOCUMENT VERIFICATION			
44	01/10/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
43	01/09/2008	EXAMINER'S AMENDMENT COMMUNICATION			
42	01/09/2008	NOTICE OF ALLOWABILITY			
41	11/27/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
40	11/27/2007	REFERENCE CAPTURE ON IDS			
39	11/27/2007	INFORMATION DISCLOSURE STATEMENT (IDS)			

		FILED			
38	12/13/2007	DATE FORWARDED TO EXAMINER			
37	11/27/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
36	12/13/2007	DISPOSAL FOR A RCE / CPA / R129			
35	11/27/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
34	11/27/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
33	10/08/2007	FINISHED INITIAL DATA CAPTURE			
32	08/31/2007	EXPORT TO INITIAL DATA CAPTURE			
31	08/28/2007	MAIL NOTICE OF ALLOWANCE			
30	08/24/2007	ISSUE REVISION COMPLETED			
29	08/24/2007	DOCUMENT VERIFICATION			
28	08/24/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
27	08/24/2007	CASE DOCKETED TO EXAMINER IN GAU			
26	08/23/2007	NOTICE OF ALLOWABILITY			
22	07/25/2007	DATE FORWARDED TO EXAMINER			
21	07/19/2007	RESPONSE AFTER NON-FINAL ACTION			
20	04/27/2007	MAIL NON-FINAL REJECTION	492		-1
19	04/26/2007	NON-FINAL REJECTION			
18	10/21/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
17	07/19/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
16	02/23/2006	MISCELLANEOUS INCOMING LETTER			
15	08/11/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
14	08/11/2005	CASE DOCKETED TO EXAMINER IN GAU			
13	07/19/2005	REFERENCE CAPTURE ON IDS			
12.7	07/19/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	07/19/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	10/21/2004	REFERENCE CAPTURE ON IDS			
10.7	10/21/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	10/21/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	02/14/2005	APPLICATION RETURN FROM OIPE			

8	02/14/2005	APPLICATION RETURN TO OIPE			
7	02/14/2005	APPLICATION DISPATCHED FROM OIPE			
6	02/14/2005	APPLICATION IS NOW COMPLETE			
5	01/31/2005	CLEARED BY L&R (LARS)			
4	11/24/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	11/24/2004	CASE CLASSIFIED BY OIPE			
2	11/04/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	10/21/2004	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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

Back to OASIS | Home page

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DOV ROSENFELD
5507 COLLEGE AVE
SUITE 2
OAKLAND, CA 94618

Mail Date: 07/16/2010

Applicant	: Wen-hsiung Chen	: DECISION ON REQUEST FOR
Patent Number	: 7649938	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/970,129	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/21/2004	: ISSUE CERTIFICATE OF CORRECTION

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

The patent term adjustment has been determined to be **1464** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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DAVIDOFF MALITO & HUTCHER, LLP
605 THIRD AVENUE, 34TH FL
NEW YORK, NY 10158

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MAY 28 2009

OFFICE OF PETITIONS

In re Application of :
Ronald W. PERO :
Application No. 10/970,144 : DECISION GRANTING PETITION
Filed: October 21, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **7686.021-CIP** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 22, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 28, 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 1655 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

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

---

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

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OFFICE OF PETITIONS

CLEMENTS BERNARD, PLLC
1901 ROXBOROUGH ROAD
SUITE 300
CHARLOTTE, NC 28211

In re Application of	:	
Timothy P. Clare	:	
Application No. 10/970,146	:	DECISION ON PETITION
Filed: October 21, 2004	:	TO WITHDRAW
Attorney Docket No. 3874	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed February 11, 2009.

The request is **NOT APPROVED**.

A review of the file record indicates that Jason Miller does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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

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

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

cc: TIMOTHY P. CLARE
10955 WINDS CROSSING DRIVE
SUITE 400
CHARLOTTE, NC 28273

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SUITE 300
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APR 13 2009

OFFICE OF PETITIONS

In re Application of
Timothy P. Clare
Application No. 10/970,146
Filed: October 21, 2004
Attorney Docket No. 3874

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 18, 2009.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request cannot be approved because the practitioners were not appointed by customer number 22474. In order to withdraw by customer number, practitioners must be appointed by customer number.

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

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

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

cc: TIMOTHY P. CLARE
10955 WINDS CROSSING DRIVE
SUITE 400
CHARLOTTE, NC 28273

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SUITE 300
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OFFICE OF PETITIONS

In re Application of	:	
Timothy P. Clare	:	
Application No. 10/970,146	:	DECISION ON PETITION
Filed: October 21, 2004	:	TO WITHDRAW
Attorney Docket No. 3874	:	FROM RECORD
	:	

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 27, 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 Christopher L. Bernard 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.

The application became abandoned for failure to timely reply to the outstanding Office action mailed August 20, 2008.

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

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

cc: TIMOTHY P. CLARE
10955 WINDS CROSSING DRIVE
#400
CHARLOTTE, NC 28273

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/970,146	10/21/2004	Timothy P. Clare	3874

CONFIRMATION NO. 4947

POWER OF ATTORNEY NOTICE

22474
Clements Bernard PLLC
1901 Roxborough Road
Suite 300
Charlotte, NC 28211

OC000000036279618

Date Mailed: 06/03/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/27/2009.

- 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

PTO/SB/22 (07-06)
Approved for use through 09/30/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARMENT OF COMMERCE
Under the paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless if displays a valid OMB control number.

PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a) **FY 2005** (*Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).*)	Docket Number (Optional) LUNJP0103US
Application Number 10/970,149	Filed 10/21/04
For METHOD AND MEDICINE FOR TREATING GASTROINTESTINAL DISORDER IN A NON-HUMAN ANIMAL	
Art Unit 1617	Examiner Hui, San Ming R

This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above identified application.

The requested extension and fee are as follows (check time period desired and enter the appropriate fee below):

		Fee	Small Entity Fee	
☐	One month (37 CFR 1.17(a)(1))	$120	$60	$
☑	Two months (37 CFR 1.17(a)(2))	$450	$225	$ 225.00
☐	Three months (37 CFR 1.17(a)(3))	$1020	$510	$
☐	Four months (37 CFR 1.17(a)(4))	$1590	$795	$
☐	Five months (37 CFR 1.17(a)(5))	$2160	$1080	$

☑ Applicant claims small entity status. See 37 CFR 1.27.

☐ A check in the amount of the fee is enclosed.

☑ Payment by credit card via EFS web.

☐ The Director has already been authorized to charge fees in this application to a Deposit Account.

☑ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number 18-0988. I have enclosed a duplicate copy of this sheet.

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.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest. See 37 CFR 3.71.
Statement under 37 CFR 3.73(b) is enclosed (Form PTO/SB/96).

☑ attorney or agent of record. Registration Number 35,047

☐ attorney or agent under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34 _____

/ThomasWAdams/	February 5, 2007
Signature	Date
Thomas W. Adams	216-621-1113
Typed or printed name	Telephone Number

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

☑ Total of 1 forms are submitted.

This collection of information is required by 37 CFR 1.136(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 6 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: 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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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

Mail Date: 04/21/2010

Applicant	: Andrew Julian Gartrell	: DECISION ON REQUEST FOR
Patent Number	: 7596395	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/970,177	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/21/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **831** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

Mail Date: 05/18/2010

Applicant : Andrew Julian Gartrell
Patent Number : 7596395
Issue Date : 09/29/2009
Application No : 10/970,177
Filed : 10/21/2004

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

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

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

The patent term adjustment has been determined to be **914** 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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CROMPTON, SEAGER & TUFTE, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS, MN 55403-2420

Mail Date: 04/21/2010

Applicant	: Sean McFerran	: DECISION ON REQUEST FOR
Patent Number	: 7621904	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/970,204	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/21/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **222** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Paper No.

David J. King
Spinnaker Semiconductor, Inc.
3769 Wescott Hills Drive
Eagan MN 55123

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MAR 27 2008

OFFICE OF PETITIONS

In re Application of John P. Snyder Application No. 10/970,210 Filed: October 21, 2004 Attorney Docket Number: 6932.15 Title: SHORT-CHANNEL SCHOTTKY-BARRIER MOSFET DEVICE AND MANUFACTURING METHOD	DECISION ON PETITION PURSUANT TO 37 C.F.R. § 1.137(B)

This is a decision on the petition filed January 22, 2008, pursuant to 37 C.F.R. § 1.137(b)[1], to revive the above-identified application.

The petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

---

1 A grantable petition pursuant to 37 C.F.R § 1.137(b) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

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 March 2, 2007, which set a shortened statutory period for reply of three months. An after-final amendment was received on July 2, 2007 along with a one-month extension of time, and an advisory action was mailed on November 19, 2007. No extensions of time under the provisions of 37 C.F.R § 1.136(a) were obtained, and no further responses were received. Accordingly, the above-identified application became abandoned on July 3, 2007.

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. No terminal disclaimer is required.

Petitioner has also submitted a three-month extension of time. An extension of time under 37 C.F.R. § 1.136 must be filed prior to the expiration of the maximum extendable period for reply[2]. Accordingly, since the $ 465 extension of time submitted with the petition on January 22, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded via the mailing of a Treasury check in due course.

The first three requirements of Rule 1.137(b) have been met. The fourth requirement is not applicable.

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 entire period of 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[3]. In the event that such an inquiry has not been made, Petitioner must make such an inquiry. If such inquiry results in the discovery that the delay was intentional, Petitioner must notify the Office.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the submission under 37 C.F.R. § 1.114 - the amendment submitted on January 22, 2008 - can be processed.

---

2 See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).
3 See 37 C.F.R. § 10.18(b); cf. Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[4]. All other inquiries concerning the status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

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

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WEISS & MOY PC
4204 NORTH BROWN AVENUE
SCOTTSDALE, AZ 85251

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DEC 29 2005

OFFICE OF PETITIONS

In re Application of	:	
Russell D. Keller	:	DECISION ON PETITION
Application No. 10/970,212	:	TO MAKE SPECIAL UNDER
Filed: October 21, 2004	:	37 CFR 1.102(c)(1)
Attorney Docket No. 4388P2871	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 25, 2005, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a copy of a driver's license. Accordingly, the above-identified application has been accorded "special" status.

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

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

This matter is being referred to Technology Center AU 3727 action on the merits commensurate with this decision.

Amelia Au
Petitions Examiner
Office of Petitions

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The Small Patent Law Group LLP
611 Olive Street, Suite 1611
St. Louis, Missouri 63101
Phone: (314) 584-4080
Fax: (314) 584-4061

ORIGINAL WILL NOT BE SENT

Date:	March 30, 2007	***Pages (Including Cover Page):***	4
Client-Matter #:	E-AV-00006 (SPLG 66)		
To:	Examiner: Abiy Getachew United States Patent and Trademark Office		
Fax:	1-571-273-8300	Main No.:	
From:	K. Sansone on Behalf of Rozell Williams	***E-mail:***	rwilliamsl@smalliplaw.com

Re: Points of Discussion
SN: 10/970,228
Filed: October 21, 2004
Applicant: Douglas Sebastian Pfautz
Atty. Dkt. No.: E-AV-00006 (SPLG 66)

Dear Examiner Getachew,

Attached is the Points of Discussion regarding the above referenced application.

//s// Rozell Williams
Rozell Williams
317-598-9886

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TYCO E-AV-00006 (SPLG 66)
PATENT

Applicant: Douglas Sebastian Pfautz	:	
	:	Art Unit: 2841
Serial No.: 10/970,228	:	
	:	Examiner: Getachew, Abiy
Filed: October 21, 2004	:	Fax # 571-273-8300
	:	
For: Circuit Board Retention System	:	
	:	

Points for Discussion

Examiner Getachew:

Per your request, the following are the issues that I would like to discuss with you at your earliest convenience.

All of the pending claims are rejected as being anticipated by the Chen reference,

Re claims 1 and 6:

Claims 1 and 6 recite, among other recitations, a support post having a protrusion extending from the first end, the protrusion configured to be received in a slot having side walls in a circuit board array, the support post being movable to move the protrusion within the slot from a first position wherein the protrusion is disengaged from the side walls of the slot to a second position wherein the protrusion engages the side walls of the slot to retain the circuit board array.

In rejecting claims 1 and 6, the Office Action cites the protrusion 62 as engaging the side walls of the slot 54. However, the protrusion 62 is a formation on the computer enclosure that the standoff 10 is screwed into. It is the opposite end of the standoff that supports the circuit board. It is not possible for the protrusion 62 to engage the side walls of the slot. In response to

PAGE 2/4 * RCVD AT 3/30/2007 5:01:53 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/35 * DNIS:2738300 * CSID:314 584 4061 * DURATION (mm-ss):01-06

the Applicant's argument in the previous response, reference is made to Figure 6 with no further clarification other than the statement that intended use does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. Applicant asserts that Chen does not suggest the claimed structure.

Re claims 2 and 7:

Claims 2 and 7 add the limitation that the protrusion comprises at least two pins linearly aligned and displaced from one another.

In rejecting claims 2 and 7, as best understood, the Examiner cites the protrusion 62 as comprising the standoff 10 and the clip 20 as being linearly aligned. However, pursuant to the claims, the protrusion/pins must extend from the first end of a support post. Chen does not suggest these limitations.

Re claim 11:

Claim 11 adds to claim 6 the limitation of a swivel base mounted on the base plate and with the body of the support post having an extension at the second end to couple the support post to the swivel base.

In rejecting claim 11, reference is made to Chen col. 3, lines 17-33. The cited passage describes the clip 20 in detail. As best understood, the clip 20 is cited as a swivel base mounted on a base plate and with a mounting extension 18 at the second end of the standoff 10 to couple the standoff to the swivel base or clip 20. However, in Chen, the second end of the standoff is mounted on the enclosure and the clip is mounted on the first end of the standoff. The interpretation presented in the Office Action is inconsistent with the drawings and description of Chen.

Re claim 14:

PAGE 3/4 * RCVD AT 3/30/2007 5:01:53 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/35 * DNIS:2738300 * CSID:314 584 4061 * DURATION (mm-ss):01-06

Claim 14 recites, among other recitations, a support post having a circuit board supporting end comprising a protrusion configured to be received between the side walls of a slot, the protrusion having a first dimension and a second dimension greater than the first dimension, the support post being rotatable to move the protrusion within the slot...

Claim 14 was amended in the response of November 7, 2006. However, the present rejection appears to be directed to claim 14 as originally presented and not as amended.

Respectfully,

Rozell Williams Jr.

Rozell Williams Jr.

Registration No. 44,403
THE SMALL PATENT LAW GROUP LLP
611 OLIVE STREET, SUITE 1611
ST. LOUIS, MO 63101
317-598-9886

PAGE 4/4 * RCVD AT 3/30/2007 5:01:53 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/35 * DNIS:2738300 * CSID:314 584 4061 * DURATION (mm-ss):01-06

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TYCO ELECTRONICS CORPORATION
SUITE 140
4550 NEW LINDEN HILL ROAD
WILMINGTON, DE 19808

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OFFICE OF PETITIONS

In re Application of :
Douglas Sebastian Pfautz :
Application No. 10/970,228 : ON PETITION
Filed: October 21, 2004 :
Attorney Docket No. E-AV-00006 (AT 20958-66) :

This is a decision on the petition under 37 CFR 1.137(b), filed January 9, 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 February 6, 2007. A Notice of Abandonment was mailed on October 25, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), including the fee of $810 and the submission required by 37 CFR 1.114; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

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

The application is being referred to Technology Center AU 2841 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: DEAN D. SMALL
THE SMALL PATENT LAW GROUP LLP
611 OLIVE STREET, SUITE 1611
ST. LOUIS, MO 63101

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This in response to a petition under 37 C.F.R. 1.48(a) filed August 2, 2007 requesting the addition of Michael Steven Stanard as an inventor on Application Serial No. 10/970,228, filed October 21, 2004.

The petition is granted.

37 C.F. R. 1.48(a) has five requirements:

(1) A request to correct the inventorship that sets forth the desired inventorship change;

(2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;

(3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43, or § 1.47;

(4) The processing fee set forth in § 1.17(i); and

(5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter of 37 CFR).

Since Applicants' submittal of August 2, 2007 met all five of the requirements listed above, it is appropriate to grant the requested change in inventorship. The inventorship of record is now:

Douglas Sebastian Pfautz
Michael Steven Stanard

Dean A. Reichard 11/1/08
Dean A. Reichard
SPE, Art Unit 2841

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G. DONALD WEBER, JR.
18442 TAFT AVENUE
VILLA PARK CA 92861

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APR 10 2007

OFFICE OF PETITIONS

In re Application of
NALLY, Mark
Application No. 10/970,267
Filed: October 22, 2004
Attorney Docket No. **MN-4**

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 07, 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 G. Donald Weber, Jr., the sole attorney of record. The attorney/agent associated has 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 Mark Nalley at the address indicated below.

There is an outstanding Office action mailed January 30, 2007 that requires a reply from the applicant.

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Mr. Mark Nalley**
41373 Avenida Delores
Murrieta, CA 92562-7368

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/970,267	10/22/2004	Mark Nalley	MN-4

CONFIRMATION NO. 5866

OC000000023285575

G. DONALD WEBER, JR.
18442 Taft Avenue
Villa Park, CA 92861

Date Mailed: 04/06/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/07/2007.

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

Michelle R. Easer

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

FORMER ATTORNEY/AGENT COPY

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2030 MAIN ST
SUITE 1300
IRVINE, CA 92614

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JAN 29 2008

OFFICE OF PETITIONS

In re Application of	:	
Mark Nalley	:	
Application No. 10/970,267	:	ON PETITION
Filed: October 22, 2004	:	
Attorney Docket No.	:	

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed October 17, 2007.

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

A review of the application file history as seen in the Image File Wrapper for this application reveals that the application became abandoned for failure to respond to the final Office action mailed January 30, 2007. A Notice of Abandonment mailed September 21, 2007, states that the application became abandoned for failure to respond to an Office action mailed March 12, 2007, but there is no record of the Office action in the Image File Wrapper or the UPSTO internal PALM database. The undersigned's review of the application reveals that the last Office action was a final Office action mailed on January 20, 2007, with an amendment filed responsively on April 16, 2007.

As the time of the disposition of this petition, the Image File Wrapper for this application was confusing and appears to be missing Office communications that were mailed, but never made of record. If the USPTO did mail a new final Office action on March 12, 2007, as alleged by petitioner, a response was timely filed and of record on April 16, 2007. If the final Office action of March 12, 2007, was not issued, the record still make clears that a final Office action was mailed on January 30, 2007, to which the April 16, 2007, is also timely.

Based on the aforementioned, it appears that the application was improperly held abandoned as a timely response was received prior to expiration of the period for reply to either of Office actions mailed. The holding of abandonment is withdrawn, accordingly.

The application file is being forwarded to Technology Center 3700, GAU 3764 for further processing which presumably will include a determination of which Office action was proper and a determination of whether the amendment file April 16, 2007, places the application in condition for allowance.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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FORD GLOBAL TECHNOLOGIES, LLC.
SUITE 600 - PARKLANE TOWERS EAST
ONE PARKLANE BLVD.
DEARBORN MI 48126

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OFFICE OF PETITIONS

In re Application of Bruford et al.	:	
Application Number: 10/970,283	:	
Patent: 6,935,671 Attorney Docket Number: 81097862 Filing Date: October 21, 2004	:	
Issue Date: August 30, 2005	:	DECISION ON PETITION
	:	

This is a decision on the petition filed January 18, 2006 to correct the assignee under 37 CFR 3.81 (b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **Dismissed**.

Any request for reconsideration 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 not permitted. The reconsideration request should include a cover letter entitled "Renewed Petition". This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Effective June 25, 2004, when a request to issue a patent to an assignee is filed after payment of the issue fee, a certificate of correction must be submitted as there is no time to process these request before a patent is issued. See 69 Fed. Reg. 29865 (May 26, 2004).

Any request for issuance of an application in the name of the assignee submitted after the date of the payment of the issue fee, and any request that a patent be corrected to state the name of assignee must :

(A) state the assignment was submitted for recordation as set forth in 37 CFR §3.11

---

[1]See 69 Fed. Reg. 29865 (May 26, 2004).

before issuance of the patent;

(B) provide a request for a certificate of correction §1.323;

(C) provide the fee set forth in 37 CFR §1.20 (a) and

(D) provide the processing fee set forth in 37 CFR §1.17(l)

Petitioner has failed to provide (B). On renewed petition a certificate of correction form should be submitted.

Pursuant to petitioner's request deposit account 06-1510 is being charged the $130.00 processing fee pursuant to 37 CFR 1.17(l).

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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FORD GLOBAL TECHNOLOGIES, LLC.
SUITE 600 - PARKLANE TOWERS EAST
ONE PARKLANE BLVD.
DEARBORN MI 48126

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OFFICE OF PETITIONS

In re Application of
Bruford et al.

Application Number: 10/970,283

Patent: 6,935,671
Attorney Docket Number: 81097862
Filing Date: October 21, 2004

Issue Date: August 30, 2005

DECISION ON PETITION

This is a decision on the renewed petition filed May 3, 2007 under 37 CFR 3.81 (b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **Granted**.

This application is being forwarded to the Certificate of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

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

---

[1]See 69 Fed. Reg. 29865 (May 26, 2004).

07 APR 2005

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John James McGlew
McGlew And Tuttle P.C.
Scarborough Station
Scarborough, NY 10510-0827

In re Application of	:	
Marcolin	:	
Application No. 10/970,296	:	DECISION ON
Filing Date: 21 October 2004	:	
Atty. Docket No.: 71539	:	PETITION UNDER
For: Process For Decorating A Hot Glass	:	
Object With Molten Glass And	:	37 CFR 1.137(b)
Objects Obtained With Said Process	:	

This is in response to the petition under 37 CFR 1.137(b) filed on 21 October 2004.

BACKGROUND

International application number PCT/EP02/00543 was filed on 21 January 2002, claimed no earlier priority date, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 24 July 2003. The 30 month time period for paying the basic national fee in the United States expired at midnight on 21 July 2004. International application number PCT/EP02/00543 became abandoned with respect to the national stage in the United States for failure to timely pay the full required basic national fee.

DISCUSSION

Petitioner requests revival of international application number PCT/EP02/00543 for purposes of establishing co-pendency with the instant "new Continuation Application of the PCT Application." 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; (2) the petition fee as set forth in § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Regarding requirement (1), the filing of the instant continuing application under 35 U.S.C. 111(a) satisfies the requirement for the filing of the "required reply."

Regarding requirement (2), the petition was accompanied by the $1370.00 petition fee, but the petition fee inadvertently was refunded to applicants. Accordingly, the $1370.00 petition fee is being charged to counsel's Deposit Account No. 13-0410, as authorized by the petition.

Regarding requirement (3), the petition states that "Applicant/Petitioner hereby wishes to advise 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 1.37(b) was unintentional." This statement is being construed as 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." Petitioner must notify the Patent and Trademark Office if such an interpretation of the statement in the petition is not correct. Thus, the statement in the petition is being accepted in satisfaction of 37 CFR 1.137(b)(3).

Regarding requirement (4), no terminal disclaimer is required because the international filing date of this application is later than 8 June 1995.

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED** for purposes of establishing co-pendency between the instant application and international application PCT/EP02/00543. Co-pendency having been established, international application PCT/EP02/00543 is again abandoned with regard to the national stage in the United States.

The $1370.00 petition fee is being charged to counsel's Deposit Account No. 13-0410, as authorized by the petition.

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

Boris Milef
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3283
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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TUTUNJIAN + BITETTO, P.C.
20 CROSSWAYS PARK NORTH
SUITE 210
WOODBURY, NY 11797

Mail Date: 04/21/2010

Applicant	: John Peter Karidis	: DECISION ON REQUEST FOR
Patent Number	: 7614011	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/970,303	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/21/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **696** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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AUG 1 8 2008

OFFICE OF PETITIONS

In re Application of	:	
BOHN, Jerry	:	
Application No. 10/970,330	:	DECISION ON PETITION
Filed: October 21, 2004	:	TO WITHDRAW
Attorney Docket No. **29116/39554A**	:	FROM RECORD

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 01, 2008.

The request is **APPROVED**.

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

The request was signed by Aaron M. Peters on behalf of all attorneys of record who are associated with customer No. 04743. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Jerry Bohn at the address indicated below.

There is an outstanding Office action mailed March 19, 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: **JERRY BOHN**
P.O. BOX 323
BARRINGTON, IL 60011

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TOWNSEND & TOWNSEND & CREW LLP
TWO EMBARCADERO CENTER
EIGHT FLOOR
SAN FRANCISCO CA 94111

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MAY 1 0 2007

OFFICE OF PETITIONS

In re Application of	:	
LIU, Hong et al.	:	
Application No. 10/970,344	:	DECISION ON PETITION
Filed: October 20, 2004	:	TO WITHDRAW
Attorney Docket No. **P1135US10**	:	FROM RECORD
	:	

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 09, 2007.

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

A review of the file record indicates that the power of attorney to Townsend & Townsend & Crew LLP has been revoked by the assignee of the patent application on March 16, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **GENOMICS INSTITUTE OF THE**
NOVARTIS RESEARCH FOUNDATION
10675 JOHN JAY HOPKINS DRIVE
SUITE E225
SAN DIEGO, CA 92121-1127

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : July 18, 2008

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/970344 Patent No.: 7297714 B2

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

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

You can fax the Director's/SPE response to 571-270-9990

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

Thank You For Your Assistance

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

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

Comments:

JOSEPH K. McKANE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

Act

SPE

1626
Art Unit

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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TOPE-MCKAY & ASSOCIATES
23852 PACIFIC COAST HIGHWAY #311
MALIBU, CA 90265

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MAY 2 0 2005

OFFICE OF PETITIONS

In re Application of
Schulman, Chow, and Nguyen
Application No. 10/970,359
Filed: October 20, 2004
Attorney Docket No. **HRL012-1**
For: TYPE II INTERBAND HETEROSTRUCTURE BACKWARD DIODES

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

This is a decision on the petition under 37 CFR 1.47(a) April 11, 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 20, 2004, and was not accompanied by an executed oath or declaration. On December 6, 2004, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Non-provisional Application requiring a properly executed declaration and payment of a surcharge, payment of the filing fee, and additional claim fees. The notice allowed an extendable period for reply of two months from its mailing date. On April 11, 2004, the instant petition was filed accompanied by a request for an extension of time within the second 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 (3) above.

As to item (3), the fee for a petition under 37 CFR 1.47 is $200.00. See 37 CFR 1.17(g). It appears that only $130.00 was earmarked for the petition fee, and, as of the date the petition was reviewed, deposit account 50-2691 had a negative balance. Any renewed petition under 37 CFR 1.47 must be accompanied by an additional $70.00 for the petition fee or an authorization to charge a deposit account for the same.

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

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

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

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

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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TOPE-MCKAY & ASSOCIATES
23852 PACIFIC COAST HIGHWAY #311
MALIBU, CA 90265

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JUL 19 2005

OFFICE OF PETITIONS

In re Application of
Schulman, Chow, and Nguyen
Application No.: 10/970,359
Filed: October 20, 2004
Attorney Docket No: HRL012-1
For: TYPE II INTERBAND HETEOSTRUCTURE BACKWARD DIODES

: DECISION ACCORDING
: RULE 47(a) STATUS

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

The renewed petition is **GRANTED**.

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

The above-cited application was filed on October 20, 2004, without a properly executed declaration. On December 6, 2004, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application requiring a properly executed oath or declaration, surcharge for the late filing of the same, and the payment of the filing and claim fees. A petition under 37 CFR 1.47 was filed on April 11, 2004, and dismissed by a decision mailed May 20, 2005.

Petitioner has shown that inventor Nguyen cannot be located to join the prosecution 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 addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE, SUITE 200
EAST PALO ALTO CA 94303

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JUL 12 2007

OFFICE OF PETITIONS

In re Application of	:	
KIM, Daniel H.	:	
Application No. 10/970,366	:	DECISION ON PETITION
Filed: October 20, 2004	:	TO WITHDRAW
Attorney Docket No. **STAN-387**	:	FROM RECORD
	:	

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 19, 2007.

The request is **APPROVED**.

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

The request was signed by Karl Bozicevic on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **DAINEL H. KIM**
156 PACCHETTI WAY
MOUNTAIN WAY, CA 94040

cc: **MAYER & WILLIAMS PC**
251 NORTH AVENUE WEST, 2ND FLOOR
WESTFIELD, NJ 07090

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VERTIFLEX, INC.
PERKINS COIE LLP
P.O. BOX 1247
SEATTLE, WA 98111-1247

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APR 12 2010

OFFICE OF PETITIONS

In re Application of	:	
Daniel H. Kim	:	DECISION ON PETITION
Application No. 10/970,366	:	TO WITHDRAW
Filed: October 20, 2004	:	FROM RECORD
Attorney Docket No. 65837-8001US3	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 11, 2010.

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

A review of the file record indicates that Vertiflex, Inc. was revoked as power of attorney by the assignee of the patent application on January 19, 2010. 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 571-272-6059.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE, WA 98111-1247

UNITED STATES PATENT AND TRADEMARK OFFICE

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

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OFFICE OF PETITIONS

In re Application of :
Zimmer, et al. :
Application No. 10/970,405 :
Filed: October 20, 2004 :
Attorney Docket No. 42P20218 :
For: DATA SECURITY

ON PETITION

This is a decision on the petition, filed September 22, 2008 (certificate of mailing date September 18, 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 timely submit a reply within three (3) months of the mailing of the February 8, 2008 non-final Office action. No response being received and no extensions of time being obtained under the provisions of 37 CFR 1.136(a), this application became abandoned on May 9, 2008. A Notice of Abandonment was mailed on October 2, 2008.

Applicants have submitted an amendment in reply to the February 8, 2008 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the February 8, 2008 non-final Office action, and the $1,540.00 petition fee.

The statement of unintentional delay was not signed by a person who would have been in a position of knowing that the delay in filing a timely response was unintentional. In the event that practitioner has no knowledge that the delay was in fact unintentional, practitioner should make a reasonable inquiry to ascertain that, in fact, the delay was unintentional. If practitioner discovers that the delay was intentional, practitioner must so notify the Office.

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

After the mailing of this decision, the application will be returned to Technology Center AU 2434 for consideration of the amendment filed on September 22, 2008 (certificate of mailing date September 18, 2008).

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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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STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Chris R. Franklin	: DECISION ON REQUEST FOR
Patent Number	: 7631219	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/970,414	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/22/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **810** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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BRACEWELL & GIULIANI LLP
P.O. BOX 61389
HOUSTON TX 77208-1389

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APR 15 2008

OFFICE OF PETITIONS

In re Application of	:	
Delaune, Michael J.	:	
Application No. 10/970,433	:	DECISION ON PETITION
Filed: October 21, 2004	:	
Attorney Docket No. TA-00724	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 14, 2008, to revive the above-identified application.

The petition is **GRANTED**.

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

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

This matter is being referred to Technology Center 3643 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Welsh & Katz, Ltd.
Eric D. Cohen
22nd Floor
120 South Riverside Plaza
Chicago, IL 60606

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OFFICE OF PETITIONS

In re Application of	:	
Kuo-Chi Chiu	:	
Application No. 10/970,443	:	DECISION ON PETITION
Filed: October 21, 2004	:	TO WITHDRAW
Attorney Docket No. TAIW 869	:	FROM RECORD
	:	

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 19, 2007.

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

A review of the file record indicates that the power of attorney to Welsh & Katz, Ltd. has been revoked by the assignee of the patent application on December 5, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

T. Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **Rabin & Berdo, PC**
1101 14th Street, NW
Suite 500
Washington, DC 20005

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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MILBANK, TWEED, HADLEY & MCCLOY LLP
INTERNATIONAL SQUARE BUILDING
1850 K STRET, N.W., SUITE 1100
WASHINGTON, DC 20006

MAILED
APR 05 2010
OFFICE OF PETITIONS

In re Application of Robert M. Leach, et al. Application No. 10/970,446 Filed: October 21, 2004 Attorney Docket No. 38184.06501US	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 April 2, 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 January 4, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1616 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

---

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

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

JOHN P. SINNOTT
1007 NORTH PATTERSON STREET
VALDOSTA GA 31601

MAILED

MAY 05 2009

OFFICE OF PETITIONS

In re Application of	:	
RAY, James N.	:	
Application No. 10/970,477	:	DECISION ON PETITION
Filed: October 21, 2004	:	TO WITHDRAW
Attorney Docket No. **00147/B**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 15, 2008.

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

A review of the file record indicates that the power of attorney to JOHN P. SINNOTT has been revoked by the assignee of the patent application on January 05, 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
Paralegal Specialist
Office of Petitions

cc: **MRS. ELIZABETH R. THIGPEN**
33094 RIVER ROAD
ORANGE BEACH AL 36561

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/970,478	10/21/2004	Gregory Alan Shue	200406156-1	4743

7590 05/07/2008
HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER
COLES, EDWARD L

ART UNIT	PAPER NUMBER
2625	

NOTIFICATION DATE	DELIVERY MODE
05/07/2008	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Nioni Harmel

Patent Publication Branch
Office of Data Management

Adjustment date: 05/16/2008 NFARMER
10/25/2004 GWORDOF1 00000058 082025 10970478
02 FC:1201 440.00 CR
03 FC:1202 216.00 CR

Refund Ref:
05/16/2008 0030055644

Credit Card Refund Total: $355.00

Am Exp..: XXXXXXXXXXX3000

FORM PET651G (Rev. 08/07)

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7/2/09

TO SPE OF : ART UNIT 2195

SUBJECT : Request for Certificate of Correction for Appl. No.: 10970480 Patent No.: 7484221 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.

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

Comments: _____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Meng-Ai An/ 2195

SPE 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

23 AUG 2007

Walter H. Schneider
21530 Beechwood Rd.
Circleville OH 43113

In re Application of: BARTOLI, Enzo, et al.	DECISION
U.S. Application No.: 10/970,484	
PCT Application No.: PCT/EP03/04829	
Int. Filing Date: 08 May 2003	
Priority Date: 10 May 2002	
Attorney's Docket No.: 1769	
For: PLATINUM COMPLEXES CONTAINING CHEMICALLY MODIFIED BILE ACIDS HAVING ANTITUMOR ACTIVITY	

This decision is issued in response to the "Petition For Revival Of An Application For Patent Abandoned Unintentionally" filed 20 August 2007. Applicants have submitted the required petition fee.

BACKGROUND

On 08 May 2003, applicants filed international application PCT/EP03/04829. The international application claimed a priority date of 11 May 2002, and it designated the United States. On 20 November 2003, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for submission of the full basic national fee was thirty months from the priority date, i.e., 10 November 2004.

On 21 October 2004, applicants filed a transmittal letter that expressly identified the accompanying application materials as "the U.S. National Stage of PCT/EP03/04829." The submission included a copy of the publication of PCT/EP03/04829, the EPO search report, and a check in the amount of $790 for the filing fee. The application was assigned U.S. application number 10/970,484.

On 17 February 2005, a filing receipt was mailed; the filing receipt did not identify the application as a national stage application, and it makes no reference to the international application.

On 22 May 2007, a "Notice of Allowance And Fees Due" (Form PTOL-85) was mailed.

On 05 June 2007, applicants filed an "Amendment" accompanied by a substitute declaration. The amendment asserts that the present application is the "U.S. National Stage" of PCT/EP03/04829. The substitute declaration lists PCT/EP03/04829 as a prior filed foreign

application from which priority is claimed (the international application had not been referenced on the previously filed declaration).

On 06 August 2007, applicants submitted the Issue and Publication fees.

On 09 August 2007, applicants submitted a "Petition For Revival Of An Application For Patent Abandoned Unavoidably Under 37 CFR 1.137(a)."

On 20 August 2007, applicants submitted the "Petition For Revival Of An Application For Patent Abandoned Unintentionally" considered herein. This petition includes a statement that the previous petition for revival under 37 CFR 1.137(a) was filed erroneously and requesting that the petition under 37 CFR 1.137(b) be considered as a replacement for the previous petition.

DISCUSSION

A. Abandonment Of The Application

The transmittal letter submitted by applicants on 21 October 2004 expressly identified the present application as the "U.S. National Stage of PCT/EP03/04829." The submission did not include any conflicting instructions as to whether the filing was made under 35 U.S.C. 371 or 35 U.S.C. 111(a). Accordingly, based on applicants' express intent, the present application is properly treated as a U.S. national stage application filed under 35 U.S.C. 371. See 37 CFR 1.495(g), MPEP section 1893.03(a).

The present national stage application was filed with an International Search Report prepared by the EPO (the USPTO was neither the International Searching Authority nor the International Preliminary Examining Authority for PCT/EP03/04829). At the time the present application was filed, the appropriate basic national fee for a U.S. national stage application filed under such circumstances was $950. Pursuant to 35 U.S.C. 371(d) and 37 CFR 1.495(h), an international application becomes abandoned with respect to the United States if the full basic national fee is not filed in the USPTO prior to the expiration of thirty months from the priority date. Thus, in order to avoid abandonment of the present application, applicants were required to submit payment of the full $950 basic national fee prior to the expiration of thirty months from the priority date, that is, prior to 10 November 2004.

The application materials filed by applicants on 21 October 2004 included a fee payment of only $790. The submission did not include an authorization to charge a Deposit Account for any additional fees required, and no further fee payments were received from applicants prior to the expiration of the thirty-month deadline. Accordingly, the present national stage application became abandoned with respect to the United States as of midnight on 10 November 2004 for failure to timely submit the full basic national fee.

B. Petition For Revival Under 37 CFR 1.137(b)

Based on applicants' 20 August 2007 correspondence, the petition under 37 CFR 1.137(a) erroneously filed on 09 August 2007 will not be considered; rather, the petition for

revival under 37 CFR 1.137(b) filed 20 August 2007 will be considered as a replacement of the earlier petition.

The petition for revival under 37 CFR 1.137(b) includes a statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," satisfying the requirements of 37 CFR 1.137(b)(3).

Applicants' 09 August 2007 submission included the petition fee and the additional fees required to complete the appropriate national stage filing fees ($300 basic national fee; $400 search fee; $200 examination fee), and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the national stage in the United States of America.

CONCLUSION

The present application is properly treated as the U.S. national stage of international application PCT/EP03/04829 filed under 35 U.S.C. 371.

The filing receipt mailed 17 February 2005, which failed to identify the application as a U.S. national stage application filed under 35 U.S.C. 371, is hereby **VACATED**.

As discussed above, the present national stage application became **ABANDONED** with respect to the United States for failure to timely file the full basic national fee prior to the expiration of thirty months from the priority date.

The petition for revival of the application under 37 CFR 1.137(b) is **GRANTED**.

This application is being referred to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision, including correcting USPTO records to indicate that the present application is a U.S. national stage of PCT/EP03/04829 filed under 35 U.S.C. 371 and mailing a Notification of Acceptance (Form PCT/DO/EO/903) and corrected filing receipt. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 19 January 2005.

Richard M. Ross
Attorney Advisor
Office Of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date Mailed : 06/13/07

Patent No. :7070721 B2
Patent Issued : 07/04/05
Docket No. : **506418-0116**

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.

Columns 5 and 13, lines 45 and 25, are printed in accordance with the record. **"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."**

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

Lamont M. Newsome

Lamonte M. Newsome
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 #112 or (703) 308-8309

STINSON MORRISON HECKER LLP
ATTN: PATENT GROUP
1201 WALNUT STREET, SUITE 2800
KANSAS CITY MO 64106-2150

LMN

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 19, 2007

TO SPE OF : ART UNIT 1634 Ram R. Shukla

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/970,493 Patent No.: 7163797 B2

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

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

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

Antonio Johnson

Certificates of Correction Branch

703-308-9390 ext. 111

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

8/3/07

RAM R. SHUKLA, PH.D.
SUPERVISORY PATENT EXAMINER SPE

1634
Art Unit

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,163,797

APPLICATION NO. : 10/970,493

ISSUE DATE : January 16, 2007

INVENTOR(S) : Ruben et al.

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the Cover Page:

In the title, delete "50 Human Secreted Proteins" and insert -- Antibodies to HKGAJ54 Polypeptide. --

Under "Related U.S. Application Data," line 2, delete "now abandoned, and a continuation-in part . . ." and insert -- now abandoned, which is a continuation-in-part . . . --

MAILING ADDRESS OF SENDER (Please do not use customer number below):
Melissa J. Pytel
HUMAN GENOME SCIENCES, INC.
Intellectual Property Dept.
14200 Shady Grove Road
Rockville, Maryland 20850

PTO/SB/22 (07-06)
Approved for use through 09/30/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARMENT OF COMMERCE
Under the paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless if displays a valid OMB control number.

PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a) **FY 2005** (*Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).*)	Docket Number (Optional) LUNJP0101USD
Application Number 10/970,501	Filed 10/21/04
For METHOD AND MEDICINE FOR TREATING GASTROINTESTINAL DISORDER INLCUDING FECAL INCONTINENCE	
Art Unit 1617	Examiner Hui, San Ming R

This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above identified application.

The requested extension and fee are as follows (check time period desired and enter the appropriate fee below):

		Fee	Small Entity Fee	
☐	One month (37 CFR 1.17(a)(1))	$120	$60	$
☑	Two months (37 CFR 1.17(a)(2))	$450	$225	$ 225.00
☐	Three months (37 CFR 1.17(a)(3))	$1020	$510	$
☐	Four months (37 CFR 1.17(a)(4))	$1590	$795	$
☐	Five months (37 CFR 1.17(a)(5))	$2160	$1080	$

☑ Applicant claims small entity status. See 37 CFR 1.27.

☐ A check in the amount of the fee is enclosed.

☑ Payment by credit card via EFS web.

☐ The Director has already been authorized to charge fees in this application to a Deposit Account.

☑ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number 18-0988. I have enclosed a duplicate copy of this sheet.

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.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest. See 37 CFR 3.71.
Statement under 37 CFR 3.73(b) is enclosed (Form PTO/SB/96).

☑ attorney or agent of record. Registration Number 35,047

☐ attorney or agent under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34 _____

/ThomasWAdams/	February 5, 2007
Signature	Date
Thomas W. Adams	216-621-1113
Typed or printed name	Telephone Number

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

☑ Total of 1 forms are submitted.

This collection of information is required by 37 CFR 1.136(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 6 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OSI PHARMACEUTICALS, INC.
41 PINELAWN ROAD
MELVILLE, NY 11747

COPY MAILED

SEP 19 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of	:
Andrew J. Pospisilik, et al.	:
Application No. 10/970,526	:
Filed: October 21, 2004	:
Attorney Docket No. 20488/25-CIP-2-CON	:

This is a decision on the petition, filed May 3, 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 failure to timely file a reply within the meaning of 37 CFR 1.113 to an Office action mailed May 15, 2006. A Notice of Abandonment was mailed on January 19, 2007. In response, on May 3, 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 a continuing application under 37 CFR 1.53(b); (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 11/800,576 filed May 3, 2007.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HAMRE, SCHUMANN, MUELLER & LARSON
P.O. BOX 2902-0902
MINNEAPOLIS MN 55402

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DEC 11 2006
OFFICE OF PETITIONS

In re Application of :
Masanori Minamio et al :
Application No. 10/970,533 :
Filed: October 21, 2004 :
Attorney Docket No. 10873.1550US01 :

ON PETITION

This is a decision on the petition, filed December 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 November 30, 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 2878 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).

OIPE JC185
MAY 2 7 2005
PATENT & TRADEMARK OFFICE

IFW

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Robin Cantor

Serial No.: 10/970,539

Filed: October 20, 2004

Group Art Unit: 1751

Examiner: N/A

Atty. Docket No. H1964-00002

For: CHARGE DISSIPATIVE DIELECTRIC FOR CRYOGENIC DEVICES

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

PETITION TO MAKE SPECIAL UNDER 37 C.F.R. § 1.102 AND M.P.E.P. § 708.02
FOR APPLICATION RELATING TO SUPERCONDUCTIVITY

In accordance with 37 C.F.R. § 1.102, titled "Advancement of Examination," and M.P.E.P. § 708.02, section IX, titled "Special Status for Patent Applications Relating to Superconductivity," applicant hereby requests that the above captioned application be accorded "special" status for prosecution because the application claims an invention involving superconductive materials.

In accordance with M.P.E.P. § 708.02, section IX, no fee is believed due with this petition. Should any fees be required, however, the Commissioner for Patents is hereby authorized to charge any such required fees to deposit account **50-2061.**

Respectfully submitted,

Dated: May 25, 2005

Jeffrey M. Chamberlain, Reg. No.: 55,044
Attorney for Applicant

DUANE MORRIS LLP
P.O. Box 5203
Princeton, NJ 08543-5203
(609) 631-2491 (Telephone)
(609) 631-2401 (Fax)

PTN\122859.1

PETITION GRANTED

Richard Crispino
Special Program Examiner
Technology Center 1700
JUN 1 3 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Frederick W. Gibb, III
McGinn & Gibb, PLLC
Suite 304
2568-A Riva Road
Annapolis MD 21401

In re Application of
Sakaguchi et al.
Application No. 10/970,555
Filed: October 21, 2004

Attorney Docket No. JP920030242US1
Title of Invention: Inspection Device for Inspecting TFT

ON PETITION

This is a decision on the petition under 37 CFR §1.181 filed September 22, 2006 to withdraw the holding of abandonment.

The petition filed under 37 CFR 1.181 is **Granted**.

This above-identified application was held abandoned for failure to timely reply to the restriction requirement mailed February 7, 2006. The Restriction Requirement set a one (1) month shortened statutory period for reply. A reply was not received. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application was held abandoned on March 8, 2006. A Notice of Abandonment was mailed on September 15, 2006.

Petitioner maintains that a response to the Restriction Requirement was transmitted via facsimile on February 16, 2006. In support of petitioner's contention that a response was timely submitted to the Office Action, petitioner has submitted a copy of a the Auto-Reply receipt, and a copy of the response which contains a certificate of transmission pursuant to 37 CFR 1.8.

The response submitted February 16, 2006 has not been located in the Office. Based on the facts stated in the instant petition and the corroborative evidence provided, it is concluded that the holding of abandonment was improperly imposed.

The requirements for a grantable petition under 37 CFR §1.181 have been met. This petition is hereby **Granted**.

This application is being forwarded to the Technology Center 1600 for further processing of the copy of the amendment submitted on September 22, 2006.

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

Charlema R. Grant

Charlema R. Grant
Petition Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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MOORE & VAN ALLEN PLLC
P.O. BOX 13706
RESEARCH TRIANGLE PARK NC 27709

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JUL 28 2006
OFFICE OF PETITIONS

In re Application of	:	
Ekruibe et al.	:	
Application No. 10/970,571	:	ON PETITION
Filed: 21 October, 2004	:	
Atty Dckt No. 014811-391.45 CT2	:	

This is a decision on the petition filed on 13 March, 2006, under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **DISMISSED AS MOOT**.

Petitioners request copendency between the present application and prior abandoned application No. 10/170,800, filed on 12 June, 2002.

At the outset, it is noted that the present application is not abandoned. Additionally, it is noted that a petition reviving the prior application for copendency with the present application was granted on 19 April, 2006.

As such, the present petition is unnecessary and will be dismissed as moot. The petition fee will be credited to counsel's deposit account. Additionally, the extension of time fee submitted on 13 March, 2006, is unnecessary and will be credited to counsel's deposit account.

The application is being forwarded to the Technology Center for examination in due course.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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CATERPILLAR c/o LIELL & MCNEIL ATTORNEYS PC
P.O. BOX 2417
511 SOUTH MADISON STREET
BLOOMINGTON IN 47402-2417

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SEP 12 2006
OFFICE OF PETITIONS

In re Application of
Fei et al.
Application No.10/970,595
Filed: October 21, 2004
Title of Invention: Apparatus and Method for Scanning Internal Structure of O-Rings

ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed August 7, 2006.

This above-identified application became abandoned for failure to file a proper reply to the final Office Action of December 8, 2005. The final Office Action set a three (3) month shortened statutory period for reply. An amendment after final Office Action was filed on January 25, 2006. An Advisory Action mailed on March 27, 2006 informed petitioner the application was not placed in condition for allowance. Accordingly, this application became abandoned on March 9, 2006. A Notice of Abandonment was mailed on July 13, 2006.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

The Request for Continued Examination (RCE), and the previously submitted amendment will be forwarded to Technology Center 2800 for further processing.

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

COPY MAILED
OCT 1 2 2006
OFFICE OF PETITIONS

In re Application of :
Bhagavatheeswaran et al. :
Application No. 10/970,601 : Decision on Petition
Filing Date: October 21, 2004 :
Attorney Docket No. TI-37874 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 30, 2006, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 28, 2005, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on March 29, 2006.

The instant petition requests revival of the application.

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

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

Technology Center Art Unit 2816 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

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

Patent Group
Microsoft Corporation
One Microsoft Way
Redmond, WA 98052

Mail Date: 04/21/2010

Applicant	: Saar Picker	: DECISION ON REQUEST FOR
Patent Number	: 7644077	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/970,602	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/21/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **597** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

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JUN 27 2005

OFFICE OF PETITIONS

In re Application of	:	
Masatoshi Masuda	:	
Application No. 10/970,614	:	
Filed: October 21, 2004	:	ON PETITION
Attorney Docket No.	:	
SCCO.020AUS	:	

This is a decision in response to the Request for Corrected Filing Receipt, filed September 22, 2004, requesting the application be accorded a filing date of October 21, 2004, instead of the presently accorded filing date of October 20, 2004.

Petitioner alleges that the application was deposited in Express Mail service on October 21, 2004. In support of this assertion, the petition is accompanied by a copy of Applicant's Express Mail label No. EV307993202US. A review of the Express Mail label, No. EV307993202US, reveals that the Express Mail label contains a United States Postal Service (USPS) stamp, wherein the date appears to indicate October 21, 2004. While the number 2 is clearly legible, the second number: 1, is only partially visible. The number does appear more like a one than a zero. A review of the USPS track and confirm reveals that Express Mail label, No. EV307993202US was delivered to this Office on October 22, 2004.

Applicant has also provided a copy of a Certificate of Express Mailing and certifies that Express Mail Label No. EV307993202US was deposited Express Mail Post Office to Addressee on October 21, 2004.

Regarding the Certificate of Express Mailing, Applicant is advised that 37 CFR § 1.8, Certificate of Mailing of Transmission, prohibits an applicant from obtaining a filing date based upon a Certificate of Mailing or Transmission. In particular, 37 CFR § 1.8(a)(2) provides that

> [t]he procedure described in paragraph (a)(1) of this section does not apply to, and no benefit will be

given to a Certificate of Mailing or Transmission on, the following:

(i) Relative to Patents and Patent Applications -

(A) The filing of a national patent application specification and drawing or other correspondence for the purposes of obtaining an application filing date, including a request for continued examination under 37 CFR § 1.53(d).

Applicant is further advised that 37 CFR § 1.10(d) provides a method whereby an applicant may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

Acceptable proof would consist of an Express Mail log book, entered after deposit by the person who deposited the correspondence as "Express Mail" within one business day of such deposit, setting forth, for example, the application attorney docket number or other file identification number, the "Express Mail" number, and the date, place and/or time of deposit, the

last scheduled pick-up, the depositor's initials, and the date and time of entry into the log. See MPEP § 513.

In this instance, Applicant has demonstrated by a preponderance of the evidence that the application was Express Mail Post Office to Addressee on October 21, 2004; however, Applicant is advised that it is Applicant's responsibility to verify the information contained on the Express Mail Label BEFORE leaving the post office. The use of drop boxes is a risk borne by applicant that the correct information may not appear, or that the correct information may not appear legible.

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
Petitions Attorney
Office of Petitions

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

Mail Date: 04/21/2010

Applicant	: Roger S. Zimmerman	: DECISION ON REQUEST FOR
Patent Number	: 7650628	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/970,617	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/21/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **922** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/970,646	10/21/2004	3617	404	LEXANI.054A	23	21	3

CONFIRMATION NO. 6072

CORRECTED FILING RECEIPT

OC000000015980256

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

Date Mailed: 05/16/2005

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)

Frank J. Hodges, Residence Not Provided;
Sergiu Anca, Residence Not Provided;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/513,115 10/21/2003
and claims benefit of 60/526,556 12/03/2003
and claims benefit of 60/572,642 05/19/2004

Foreign Applications

If Required, Foreign Filing License Granted: 12/02/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/970,646

Projected Publication Date: To Be Determined - pending completion of Missing Parts

Non-Publication Request: No

Early Publication Request: No

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** SMALL ENTITY **

Title

Wheel with increased interior lip depth

Preliminary Class

301

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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OFFICE OF PETITIONS

In re Application of

YLAND, Carla et al.
Application No. 10/970,666
Filed: October 20, 2004
Attorney Docket No. **1146.701**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 02, 2008.

The request is **NOT APPROVED**.

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

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

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

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

Tredell e D. Jackson
Petitions Examiner
Office of Petitions

cc: **EAST-WEST COUNSULTING INC.**
7621 E. GRAY RD. STE. A1
SCOTTSDALE, AZ 85260

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LOS ANGELES CA 90017

In re Application of

YLAND, Carla et al.
Application No. 10/970,666
Filed: October 20, 2004
Attorney Docket No. 1146.701

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 06, 2008.

The request is **APPROVED**.

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

The request was signed by Lisa Karczewski on behalf of all attorneys of record who are associated with customer No. 26129. All attorneys/agents associated with the Customer Number 26129 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 second named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed January 07, 2008 that requires a reply from the applicant.

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

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **THANG LE**
3029 EISENHOWER AVE.
ARCADIA, CA 91006

cc: **EAST-WEST CONSULTING INC.**
7621 E. GRAY RD. STE. A1
SCOTTSDALE, AZ 85260

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FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

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NOV 23 2009

OFFICE OF PETITIONS

In re Patent No. 7,557,071
Issued: July 7, 2009
Application No. 10/970,674
Filed: October 21, 2004
Dkt. No.: 027969-0139

: PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705," filed August 17, 2009. This matter is being properly treated as an application for patent term adjustment pursuant to 37 CFR 1.705(d).

Patentees request that a decision on this request for reconsideration of patent term adjustment be held in abeyance until a final decision is rendered in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). There is no specific regulatory provision for requesting that a petition under 37 CFR 1.705(d) be held in abeyance. Accordingly, the request to hold in abeyance a decision on the merits of the instant application for patent term adjustment is **DISMISSED**.

Patentees further request correction of the patent term adjustment from 702 days to 1,261 days. Patentees request this correction on the sole basis that the Office took in excess of three years to issue the above-referenced patent.

The application for patent term adjustment (PTA) under 37 CFR 1.705(d) is **DISMISSED**.

The above-identified application matured into U.S. Pat. No. 7,557,071 on July 7, 2009. The patent issued with a patent term adjustment of 702 days. Patentee argues that in view of Wyeth v. Dudas, supra, the patent is entitled to an adjustment of 1,261 days (735 days pursuant to 35 USC 154(b)(1)(A) *plus* 559 days pursuant to 35 USC 154(b)(1)(B) *less* 33 days pursuant to 37 CFR 1.704).

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, patentees are entitled to the period of Office delay reduced by the period of applicant delay.

The Office asserts that as of the issuance of the patent on July 7, 2009, the application was pending three years and 625 days after its filing date (October 22, 2007 to July 7, 2009). The Office agrees that certain action was not taken within the specified time frame, and thus, the

application was pending 14 months and 735 days prior to the mailing of the non-final Office action on December 26, 2007. At issue is whether patentees should accrue 625 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 735 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the period of 625 days of delay in issuance of the patent under 37 CFR 1.702(b) overlaps with the period of 735 days of examination delay under 37 CFR 1.702(a). 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:

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).

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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.

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)(1)(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 21, 2004, and ending on the date that the patent issued, July 7, 2009.

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), the application was pending 14 months and 735 days prior to the issuance of the non-final Office action on December 26, 2007. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), the application was pending three years and 625 days prior to the issuance of the patent on July 7, 2009.

The 625 days of delay in issuance of the patent under 37 CFR 1.702(b) overlap with the 735 days of patent term adjustment under 37 CFR 1.702(a). Entry of both the 735 days and the 625 days is neither permitted nor warranted given that 735 days is the actual number of days issuance of the patent was delayed.

Accordingly, at issuance, having considered the 625 days of Office delay under the three-year pendency provision in conjunction with the 735 days of examination delay, reduced 33 days for applicants' delay, the Office properly entered 702 days of patent term adjustment.

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

No additional fees are due in connection with this matter.

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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RAJ ABHYANKER, LLP
c/o PORTFOLIOIP
P.O. BOX 52050
MINNEAPOLIS, MN 55402

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AUG 2 5 2006

OFFICE OF PETITIONS

In re Application of Adiga et al. :
Application No. 10/970,690 : Decision on Petition
Filing Date: October 21, 2004 :
Attorney Docket No. 00003.00013 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 18, 2005, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed December 1, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on February 2, 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.

The petition is signed by Raj Abhyanker. Abhyanker was not an attorney or agent of record at the time the application became abandoned. Therefore, it appears Abhyanker was not in a position to have firsthand or direct knowledge of the facts and circumstances of the delay. Nevertheless, the statement by Abhyanker 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.

[1] See Changes to Patent Practice and Procedure, 62 *Fed. Reg.* at 53160 and 53178; 1203 *Off. Gaz. Pat. Office* at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

The Office of Initial Patent Examination will be informed of the instant decision and will take steps to have the application 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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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 0 3 2009

OFFICE OF PETITIONS

In re Application of	:	
Jonathan Laird Gross et al.	:	
Application No. 10/970,714	:	DECISION ON PETITION
Filed: October 21, 2004	:	TO WITHDRAW
Attorney Docket No. AM101141(WYNC-0991)	:	FROM RECORD
	:	

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 4, 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 Joseph Lucci and all attorneys/agents of record has been revoked by the assignee of the patent application on November 7, 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: Choate, Hall & Stewart, LLP/Wyeth
Patent Group
Two International Place
Boston, MA 02110

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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
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ATLANTA, GA 30339-5994

Mail Date: 04/21/2010

Applicant	: Julien Pons	: DECISION ON REQUEST FOR
Patent Number	: 7613985	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/970,718	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/22/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1177** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

Mail Date: 06/02/2010

Applicant	: Brian M. Kennedy	: DECISION ON REQUEST FOR
Patent Number	: 7627850	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/970,745	: 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 **1232** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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JUL 11 2005
PATENT & TRADEMARK OFFICE

IFW

PTO/SB/83 (04-05)
Approved for use through 11/30/2005. OMB 0651-0035
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	10/970/754
Filing Date	Oct. 21, 2004
First Named Inventor	Joshua Salafsky
Art Unit	
Examiner Name	
Attorney Docket Number	BIO-002

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

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

- [ ] all the attorneys/agents of record.
- [ ] the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- [x] the attorneys/agents associated with Customer Number 36,822

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

The reasons for this request are: (i) the client has indicated an inability to pay bills for an unreasonable period of time; and (ii) the client fails to provide instructions in a timely manner.

MCS 09/08/05

APPROVED

CORRESPONDENCE ADDRESS

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

[ ] The address associated with Customer Number:

OR

[x] Firm or Individual Name	Joshua Salafsky				
Address	Biodesy LLC 3960 Broadway, 4th Floor				
City	New York	State	NY	Zip	10032
Country	USA				
Telephone	212-923-8849	Email			
Signature					
Name	David S. Jacobson	Registration No.	39,235		
Date	7/8/05	Telephone No.	203-323-1800		

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HELLER EHRMAN LLP
4350 LA JOLLA VILLAGE DRIVE #700
7TH FLOOR
SAN DIEGO CA 92122

COPY MAILED

AUG 16 2006

OFFICE OF PETITIONS

In re Application of	:	
Heller, et al.	:	
Application No. 10/970,756	:	DECISION ON PETITION
Filed: October 20, 2004	:	TO WITHDRAW
Attorney Docket No. 39754-6192	:	FROM RECORD
	:	

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 16, 2006.

The request is **APPROVED**.

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

The request was signed by Alan C. Gordon on behalf of all attorneys of record who are associated with customer No. 33123.

All attorneys/agents associated with the Customer Number 33123 have been withdrawn.

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

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

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

Amelia Au
Petitions Examiner
Office of Petitions

cc: Michael Heller
14566 Luna Media
San Diego, CA 92122

cc: David A. Hall
Townsend and Townsend and Crew, LLP
12730 High Bluff Drive
San Diego, CA 92130

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 HELLER
14566 LUNA MEDIA
SAN DIEGO, CA 92122

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APR 30 2008

OFFICE OF PETITIONS

In re Application of :
Michael Heller et al :
Application No. 10/970,756 :
Filed: October 20, 2004 :
Attorney Docket No. :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 20, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Office action mailed May 11, 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 June 12, 2007.

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

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

This matter is being referred to Technology Center AU 1634 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: David A. Hall
12730 High Bluff Drive, Suite 400
San Diego, CA 92130

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

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APR 14 2009

OFFICE OF PETITIONS

In re Application of :
Thomas A. Rawdanowicz et al. :
Application No. 10/970,773 : DECISION ON PETITION
Filed: October 21, 2004 : UNDER 37 C.F.R. § 1.181
Attorney Docket No.: 5051-657 :
Title: GROWTH AND INTEGRATION :
OF EPITAXIAL GALLIUM NITRIDE :
FILMS WITH SILICON-BASED :
DEVICES :

This is a decision on the petition filed January 5, 2009, pursuant to 37 C.F.R. §1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

The above-identified application became abandoned for failure to submit an Appeal Brief within two-months of the filing of a Notice of Appeal, filed on April 10, 2008. No extensions of time pursuant to 37 C.F.R. §1.136(a) were received. Accordingly, the above-identified application became abandoned on June 11, 2008. A Notice of Abandonment was mailed on December 23, 2008.

With this petition, Petitioner has asserted that a Pre-Appeal Brief Request for a Panel Review was submitted concurrently with the Notice of Appeal, and that a decision on this request has not been received.

On July 12, 2005, a notice was posted concerning the establishment of a Pre-Appeal Brief Conference Pilot Program (1296 OG 67). The notice indicates, *in pertinent part*:

> If the request is filed with the notice of appeal, the period of time for filing the appeal brief will be the later of the two-

month period set in 37 CFR 41.37(a) or one month from the mail date of the decision on the request.

The electronic file has been reviewed, and it is clear that the relevant request was filed concurrently with the Notice of Appeal. However, it does not appear that the Office has mailed a decision by the pre-appeal brief conference panel.

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 the notice of abandonment was mailed in error.

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

The Technology Center will be notified of this decision. The Technology Center will then notify N. Drew Richards (the Technology Center Art Unit supervisor of the examiner of record) of this decision, so that a panel of examiners experienced in the field of technology can be designated, to review the applicant's remarks and the examiner's rejections.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the withdrawal of the holding of abandonment has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

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

/Paul Shanoski/
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).

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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STEPHEN B. DAVIS
BRISTOL-MYERS SQUIBB COMPANY
PATENT DEPARTMENT
P O BOX 4000
PRINCETON NJ 08543-4000

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OCT 0 3 2005

OFFICE OF PETITIONS

In re Application of :
Lam et al. :
Application No. 10/970,781 :
Filed: October 20, 2004 :
Attorney Docket No. PH-7398-CNT1 :

ON PETITION

This is a decision on the petition filed June 15, 2005, requesting that the above-identified application be accorded a filing date of October 21, 2004, rather than the presently accorded filing date of October 20, 2004.

Petitioner asserted that the above-identified application was deposited in the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) on October 21, 2004. In support of this assertion, petitioner submitted the following: (1) a copy of the returned, date-stamped postcard receipt, acknowledging receipt of the application by the USPTO; (2) a copy of the signed "Proof of Delivery" faxed to Bristol-Myers Squibb from the USPS, showing a signature of recipient "Mary Boston" and the date of delivery of October 22, 2004, via Express Mail Delivery; and, (3) a copy of Express Mail label No. EL983150274US showing only the addresses for the sender and recipient and the corporate account number; however, the date-in is blank. Petitioner stated that it submitted with the petition a statement by the person who deposited the application papers as Express Mail with the USPS, setting forth the date and time of the deposit, and declaring that the copies of the documents accompanying the petition are true copies of the correspondence originally mailed and received. Unfortunately, the Office has not located any statement by the person who deposited the application papers as Express Mail with the USPS, setting forth the date and time of the deposit among the papers submitted with the petition.

It is unclear from the petition if petitioner is alleging that there is a discrepancy between the filing date accorded by the United States Patent and Trademark Office (USPTO) and the date-in entered by the USPS (37 CFR 1.10(c)) or that the date-in was incorrectly entered by the USPS (37 CFR 1.10(d)). Therefore, the Office will treat this petition under both 37 CFR 1.10(c) and (d).

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. 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) (Emphasis added).

Consideration under 37 CFR 1.10(c)

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 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 Director 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.

The present petition lacks the showing required by item (3) above.

The date-in on the copy of the Express Mail mailing label submitted by petitioner is blank. Further, petitioner did not submit any official notation by the USPS showing the date of deposit as October 21, 2004.

Consideration under 37 CFR 1.10(d)

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 Director 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 Director, 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.

The present petition lacks the showing required by item (3) above.

A grantable petition under 37 CFR 1.10(d) must include "a showing which establishes, to the satisfaction of the Director, 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." Evidence from the USPS may be, for example, the Express Mail Corporate Account Mailing Statement or a statement by an appropriate official of the USPS that according to a USPS record the "date-in" on petitioner's Express Mail receipt is erroneous, accompanied by a copy of the relevant USPS record. Evidence that came into being within one day after the deposit of the correspondence as Express Mail may be, for example, a log book which contains information such as the Express Mail label number; the application number, attorney docket number or other such file identification number; the place, date and time of deposit; the time of the last scheduled pick-up for that date and place of deposit; the depositor's initials or signature; and the date and time of the log book entry.

In support of petitioner's assertion, petitioner submitted a copy of a facsimile transmission dated June 7, 2005, from the USPS in response to a request for delivery information on Express Mail item number EL983150274US. The delivery record confirmed that the item was delivered on October 22, 2004, at 10:53 AM in Alexandria, VA 22313 to Mary Boston.

The Office notes that petitioner bears the burden to prove that the "date-in" was incorrectly entered on the "Express Mail" mailing label. Petitioner has not provided any direct evidence of the deposit/acceptance of the present application by the USPS on October 21, 2004. Rather, petitioner presented evidence of the receipt of the application papers in the USPTO on October 22, 2004. The Office will not speculate as to the date of deposit in the USPS without the presentation of supporting documentary evidence of such. Absent 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" service, which corroborates the allegation that the application was, in fact, deposited in the USPS on October 21,

2004, before the last scheduled pick-up for that day, the application will retain the current filing date of October 20, 2004.

Accordingly, the petition is **dismissed** .

The Office strongly suggests that petitioner inquire into the records of the USPS regarding the Track & Confirm information for the subject Express Mail label number. Any request for reconsideration must be filed within TWO (2) MONTHS of the date of this decision in order to be considered timely. See 37 CFR 1.181(f).

The $130.00 petition fee is unnecessary and will be credited to petitioner's Deposit Account.

Further correspondence with respect to this matter should be addressed as follows and to the **attention of Senior Petitions Attorney Christina Tartera Donnell**:

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

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

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

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

Christina 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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STEPHEN B. DAVIS
BRISTOL-MYERS SQUIBB COMPANY
PATENT DEPARTMENT
P O BOX 4000
PRINCETON NJ 08543-4000

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NOV 01 2005

OFFICE OF PETITIONS

In re Application of	:	
Lam et al.	:	
Application No. 10/970,781	:	ON PETITION
Filed: October 21, 2004	:	
Attorney Docket No. PH-7398-CNT1	:	

This is a decision on the renewed petition filed October 17, 2005, requesting that the above-identified application be accorded a filing date of October 21, 2004, rather than the presently accorded filing date of October 20, 2004.

Petitioner asserted that the above-identified application was deposited in the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) on October 21, 2004. With the present renewed petition, petitioner submitted a copy of Express Mail label No. EL983150274US, showing a date-in of October 21, 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**.

The Office of Initial Patent Examination is directed to correct the filing date of the above-identified application to October 21, 2004, and to mail a corrected filing receipt.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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HAYES SOLOWAY P.C.
3450 E. SUNRISE DRIVE, SUITE 140
TUCSON, AZ 85718

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JUN 06 2008

OFFICE OF PETITIONS

In re Application of	:
Ryuichi Katayama	:
Application No. 10/970,788	: DECISION ON PETITION
Filed: October 21, 2004	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. NEC F-13380	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 22, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**.

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

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

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

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

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

This application is being forwarded to Technology Center Art Unit 2627, for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

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

Andrea Smith
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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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
10/970,788	10/21/2004	2627	1168	NEC F-13380	41	1

CONFIRMATION NO. 6221

CORRECTED FILING RECEIPT

27667
HAYES SOLOWAY P.C.
3450 E. SUNRISE DRIVE, SUITE 140
TUCSON, AZ 85718

OC000000030343805

Date Mailed: 06/06/2008

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)

Ryuichi Katayama, Tokyo, JAPAN;

Assignment For Published Patent Application

NEC CORPORATION

Power of Attorney:

Oliver Hayes--15867
Norman Soloway--24315
William Hennessey--32032
Dale Regelman--45625
Kevin Drucker--47537
Jeffrey Placker--47862

Domestic Priority data as claimed by applicant

This application is a CIP of 10/244,800 09/16/2002 PAT 6,980,505

Foreign Applications

JAPAN 2003-362069 10/22/2003
JAPAN 2004-036884 02/13/2004

If Required, Foreign Filing License Granted: 12/01/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/970,788**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Optical head apparatus and optical information recording or reproducing apparatus

Preliminary Class

369

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).

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	§	BEFORE THE EXAMINER:
Datta et al.	§	Not Yet Assigned
Serial No.: 10/970,789	§	Group Art Unit No.: Not Yet Assigned 1711
Filed: October 21, 2004	§	Attorney Docket No.: 1998B037A/6
For: Elastic Blends Comprising	§	Confirmation No.: Not Yet Assigned
Crystalline Polymer and	§	
Crystallizable Polymers of Propylene	§	
Customer No.: 23455	§	February 14, 2005

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

PETITION TO MAKE SPECIAL

Sir:

Pursuant to 37 CFR § 1.102(c) and MPEP § 708.02 IV. (APPLICANT'S AGE), Applicant, Charles Cozewith, hereby petitions the Commissioner, through his attorney, that this application be made special and that the prosecution thereof be expedited as much as possible. As a basis for granting the above petition, it is submitted that Applicant is 65 years of age or more. Attached herewith is a copy of Applicant's birth certificate.

Respectfully submitted,

February 14, 2005
Date

Leandro Arechederra III
Attorney for Applicants
Registration No. 52,457

ExxonMobil Chemical Co.
Law Technology
P.O. Box 2149
Baytown, Texas 77522-2149
Phone: 281-834-2173
Fax: 281-834-2495

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC 1700

MAR - 3 2005

I:\BPCL_AW\Prosecution\EMCC Prosecution\1998\1998B037A-6\1998B037A-6 (US)\1998B037-6-US-2005FEB14-Petition to Make Special.doc

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CONVATEC INC.
100 HEADQUARTERS PARK DRIVE
SKILLMAN, NJ 08558

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OFFICE OF PETITIONS

In re Application of	:	
Brian C. Stoyer, et. al.	:	
Application No. 10/970,790	:	DECISION ON PETITION
Filed: October 21, 2004	:	
Attorney Docket No. CV0334 NP	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 12, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Non-Final Office Action mailed, April 3, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136 (a) were obtained. Accordingly, the application became abandoned on July 4, 2008.

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

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

This application is being referred to Technology Center AU 3761 for appropriate action by the Examiner in the normal course of business on the reply received.

Andrea Smith
Petitions Examiner
Office of Petitions

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UNISYS CORPORATION
UNISYS WAY, MS/E8-114
BLUE BELL PA 19424-0001

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OFFICE OF PETITIONS

In re Application of
Hans C. Mikkelson et al.
Application No. 10/970,801
Filed: October 21, 2004
Attorney Docket No.: RA5421DIV

ON PETITION

This is a decision in response to the petition filed February 3, 2005 (certificate of mail date was February 1, 2005), requesting that Figure 6, included with the instant petition, be placed in the above identified application file, as having been filed with the original disclosure. The petition is treated under 37 CFR 1.182.

A "Notice of Omitted Item(s) in a Nonprovisional Application" was mailed December 1, 2004, stating that the application had been accorded a filing date of October 21, 2004 but that Figure 6 appeared to have been omitted.

The instant application is a divisional of parent application no. 09/968,295 filed October 10, 2001. Petitioners concede that the sheet containing Figure 6 was not present upon filing adding however that the application when filed, included a statement incorporating by reference the prior application, which therefore would include the drawing page containing Figure 6.

MPEP 201.06 (c) states that:

> For the incorporation by reference to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or transmittal letter-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application.

Obviously, in view of the incorporation by reference of the prior application, the drawing of Figure 6 is not new matter if it was a part of the disclosure of the prior application. 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).

Accordingly, the petition is **DISMISSED**.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of October 21, 2004, with an indication in Office records that Figure 6 while not included with the application papers upon filing, was a part of the original disclosure.

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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TECHNOLOGY CENTER 2600

Steven M. duBois
Potomac Patent Group, PLLC
PO Box 270
Fredericksburg VA 22404

In re Application of
LIBERTY, MATTHEW G., et al.
Application No. 10/970,811
Filed: October 21, 2004
For: **USER INTERFACE DEVICES AND METHODS EMPLOYING ACCELEROMETERS**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed August 25, 2006 (Certificate of Mailing dated August 23, 2006) under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

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

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

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

Kenneth A. Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

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POTOMAC PATENT GROUP PLLC
P.O. BOX 270
FREDERICKSBURG, VA 22404

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In re Application of	:	
Matthew G. LIBERTY, et *al.*	:	
Application No. 10/970,811	:	NOTICE UNDER 37 CFR 1.28(C)
Filed: October 21, 2004	:	
Attorney Docket No. **0320-007**	:	

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.

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

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

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

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JAN 29 2008

OFFICE OF PETITIONS

In re Application of	:	
Se-Jong Kim, et al.	:	
Application No. 10/970,816	:	DECISION ON PETITION
Filed: October 20, 2004	:	UNDER 37 CFR 1.313(c)(1)
Attorney Docket No. 53501/P849	:	

This is a decision on the petition under 37 CFR 1.313(c), filed January 23, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED**.

37 CFR 1.313(c) provides that:

Once the issue fee has been paid, the application will not be withdrawn from issue upon petition by the applicant for any reason except:

(1) Unpatentability of one of more claims, which petition must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;

(2) Consideration of a request for continued examination in compliance with 37 CFR 1.114; or

(3) Express abandonment of the application. Such express abandonment may be in favor of a continuing application.

Upon payment of the issue fee, an application will not be withdrawn from issue upon petition except for the reasons enumerated in 37 CFR 1.313(c). The circumstances of the above-identified application do not fall within any of those exceptions.

For the reason stated above, the petition under 37 CFR 1.313(c) cannot be granted.

Petitioner is reminded that the filing of any renewed petition to withdraw from issue may not be recognized or effective if not received by the appropriate deciding official in time to act prior to issuance. *Note* 37 CFR 1.313(d). It is recommended that the facsimile number listed below be used to file the renewed petition.

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) 273-0025**
Office of Petitions

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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PO BOX 7068
PASADENA, CA 91109-7068

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OFFICE OF PETITIONS

In re Application of	:	
Se-Jong Kim, et al.	:	
Application No. 10/970,816	:	DECISION GRANTING PETITION
Filed: October 20, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 53501/P849	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 31, 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 regarding this decision should be directed to April Wise at (571) 272-1642.

This application is being referred to Technology Center AU 2879 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement and the amendment previously filed December 26, 2007.

April M. Wise
Petitions Examiner
Office of Petitions

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

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LAWRENCE LIVERMORE NATIONAL LABORATORY
PO BOX 808, L-703
LIVERMORE CA 94551-0808

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OFFICE OF PETITIONS

In re Application of
William C. MOSS et al.
Application No. 10/970,822
Filed: October 20, 2004
Attorney Docket No. IL-11220

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 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 April 24, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed January 24, 2008, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on April 25, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1440.00 and publication fee of $300.00; (2) the petition fee of $1540.00; and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fee payments are accepted as being unintentionally delayed.

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

This application is being referred to Office of Data Management.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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

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OFFICE OF PETITIONS

In re Application of	:	
Avi Ashkenazi, et al.	:	
Application No. 10/970,823	:	DECISION ON PETITIONS
Filed: October 20, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 39780-1618P2C1-1C2	:	AND UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed March 24, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §§120, 365(c) and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment and Application Data Sheet (ADS).

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. 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 petition fails to comply with item (1) above.

A reference to add the prior-filed applications on page one following the first sentence of the specification has been included in an amendment filed on March 24, 2005. However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

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

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

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

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

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

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

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

Any questions concerning this matter may be directed to Sherry Brinkley at (571) 272-3204.

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

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

[1] *Note* 37 CFR 1.121

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

In re Application of
Avi Ashkenazi, et al.
Application No. 10/970,823
Filed: October 20, 2004
Attorney Docket No. 39780-1618P2C1-1C2

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

This is a decision on the renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed April 3, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §§120, 365(c) and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment and the ADS filed March 24, 2005.

The petition is **GRANTED.**

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

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

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application(s) as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application(s) claiming the benefit of the prior-filed provisional application(s) must have been filed within twelve months of the filing date of the prior-filed provisional application(s).

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

Upon further review of the application it is noted that the declaration submitted on October 20, 2004, sets forth a claim for benefit under 35 U.S.C. § 120 a plurality of PCT applications. However, the Office erroneously included these PCT applications as foreign applications under 35 U.S.C. § 119. If applicant is seeking to claim benefit of priority to these PCT applications under 35 U.S.C. 120, a relationship must be stated. On the other hand, if applicant is seeking to claim benefit of the PCT applications as foreign applications, applicant should submit either an executed oath or declaration which properly includes the PCT applications under 35 U.S.C. 119 (a)-(d) or an ADS in accordance with 37 CFR 1.76(b)(6).

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

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

Any questions concerning this matter may be directed to Sherry D. Brinkley at (571) 272-3204. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center Art Unit 1647 for consideration by the examiner of the claim for benefit of priority under 35 U.S.C. § §120 and 119(e) to the prior-filed nonprovisional and provisional applications.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Frances M. Hicks
Lead, 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
10/970,823	10/20/2004	1647	790	39780-1618P2C1-1C2	124	5	1

CONFIRMATION NO. 1098
CORRECTED FILING RECEIPT
OC000000020163240
OC000000020163240

35489
HELLER EHRMAN LLP
275 MIDDLEFIELD ROAD
MENLO PARK, CA 94025-3506

Date Mailed: 08/24/2006

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)

Avi Ashkenazi, San Mateo, CA;
David Botstein, Belmont, CA;
Luc Desnoyers, San Francisco, CA;
Dan L. Eaton, San Rafael, CA;
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Margaret Ann Roy, San Francisco, CA;
Timothy A. Stewart, San Francisco, CA;
Daniel Tumas, Orinda, CA;
P. Mickey Williams, Half Moon Bay, CA;
William I. Wood, Hillsborough, CA;

Assignment For Published Patent Application

GENENTECH, INC., South San Francisco, CA

Power of Attorney: The patent practitioners associated with Customer Number **09157**.

Domestic Priority data as claimed by applicant

This application is a CON of 10/797,366 03/09/2004
which is a CON of 09/665,350 09/18/2000 ABN
which is a CON of PCT/US00/04414 02/22/2000
which is a CIP of PCT/US99/28313 11/30/1999
which is a CIP of PCT/US98/18824 09/10/1998
which claims benefit of 60/062,287 10/17/1997

Foreign Applications

UNITED STATES OF AMERICA PCT/US99/21090 09/15/1999
UNITED STATES OF AMERICA PCT/US99/21547 09/15/1999
UNITED STATES OF AMERICA PCT/US99/23089 10/05/1999
UNITED STATES OF AMERICA PCT/US99/28214 11/29/1999
UNITED STATES OF AMERICA PCT/US99/28313 11/30/1999
UNITED STATES OF AMERICA PCT/US99/28564 12/02/1999
UNITED STATES OF AMERICA PCT/US99/28565 12/02/1999
UNITED STATES OF AMERICA PCT/US99/30095 12/16/1999
UNITED STATES OF AMERICA PCT/US99/30999 12/20/1999
UNITED STATES OF AMERICA PCT/US99/30911 12/20/1999
UNITED STATES OF AMERICA PCT/US00/00219 01/05/2000

If Required, Foreign Filing License Granted: 08/23/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is
US10/970,823

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Secreted and transmembrane polypeptides and nucleic acids encoding the same

Preliminary Class

530

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
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Michael R. Henson & Associates, LLC
5613 DTC Parkway
Suite 240
Greenwood Village CO 80111

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DEC 01 2008

OFFICE OF PETITIONS

In re Application of
Curtis Colligan
Application No. 10/970,828
Filed: October 20, 2004
Attorney Docket No. 2097

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 13, 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 17, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 18, 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 $810.00; and (3) a proper statement of unintentional delay.

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

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-3213.

This application is being referred to Technology Center AU 3611 for appropriate action by the Examiner in the normal course of business on the reply received.

Cheryl Gibson Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

cc: John Wray Carpenter
Holland & Hart, LLP
555-17th Street, Suite 3200
Denver, CO 80202

PTO/SB/64 (01-08)
Approved for use through 04/30/2008. 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) 59825.830002.US0

First named inventor: Curtis Colligan

Application No.: 10/970,828 Art Unit: 3611

Filed: October 20, 2004 Examiner: Christopher Veraa

Title: CALENDAR HANGER DEVICE AND ASSEMBLY INCORPORATING THE SAME

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 $ 810.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

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

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of Response to Office Action (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.

/John Wray Carpenter/	November 13, 2008
Signature	Date
John W. Carpenter	57,830
Typed or printed name	Registration Number, if applicable
Holland & Hart, LLP Suite 3200	303.295.8043
Address	Telephone Number
555 17th Street, Denver, CO 80202	
Address	

Enclosures:
☑ Fee Payment
☑ Reply
☐ Terminal Disclaimer Form
☐ Additional sheets containing statements establishing unintentional delay
☐ Other: _____

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

I hereby certify that this correspondence is being:

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

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

Date	Signature
	Typed or printed name of person signing certificate

Privacy Act Statement

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

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

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

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Curtis Colligan
Appl. No.: 10/970,828
Filed: October 20, 2004
Docket No.: 59825.830002.US0
Conf. No.: 5764
Title: ***CALENDAR HANGER DEVICE AND ASSEMBLY INCORPORATING THE SAME***

Art Unit: 3611
Examiner: Christopher Veraa

Action: ***REPLY TO OFFICE ACTION***
Date: November 13, 2008

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

AMENDMENT

Sir:

The present Amendment is in response to the Office Action dated September 17, 2007 in reference to the above-identified application. The Examiner set a shortened statutory period for reply of three months, making the present Amendment due by December 17, 2007. Filed concurrently herewith is a Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 CFR §1.137(b).

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.
10/970,828	10/20/2004	Curtis Colligan	2097	5764

24264 7590 04/15/2008
TIMOTHY J. MARTIN, P.C.
9250 WEST 5TH AVE
LAKEWOOD, CO 80226

EXAMINER
VERAA, CHRISTOPHER

ART UNIT	PAPER NUMBER
3611	

MAIL DATE	DELIVERY MODE
04/15/2008	PAPER

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

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

Notice of Abandonment	Application No.	Applicant(s)	
	10/970,828	COLLIGAN, CURTIS	
	Examiner	Art Unit	
	CHRISTOPHER E. VERAA	3611	

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

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on *17 September 2007*.
   (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
   (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
   (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
   (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
   (d) ☒ No reply has been received.

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

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

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

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

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

7. ☐ The reason(s) below:

/Lesley D. Morris/
Supervisory Patent Examiner, Art Unit 3611

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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JUN 0 9 2008

In re Application of	:	
WALKER, James P. Jr. et al.	:	
Application No. 10/970,838	:	DECISION ON PETITION
Filed: October 21, 2004	:	TO WITHDRAW
Attorney Docket No. **13976-004001**	:	FROM RECORD
	:	

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, 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 G. Peter Albert, Jr. on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence 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.

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: **JAMES P. WALKER, JR.**
3229 WENTWOOD DRIVE
DALLA, TX 75225

cc: **BIDGIVE INTERNATIONAL, INC.**
3538 CARUTH BOULEVARD
SUITE 200
DALLAS, TX 75225

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO CA 94303

COPY MAILED

APR 25 2007

OFFICE OF PETITIONS

In re Application of :

KIM, Daniel H. :
Application No. 10/970,843 : DECISION ON PETITION
Filed: October 20, 2004 : TO WITHDRAW
Attorney Docket No. **STAN-388** : FROM RECORD

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 19, 2007.

The request is **APPROVED.**

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

The request was signed by Karl Bozicevic, on behalf of all attorneys of record who are associated. Applicant is reminded that there is no attorney of record at this time.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **DANIEL H. KIM**
156 PACCHETTI WAY
MOUNTAIN VIEW, CA 94040

cc: **MAYER & WILLIAMS PC**
251 NORTH AVENUE WEST
2ND FLOOR
WESTFIELD, NJ 07090

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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VertiFlex, Inc.
Perkins Coie, LLP
P.O. Box 1247
Seattle, WA 98111-1247

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MAR 31 2010

OFFICE OF PETITIONS

In re Application of	:	
Daniel H. Kim	:	
Application No. 10/970,843	:	DECISION ON PETITION
Filed: October 20, 2004	:	TO WITHDRAW
Attorney Docket No. VFX01-20002.00	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 11, 2010.

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 all attorneys/agents associated with customer number 81910 have been revoked by the assignee of the patent application on January 19, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Perkins Coie, LLP
Patent-SEA
P.O. Box 1247
Seattle, WA 98111-1247

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
10/970,858	09/24/2004	3747	900	14470.0058US01	12	17	3

CONFIRMATION NO. 4830

CORRECTED FILING RECEIPT

OC000000016251221

23552
MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

Date Mailed: 06/10/2005

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

Kenichiro Ikeda, Wako-shi, JAPAN;
Kenji Oki, Wako-shi, JAPAN;
Nobuhiro Shimada, Wako-shi, JAPAN;

Assignment For Published Patent Application

HONDA MOTOR CO., LTD., Minato-ku, JAPAN

Power of Attorney:

Curtis Hamre–29165
John Clifford–30247
Douglas Mueller–30300
Michael Schumann–30422
Brian Batzli–32960
John Gresens–33112
Gregory Sebald–33280
James Larson–40443
Robert Kalinsky–50471
Joshua Randall–50719

Domestic Priority data as claimed by applicant

Foreign Applications

JAPAN 2003-342321 09/30/2003

If Required, Foreign Filing License Granted: 11/29/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/970,858

Projected Publication Date: Not Applicable

BEST AVAILABLE COPY

Non-Publication Request: No

Early Publication Request: No

Title

Intake structure in internal combustion engine

Preliminary Class

123

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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755 PAGE MILL ROAD
PALO ALTO, CA 94304

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MAY 24 2010

OFFICE OF PETITIONS

In re Application of	:	
Zhaowei Charlie Jiang et al.	:	
Application No. 10/970,862	:	DECISION ON PETITION
Filed: October 22, 2004	:	TO WITHDRAW
Attorney Docket No. **085804-718906**	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR. § 1.36(b), filed March 18, 2010.

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

A review of the file record indicates that the power of attorney to attorneys/agents associated with Customer Number 76102 has been revoked by the applicants of the patent application on April 29, 2010. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4584.

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

cc: YAHOO! INC. C/O GREENBERG TRAURIG, LLP
MET LIFE BUILDING
200 PARK AVENUE
NEW YORK NY 10166

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ERNEST D. BUFF
ERNEST D. BUFF AND ASSOCIATES, LLC.
231 SOMERVILLE ROAD
BEDMINSTER, NJ 07921

COPY MAILED

MAR 12 2008

OFFICE OF PETITIONS

In re Application of

Robert Allen Mehldahl
Application No. 10/970,874
Filed: October 22, 2004
Attorney Docket No. 02164-000920US

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, 2008.

The request is **APPROVED**.

A review of the file record indicates that the firm of Ernest D. Buff and Associates, LLC: (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, all the attorneys associated with customer number 25901 have been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

The correspondence address has been changed and is copied below.

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

A non-final rejection was mailed on January 8, 2008. Failure to timely reply will result in the abandonment of this application.
Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Robert Allen Mehldahl
2209 Conrad Way
Somerset, NJ 08873

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/970,874	10/22/2004	Robert Allen Mehldahl	0223-1 CIP

CONFIRMATION NO. 8356

POWER OF ATTORNEY NOTICE

25901
ERNEST D. BUFF
ERNEST D. BUFF AND ASSOCIATES, LLC.
231 SOMERVILLE ROAD
BEDMINSTER, NJ 07921

OC000000028759133

Date Mailed: 03/11/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/16/2008.

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

/kainabinet/

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

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Trellis Intellectual Property Law Group, PC
1900 EMBARCADERO ROAD
SUITE 109
PALO ALTO CA 94303

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JUN 13 2008

OFFICE OF PETITIONS

In re Application of	
Robert Levinson	
Application No. 10/970,892	DECISION ON PETITION
Filed: October 21, 2004	TO WITHDRAW
Attorney Docket No. 100113-000100US	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 August 8, 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, ***files have been transferred. Termination of Services***, 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.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Rosario M. Ingargiola**
Financial Technology & Research LLC
355 Grandview Ave.
Novato, CA 94945

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Trellis Intellectual Property Law Group, PC
1900 Embarcadero Road
Suite 109
Palo Alto, CA 94303

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SEP 02 2008

In re Application of	:	
Robert Levinson	:	
Application No. 10/970,892	:	DECISION ON PETITION
Filed: October 21, 2004	:	TO WITHDRAW
Attorney Docket No. 100113-000100US	:	FROM RECORD
	:	

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 20, 2008.

The request is **APPROVED**.

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

The request was signed by Charles J. Kulas on behalf of all attorneys of record who are associated with Customer No. 37490. All attorneys/agents associated with the Customer No. 37490 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 26, 2008 that requires a reply from the applicant.

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Robert Levinson**
41 Grandview Street
Apt. 1507
Santa Cruz, CA 95060

cc: **Rosario M. Ingargiola**
Financial Technology & Research LLC
355 Grandview Ave.
Novato, CA 94945

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/970,892	10/21/2004	Robert Levinson	100113-000100US

CONFIRMATION NO. 7159

POWER OF ATTORNEY NOTICE

OC000000031840495

37490
Trellis Intellectual Property Law Group, PC
1900 EMBARCADERO ROAD
SUITE 109
PALO ALTO, CA 94303

Date Mailed: 08/29/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/20/2008.

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

/tswilliams/

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

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INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS CO 80527-2400

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AUG 06 2008

OFFICE OF PETITIONS

In re Application of	:	
Kai Ming Ng	:	
Application No. 10/970,893	:	DECISION ON PETITION
Filed: October 21, 2004	:	
Attorney Docket No. 200405054-1	:	

This is a decision on the petition, filed January 8, 2008, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of April 4, 2007, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before July 4, 2007.

Petitioner has submitted a copy of the previously mailed correspondence, which bears a certificate of mailing dated July 3, 2007, 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 April 4, 2007 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 July 3, 2007.

This application is being referred to Technology Center AU 2835 for appropriate action in the normal course of business on the reply received with petition.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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BERESKIN AND PARR LLP/S.E.N.C.R.L., s.r.l.
40 KING STREET WEST
BOX 401
TORONTO, ON M5H 3Y2
CANADA

Mail Date: 05/03/2010

Applicant	: Benoit Marsan	: DECISION ON REQUEST FOR
Patent Number	: 7626117	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/970,982	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/25/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1121** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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FROM DIRECTOR'S OFFICE

MAR 13 2007

TECHNOLOGY CENTER 3600

Robert A. Vanderhye
801 Ridge Dr.
McLean, VA 22101-1625

In re Application of
Keith G. Vanderhye
Application No. 10/970,991
Filed: October 25, 2004
For: FODDER TREE UTILIZATION IN PASTURE BASED MONOGASTRIC DIGESTION ANIMAL MANAGEMENT

DECISION ON THE PETITION OF THE RESTRICTION REQUIREMENT UNDER 37 C.F.R. 1.144

This is a decision on applicant's petition of the restriction requirement under 37 CFR 1.144 filed in the United States Patent and Trademark Office, on February 5, 2007.

The petition is **DISMISSED**.

37 CFR 1.143 and 1.144 state the following:

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

§ 1.144 Petition from requirement for restriction.
After a final requirement for restriction, the applicant, in addition to making any reply due on the remainder of the action, may petition the Director to review the requirement. Petition may be deferred until after final action on or allowance of claims to the invention elected, but must be filed not later than appeal. A petition will not be considered if reconsideration of the requirement was not requested (see § 1.181).
[Revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; revised, 68 FR 14332, Mar. 25, 2003, effective May 1, 2003]

A review of the file history reveals that a restriction/election requirement was made by Examiner Parsley under MPEP § 806.05(h) Product and Process of Using in an office action mailed to applicant on January 9, 2007. Applicant submitted an amendment on January 10, 2007 which included remarks traversing the restriction requirement of January 9, 2007. The examiner subsequently answered applicant's remarks traversing the restriction requirement in an office action mailed on February 1, 2007 and made the requirement final. Further the

examiner indicated that claims 18-20 are withdrawn from consideration and has effectively examined the invention of Group I.

In reviewing the remarks and amendment received on January 10, 2007, there was no evidence that the applicant had in fact indicated a provisional election of one invention for prosecution as required by 37 CFR 1.143. As no provisional election was made, the response submitted on January 10, 2007 was non-responsive to the restriction/election requirement made on January 9, 2007 by the Examiner. A further review of the office action mailed on February 1, 2007, indicates that the examiner prematurely made the restriction requirement final since there had not been a provisional election made and further it would appear that the examiner had mistakenly examined an invention not yet elected by the applicant. Therefore the office action mailed on February 1, 2007 is hereby **VACATED** and is being returned to the Examiner for the processing of a Notice of Non-Responsive amendment to the restriction/election requirement mailed on January 9, 2007. As the final requirement for restriction is no longer applicable due to the vacated office action of February 1, 2007 this petition under 37 CFR 1.144 is deemed moot and is hereby dismissed.

Any questions or comments with respect to the decision should be forwarded to Director, Donald T. Hajec at the number listed below.

Donald T. Hajec, Director
Patent Technology Center 3600
(571) 272-5150

PMP 3/607

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FROM DIRECTOR'S OFFICE

AUG 2 1 2007

TECHNOLOGY CENTER 3600

ROBERT A. VANDERHYE
801 RIDGE DR.
MCLEAN VA 22101-1625

APPLICANT: Keith G. Vanderhye
SERIAL NO. 10/970,991 : PETITION FOR WITHDRAWAL
FILED: October 25, 2004 : OF RESTRICTION REQUIREMENT
FOR: FODDER TREE UTILIZATION IN PASTURE BASED MONOGASTRIC DIGESTION ANIMAL MANAGEMENT

This is in response to the petition filed on June 29, 2007 for withdrawal of the restriction requirement mailed on April 19, 2007.

The petition is **DENIED**.

FACTS

On April 17, 2007, the examiner made a requirement for restriction.
On April 25, 2007, applicant properly submitted reasons for the traversal of the restriction.
On June 27, 2007, the restriction requirement was made final in a non-final office action.
On June 29, 2007, the instant petition was submitted.

DISCUSSION

The examiner restricted the claims into two groups, namely Group I, claims 1-9, 11-17 and 21-23 as being drawn to method of raising animals and Group II, claim 18, drawn to a pig. The claims at issue are summarized as follows:

Claim 1 recites a method of raising animals with monogastric digestion...
Claim 2, dependent from claim 1 recites the animals as being pigs
Claim 18, recites a pig ...raised by practicing the method of claim 2
Applicant argues in that the pig of claim 18 must be raised as recited in claim 2 in order to be in scope with claim 18. The Office disagrees. MPEP 2113 clearly sets forth how a product by process claim is to be interpreted. The examiner need only find the product (the pig having the

characteristics claimed) to meet the scope of claim 18. The manner in which the pig obtains those characteristics is irrelevant in a product claim.

Applicant additionally implies that such a pig, to applicant's knowledge, does not exist and can only exist by performing the method of claim 2. Applicant argues that since the examiner has not given a documented viable alternative to raising such a pig, the restriction is improper. The MPEP requires in 806.05(f) that the examiner only need to allege to other processes, which would appear to make the same product. Allegations of different processes or products need not be documented. The citations set forth by applicant in supporting his position appear to be related to the issue of 35 USC 103. Restriction practice does not require the examiner to search applicants inventions prior to making a restriction requirement nor require the rationale of 35 USC 103 in making the requirement.

Regarding the record in this case, while the examiner set forth two possible examples of creating the pig, it is agreed that the manner in which the pig is created, i.e. artificial insemination or cloning, is irrelevant to how a pig is raised, and the examiner should have documented an alternative process, as prescribed by MPEP 806.05(f), since the above argument successfully traverses the examples recited in the original restriction. However, other methods of raising a pig can be readily considered such as feeding the animal a specific diet similar to that claimed and constantly exercising it in a manner other than roaming an orchard, which would readily result in a pig having the physical characteristics of claim 18. Given the interpretation of the product-by-process claim in MPEP 2113, above, this satisfies the requirement for showing that the article (pig) could be made (raised) by a materially different process.

Applicant also argues that process cannot result in a different process by stating that by performing the process the average pig produced will have these characteristics. In response, by referring to the "average", it appears that applicant is indicating that all normal pigs, might not have this criteria. An average allows for some pigs being smaller and some being larger, etc. Furthermore, applicants specification requires other steps to be performed to create such an animal, such as raising young pigs on just pastures, specific plants existing in the orchard, feeding on the orchard only during a specific time of the year, feeding the pig additional grain and vitamin and mineral supplements, etc. Thus, it appears that claim 2 alone would most likely not produce an average pig having the characteristics of claim 18. In any event, the examiner is only required to show only the product doesn't require the process "or" the process can make other products, not both.

With respect to the classification, the examiner indicated that a pig, per se, is not clearly classified anywhere in class 119. Therefore, any argument regarding the proper classifying of the inventions are rendered moot.

With respect to a burdensome search, since a pig, per se, is not clearly classified in class 119, it is reasonable to assume that the examiner would have to greatly expand his search in areas such as class 800, and various non-patent literature for a pig having the characteristics of claim 18.

DECISION

Applicants petition is **DENIED**.

Any question concerning this decision should be referred to SPE Michael Carone at 571-272-6873.

Donald Hajec
Director, TC 3600
(571) 272-5150

mc/sm: 8/13/07
SM

IFW

OIPE JC41
JAN 1 2 2005
PATENT & TRADEMARK OFFICE

A-10161
PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Karim ZAHEDI

Appln. No.: 10/971,009 Group Art Unit: 1724

Filed: October 25, 2004

For: APPARATUS AND METHOD USING AN ELECTRIFIED FILTER BED FOR REMOVAL OF POLLUTANTS FROM A FLUE GAS STREAM

* * *

PETITION TO MAKE SPECIAL UNDER 37 C.F.R. § 1.102(c)

PETITION GRANTED
1/31/05
Richard Crispino
Special Program Examiner
TC 1700

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

Sir:

Applicant respectfully requests that the above-identified application be accorded "special" status because the application discloses and claims an invention which materially enhances the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life-sustaining natural elements.

Respectfully submitted,

NHS:lat

Miles & Stockbridge P.C.
1751 Pinnacle Drive, Ste. 500
McLean, VA 22102-3833
(703) 903-9000

By: Nelson H. Shapiro
Nelson H. Shapiro
Reg. No. 17,095

January 12, 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

KEVIN G. VEREENE
P.O. BOX 4448
ALEXANDRIA, VA 22303

COPY MAILED

MAR 1 5 2007

OFFICE OF PETITIONS

In re Application of	:
Plummer et al.	:
Application No. 10/971,035	: DECISION GRANTING PETITION
Filed: October 25, 2004	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 066967-0002	:

This is a decision on the petition under 37 CFR 1.78(a)(6), filed January 22, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of prior-filed provisional Application No. 60/514,981, filed October 29, 2003, as set forth in the concurrently filed amendment.

The petition is **GRANTED**.

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

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

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

The instant nonprovisional application was pending at the time of filing of the reference to the prior-filed provisional application as required by 37 1.78(a)(5)(iii). Additionally, the instant nonprovisional application was filed within twelve months of the filing date of the prior-filed provisional application, Application No. 60/514,981, which was filed on October 29, 2003, for which priority is claimed.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that (1) a reference to the above-noted, prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR

1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 119(e) to the above-noted, prior-filed provisional application satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that 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 provisional application, accompanies this decision on petition.

The $1370.00 petition fee is being charged to petitioner's deposit account as previously authorized.

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.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3206. Any other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center AU 3771 for appropriate action on the amendment submitted January 22, 2007, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/514,981.

Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

Cc:

DYKEMA GOSSETT PLLC
1300 I STREET, N.W., SUITE 300 WEST
WASHINGTON, DC 20005

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/971,035	10/25/2004	3771	395		4	2

CONFIRMATION NO. 2557
CORRECTED FILING RECEIPT
OC000000022898584
OC000000022898584

Kevin G. Vereene
P.O. Box 4448
Alexandria, VA 22303

Date Mailed: 03/14/2007

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

Applicant(s)

Willie Pressly Plummer JR., Bellflower, CA;
Kevin George Vereene, Alexandria, VA;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/514,981 10/29/2003

Foreign Applications

If Required, Foreign Filing License Granted: 12/02/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/971,035

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Mask having a scenting means, and method for blocking out unpleasant odors

Preliminary Class

128

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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DEC 13 2006
OFFICE OF PETITIONS

In re Application of	:
Joseph F. Fritsch et al	:
Application No. 10/971,046	: DECISION GRANTING PETITION
Filed: October 25, 2004	: UNDER 37 CFR 1.137(b)
Attorney Docket No. Q84378	:

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

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Nonfinal Rejection of January 4, 2006, is accepted as having been unintentionally delayed.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $510 extension of time submitted with the petition on August 2, 2006 was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

This matter is being referred to Technology Center AU 2627.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DANIEL J. SWIRSKY
55 REUVEN ST.
BEIT SHEMESH 99544 IL ISRAEL

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MAR 2 8 2007

OFFICE OF PETITIONS

In re Application of	:	
Simon, et al.	:	
Application No. 10/971,067	:	ON PETITION
Filed: October 25, 2004	:	
Attorney Docket No. 1196-US1	:	

This is a decision on the petition under 37 CFR 1.182(a), filed December 13, 2006, to change the order of inventors.

The petition is **GRANTED.**

The joint inventors will be listed on the application as follows:

1. Ely S. Simon
2. Glen M. Doniger

A corrected filing receipt is enclosed.

The fee for the instant petition is $400.00. Accordingly, deposit account 50-1380, will be charged an additional $270.00

The application file is being directed to Technology Center 3700, GAU 3736 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: 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
10/971,067	10/25/2004	3736	770	1196-US1	29	4

CONFIRMATION NO. 7806

CORRECTED FILING RECEIPT

OC000000023067713

24505
DANIEL J SWIRSKY
55 REUVEN ST.
BEIT SHEMESH, 99544
ISRAEL

Date Mailed: 03/23/2007

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)

Ely S. Simon, Bayside, NY;
Glen M. Doniger, Houston, TX;

Power of Attorney: The patent practitioners associated with Customer Number **24505**.

Domestic Priority data as claimed by applicant

This application is a CIP of PCT/IL04/00184 02/24/2004

Foreign Applications

If Required, Foreign Filing License Granted: 12/02/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/971,067

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Standardized medical cognitive assessment tool

Preliminary Class

600

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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Title 37, Code of Federal Regulations, 5.11 & 5.15

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This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR

1.53(d). This license is not retroactive.

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

NOT GRANTED

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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OIW 01-05

KEIL & WEINKAUF
1350 CONNECTICUT AVENUE, N.W.
WASHINGTON DC 20036

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JAN 24 2005

OFFICE OF PETITIONS

In re Application of	:	
Appleyard et al.	:	
Application No. 10/971,079	:	
Filed: 25 October, 2004	:	LETTER
Atty Docket No. DB048903-03	:	

This is in response to the papers filed on 27 December, 2004, and supplemented on 14 January, 2005, which are treated as a petition under 37 CFR 1.47(a).

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. 09/275,771, filed on 25 March, 1999, of which Application No. 10/043,115 is a divisional application, of which the instant filing is a divisional application. Furthermore, a copy of the decision, mailed on 5 October, 2000, granting a petition to accord § 1.47(a) status to prior application No. 09/275,771, 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 divisional application.

After this decision is mailed, the application will be referred to Technology Center 1773 for examination in due course.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/01/09

TO SPE OF : ART UNIT 3744

SUBJECT : Request for Certificate of Correction for Appl. No.: 10971087 Patent No.: 7047751

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

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

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

Comments: _____

SPE

3744
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/971,117	10/25/2004	Kwang-min Kim	1793.1385	9668

7590 07/11/2008
STEIN, MCEWEN & BUI, LLP
1400 EYE STREET, NW
SUITE 300
WASHINGTON, DC 20005

EXAMINER
TOPGYAL, GELEK W

ART UNIT	PAPER NUMBER
2621	

MAIL DATE	DELIVERY MODE
07/11/2008	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Patent Publication Branch
Office of Data Management

FORM PET651G (Rev. 08/07)

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/971,117	10/25/2004	Kwang-min Kim	1793.1385	9668

49455 7590 07/14/2008
STEIN, MCEWEN & BUI, LLP
1400 EYE STREET, NW
SUITE 300
WASHINGTON, DC 20005

EXAMINER
TOPGYAL, GELEK W

ART UNIT	PAPER NUMBER
2621	

MAIL DATE	DELIVERY MODE
07/14/2008	PAPER

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

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

Adjustment date: 07/14/2008 DTERRY
10/26/2004 STEUMEL1 00000024 10971117
02 FC:1202 -504.00 OP
03 FC:1201 -176.00 OP

UNITED STATES PATENT AND TRADEMARK OFFICE

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SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN NSW 2-041 AU AUSTRALIA

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MAY 2 4 2006

OFFICE OF PETITIONS

In re Application of :
Silverbrook et al. :
Application No. 10/971,145 : ON PETITION
Filed: October 25, 2004 :
Attorney Docket No. NPT046US :

This is a decision on petition to withdraw the holding of abandonment under 37 CFR 1.181 filed May 4, 2006.

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

This application was held abandoned December 19, 2005 for failure to timely reply to the non-final Office Action mailed on September 8, 2005. The non-final Office Action set a three (3) month extendable time period for reply. A Notice of Abandonment was mailed April 17, 2006.

Petitioner asserts that a reply to the non-final Office Action was timely submitted on November 11, 2005. As evidence, petitioner has submitted a copy of the reply which contains a certificate of transmission dated November 11, 2005 pursuant to 37 CFR 1.8. Petitioner has also provided a copy of the sending unit's report confirming transmission.

The response submitted November 11, 2005 has not been located in the Office, however, in view of the evidence submitted, the response is deemed timely.

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

The application file is being forwarded to the Technology Center 2800 for further processing of the amendment submitted on petition.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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GREGORY MONTONE
ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-3873

MAILED

NOV 2 8 2005

Technology Center 2100

In re Application of: Shoko Umemura
Application No. 10/971,147
Filed: October 25, 2004
For: DATA PROCESSING SYSTEM

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 June 7, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Francescantonio Melara	:	
Application No. 10/971,155	:	
Filed: October 25, 2004	:	
Attorney Docket No. 39631/GM/CD	:	

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

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

The examiner of Technology Center AU 3676 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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Paper No. _____

Date : September 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) :Francescantonio Melara
Application No. :10/971,155
Filed :October 25, 2004

The above-identified application has been assigned Patent No. 7,111,357 and an issue date of September 26, 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 September 26, 2006:

"All reference to Patent No. 7,111,357 to Francescantonio Melara of Italy for SELF-ORIENTING CASTER FOR MOVING PIECES OF FURNITURE AND THE LIKE appearing in the Official Gazette of September 26, 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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FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LLP
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WASHINGTON, DC 20001-4413

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OFFICE OF PETITIONS

In re Application of	:	
KUMAR, et al.	:	
Application No. 10/971,180	:	DECISION ON PETITION
Filed: October 21, 2004	:	TO WITHDRAW
Attorney Docket No. 1837.0015-01	:	FROM RECORD
	:	

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 14, 2006.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, "The above-referenced application was acquired from Dana Corporation by BTU International, Inc., which has requested that the above-referenced application be transferred to their counsel," are not appropriate since it does not meet any of the conditions set forth in 37 CFR 10.40.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director.

In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number). The power of attorney filed on October 21, 2004 does not include one of the above two options.

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

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

Telephone inquiries concerning this decision should be directed to Patricia Volpe at 571-272-6825.

David Bucci
Petitions Examiner
Office of Petitions

cc: Stanley Schurgin, Esq.
Weingarten, Schurgin, Gagenbin & Lebovici, LLP
Ten Post Office Square
Boston, MA 02109

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OFFICE OF PETITIONS

In re Application of	:	
Kunio Kashino, et al.	:	
Application No.: 10/971,189	:	ON PETITION
Filed: October 22, 2004	:	
Attorney Docket No.: 034620-000125	:	

This is a decision on the petition, filed February 11, 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 January 23, 2009, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2621 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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OFFICE OF PETITIONS

Honeywell Law Department
Patent Services
101 Columbia Road, AB-2
P.O. Box 2245
Morristown NJ 07962-2245

In re Application of
Christopher D. Martin et al.
Application No. 10/971,192
Filed: October 22, 2004
Attorney Docket No. 7609

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 18, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before August 21, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed May 21, 2009. Accordingly, the date of abandonment of this application is August 22, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510 and the publication fee of $300, (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

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 JoAnne Burke at 571-272-4584.

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

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: Amy L. Hammer
120 S. Riverside Plaza – 22nd Floor
Chicago, IL 60606

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Honeywell Law Department
Patent Services
101 Columbia Road, AB-2
P.O. Box 2245
Morristown, NJ 07962-2245

Mail Date: 04/21/2010

Applicant	: Christopher D. Martin	: DECISION ON REQUEST FOR
Patent Number	: 7646853	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/971,192	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/22/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1061** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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2180 Two Wachovia Center
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Charlotte NC 28282

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OFFICE OF PETITIONS

In re Application of	:	
Michael T. Beroth	:	
Application No. 10/971,198	:	DECISION ON PETITION
Filed: October 22, 2004	:	
Attorney Docket No. 965/182	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 30, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before July 20, 2006 as required by the Notice of Allowance and Fee(s) Due, mailed April 20, 2006. Accordingly, the date of abandonment of this application is July 21, 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 $1400 and the publication fee of $300, (2) the petition fee of $1500; 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 April Wise at (571) 272-1642.

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

Amelia Au
Petitions Examiner
Office of Petitions

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DAVID C RIPMA PATENT COUNSEL
SHARP LABORATORIES OF AMERICA
5750 NW PACIFIC RIM BLVD
CAMAS WA 98607

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OFFICE OF PETITIONS

In re Application of	:	
Hsu, et al.	:	
Application No. 10/971,204	:	DECISION ON PETITION
Filed: October 21, 2004	:	
Attorney Docket No. SLA0949	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed February 25, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to nonprovisional application 10/391,292.

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 above-noted, nonprovisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the above-noted, prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the above-noted, prior-filed PCT application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §§ 120 and 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 application, accompanies this decision on petition.

The petition fee of $1,370 has been charged to Deposit Account No. 19-1457, as authorized.

This application is being forwarded to Group Art Unit 2818 for examination in due course.

Any inquiries concerning this decision may be directed to Petitions Attorney Cliff Congo at 571-272-3207.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

Enc: Corrected Filing Receipt (3 pages)

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In re Application of	:	
Dort, et al.	:	
Application No. 10/971,243	:	ON PETITION
Filed: October 22, 2004	:	
Attorney Docket No. PGI6044P2871US	:	

This is a decision on the petition to revive an abandoned application under 37 CFR 1.137(b), filed December 29, 2005.

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 non-final Office action mailed June 9, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under 37 CFR 1.136(a) were purchased. Accordingly, no reply having received, the application became abandoned on September 10, 2005. The mailing of this decision precedes the mailing of a Notice of Abandonment.

With the instant petition, petitioner paid the petition fee, submitted the required reply in the form of an Amendment, and made the proper statement of unintentional delay.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $1020 extension of time fee submitted with the petition on December 29, 2005 was subsequent to the maximum period obtainable for reply (December 9, 2005), this fee has been refunded to petitioner's Deposit Account No. 23-0785.

The matter is being forwarded to Group Art Unit 1733 for consideration of the Amendment filed December 29, 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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OFFICE OF PETITIONS

In re Patent No. 7,495,086 :
Issued: February 24, 2009 :
Application No. 10/971,250 : PATENT TERM ADJUSTMENT
Filed: October 22, 2004 :
Dkt. No.: 2968-US-CIP2 :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT 37 C.F.R. § 1.705(d)," filed April 24, 2009. Patentee requests correction of the patent term adjustment from 279 days to 293 days. Patentee requests this correction on the sole basis that the Office took in excess of three years to issue the above-referenced patent.

The application for patent term adjustment (PTA) under 37 CFR 1.705(d) is **DISMISSED**.

The above-identified application matured into U.S. Pat. No. 7,495,086 on February 24, 2009. The patent issued with a patent term adjustment of 279 days. Patentee argues that in view of Wyeth v. Dudas, No. 07-1492 (D.D.C. Sept. 30, 2008), the patent is entitled to an adjustment of 293 days (420 days pursuant to 35 USC 154(b)(1)(A) *plus* 14 days pursuant to 35 USC 154(b)(1)(B) *less* applicant delay of 141 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 asserts that as of the filing of the request for continued examination (RCE) on November 5, 2007, the application was pending three years and 13 days after its filing date (October 23, 2007 to November 4, 2007). The Office agrees that certain action was not taken within the specified time frame, and thus, the entry of a period of adjustment of 420 days is correct. At issue is whether patentees should accrue 13 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 420 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the period of 13 days of delay in issuing the patent overlaps with the 420 days of examination delay under 37 CFR 1.702(a). 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:

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).

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

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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.

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)(1)(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 22, 2004, and ending on November 4, 2007, the day before the date the RCE was filed on November 5, 2007.

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), 420 days of patent term adjustment were accorded during the pendency of the application for Office delay prior to the filing of the RCE. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 13 days of patent term adjustment accrued at the time of submission of the RCE for Office issuance of the patent more than three years after the application filing date.

The 13 days of patent term adjustment under 37 CFR 1.702(b) overlaps with the 420 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 13 days and the 420 days is neither permitted nor warranted given that 420 days is the actual number of days issuance of the patent was delayed at the time of submission of the RCE.

Accordingly, at issuance, the Office properly entered 279 days of patent term adjustment, having considered the 13 days of Office delay under the three-year pendency provision in conjunction with the 420 days of delay under 37 CFR 1.702(a)(1) reduced 141 days for applicant delay.

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

No additional fees are due in connection with this matter.

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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FEB -1 2005

In re Application of	:	
Henry M. Gallops, Jr.	:	
Serial No. 10/971,272	:	DECISION ON PETITION
Filed: October 22, 2004	:	TO MAKE SPECIAL
For: ZERO CENTER OF MASS	:	
ARCHERY CAM	:	

Applicant's petition, filed October 22, 2004, seeks to have this application made special pursuant to the Accelerated Examination Program. The petition is GRANTED.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(VIII) of the Manual of Patent Examining Procedures (MPEP).

Applicant is advised that the examiner's search will be restricted to the subject matter encompassed by the claims. In the event that the application receives a first action rejection, applicant is encouraged to arrange for an interview with the examiner, and to provide the examiner with a working copy of any proposed amendment one working day prior to the interview. Any amendment filed in response to a first action rejection which would require broadening of the field of search will be treated as an improper response.

PETITION GRANTED.

E.R. Kazenske, Director
Technology Center 3700

Charles J. Meyer
Woodard, Emhardt, Moriarty, McNett
& Henry, LLP
111 Monument Circle, Suitke 3700
Indianapolis, IN 46204-5137

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MAY 21 2007

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

William E. Noonan
Post Office Box 07338
Fort Myers FL 33919

In re Application of:
James THOMAS
Serial No.: 10/971,274
Filed: October 21, 2004
Attorney Docket Number:
Title: **DIGITAL BROADCAST MESSAGE SYSTEM**

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 April 30, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(c). The petition is being treated as a petition under 37 C.F.R. § 1.102(d).

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

REGULATION AND PRACTICE

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

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

The application as filed is not eligible for the accelerated examination under 37 C.F.R. § 1.102(d) because it was not filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; and because the petition was not filed together with the application on or after August 25, 2006. See also MPEP 708.02.

Applicant should note 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).

For the above-stated reasons, the petition is denied. Therefore, the file will be taken up by the examiner in its regular turn.

Any inquiry regarding this decision should be directed to Krista Zele, Quality Assurance Specialist, at (571) 272-7288.

Krista Zele
Quality Assurance Specialist
Technology Center 2600
Communications

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DEC 28 2004

Director's Office
Group 3700

ALVIN S. BLUM
2350 DEL MAR PLACE
FORT LAUDERDALE, FL 33301

In re application of Alvin S. Blum	: : :	**DECISION ON PETITION TO MAKE SPECIAL UNDER 37 CFR. 1.102(c)**
Serial Number: 10/971276 Filed: October 22, 2004	: :	

For: **DISPOSABLE FEMALE URINAL**

This is a decision on the petition filed on October 22, 2004, under 37 CFR. 1.102(c) to make special the above identified application because of the age/health of the applicant. Since the requirements of the M.P.E.P Section 708.02 IV have been met, the petition will be GRANTED.

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

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

Summary: Decision on Petition **GRANTED**.

Richard A. Bertsch
Director
Technology Center 3700
(571) 272-3750

rt: 12/23/04

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JONATHAN Y. KANG
LEE, HONG, DEGERMAN, KANG & SCHMADEKA
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801 S. FIGUEROA STREET
LOS ANGELES CA 90017

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OFFICE OF PETITIONS

In re Application of	:	
Choi et al.	:	DECISION ON PETITION
Application No. 10/971,278	:	
Filed: 21 October, 2004	:	
Attorney Docket No. 2080-3022C5	:	

This is a decision in reference to the petition styled under 37 CFR 1.182, filed on 31 January, 2005, which is treated as a petition under 37 CFR 1.53 requesting that the above-identified application be accorded a filing date of 21 October, 2004, with Figures 7 through 12 described in the specification as a part of the original disclosure.

The petition is dismissed.

On 21 October, 2004, the application was filed.

On 24 November, 2004, the Office of Initial Patent Examination (OIPE) mailed a Notice of Omitted Item(s) in a Nonprovisional Application stating that the application had been accorded a filing date of 21 October, 2004, but that Figures 7 - 12 described in the specification appeared to have been omitted from the application.

In response, on 31 January, 2005, the present petition was filed. Petitioners apparently concede that Figures 7 - 12 were inadvertently omitted from the application, but state that the omitted Figures are contained in Application No. 09/933,353, to which the present application claims domestic priority.

Additionally, the application transmittal letter for the present application submitted with the original application papers on 21 October, 2004, requests that the specification be amended by inserting before the first line a sentence stating that the present application is a continuation of Application No. 09/933,353, filed August, 20, 2001, "which application is hereby incorporated by reference in its entirety."

The petition is dismissed.

The mailing of a "Notice of Omitted Items" 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)).

In this case, however, petitioners neither assert that the missing page of specification was deposited on 21 October, 2004, nor request the 31 January, 2005 (the date the drawing was supplied), filing date.

MPEP 201.06(c) states that:

> . . . an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuing application to include any subject matter in such prior application(s), without the need for a petition. (emphasis supplied)

Obviously, in view of the incorporation by reference of the prior application, Figures 7 - 12 of the specification are not new matter if they were a part of the disclosure of the prior application.

Petitioner should file Figures 7 - 12 of the drawings as a preliminary amendment. If Figures 7 - 12 are filed as a preliminary amendment, it will be reviewed by the examiner for new matter.

The application will be processed using only the application papers present on filing. The copy of the sheets of drawings containing Figures 7 - 12 filed with the present petition will not be processed for examination, but will be retained in the application file.

As this petition was necessitated by applicants' filing error rather than an error on the part of the Office, the petition fee will not be refunded.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 31 January, 2005, using only the application papers filed on that date.

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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LOS ANGELES CA 90017

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OFFICE OF PETITIONS

In re Application of	:	CORRECTED
Choi et al.	:	DECISION ON PETITION
Application No. 10/971,278	:	
Filed: 21 October, 2004	:	
Attorney Docket No. 2080-3022C5	:	

This is a corrected decision in reference to the petition styled under 37 CFR 1.182, filed on 31 January, 2005, which is treated as a petition under 37 CFR 1.53 requesting that the above-identified application be accorded a filing date of 21 October, 2004, with Figures 7 through 12 described in the specification as a part of the original disclosure.

The petition is dismissed.

On 21 October, 2004, the application was filed.

On 24 November, 2004, the Office of Initial Patent Examination (OIPE) mailed a Notice of Omitted Item(s) in a Nonprovisional Application stating that the application had been accorded a filing date of 21 October, 2004, but that Figures 7 - 12 described in the specification appeared to have been omitted from the application.

In response, on 31 January, 2005, the present petition was filed. Petitioners apparently concede that Figures 7 - 12 were inadvertently omitted from the application, but state that the omitted Figures are contained in Application No. 09/933,353, to which the present application claims domestic priority.

Additionally, the application transmittal letter for the present application submitted with the original application papers on 21 October, 2004, requests that the specification be amended by inserting before the first line a sentence stating that the present application is a continuation of Application No. 09/933,353, filed August, 20, 2001, "which application is hereby incorporated by reference in its entirety."

The petition is dismissed.

The mailing of a "Notice of Omitted Items" 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)).

In this case, however, petitioners neither assert that the missing page of specification was deposited on 21 October, 2004, nor request the 31 January, 2005 (the date the drawings were supplied), filing date.

MPEP 201.06(c) states that:

> . . . an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuing application to include any subject matter in such prior application(s), without the need for a petition. (emphasis supplied)

Obviously, in view of the incorporation by reference of the prior application, Figures 7 - 12 of the specification are not new matter if they were a part of the disclosure of the prior application.

Petitioner should file Figures 7 - 12 of the drawings as a preliminary amendment. If Figures 7 - 12 are filed as a preliminary amendment, it will be reviewed by the examiner for new matter.

The application will be processed using only the application papers present on filing. The copy of the sheets of drawings containing Figures 7 - 12 filed with the present petition will not be processed for examination, but will be retained in the application file.

As this petition was necessitated by applicants' filing error rather than an error on the part of the Office, the petition fee will not be refunded.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of **21 October, 2004,** using only the application papers filed on that date.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Choi et al.	:	DECISION ON PETITION
Application No. 10/971,281	:	
Filed: 21 October, 2004	:	
Attorney Docket No. 2080-3022C1	:	

This is a decision in reference to the petition styled under 37 CFR 1.182, filed on 31 January, 2005, which is treated as a petition under 37 CFR 1.53 requesting that the above-identified application be accorded a filing date of 21 October, 2004, with Figures 7 through 12 described in the specification as a part of the original disclosure.

The petition is dismissed.

On 21 October, 2004, the application was filed.

On 1 December, 2004, the Office of Initial Patent Examination (OIPE) mailed a Notice of Omitted Item(s) in a Nonprovisional Application stating that the application had been accorded a filing date of 21 October, 2004, but that Figures 7 - 12 described in the specification appeared to have been omitted from the application.

In response, on 31 January, 2005, the present petition was filed. Petitioners concede that Figures 7 - 12 were inadvertently omitted from the application, but state that the omitted Figures are contained in Application No. 09/933,353, to which the present application claims domestic priority. Additionally, the application transmittal letter for the present application

submitted with the original application papers on 21 October, 2004, requests that the specification be amended by adding before the first line that the present application is a continuation of Application No. 09/933,353, filed August 20, 2001, "which application is hereby incorporated by reference in its entirety."

The petition is dismissed.

The mailing of a "Notice of Omitted Items" 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)).

In this case, however, petitioners neither assert that the missing page of specification was deposited on 21 October, 2004, nor request the 31 January, 2005 (the date the drawings were supplied), filing date.

MPEP 201.06(c) states that:

> . . . an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuing application to include any subject matter in such prior application(s), without the need for a petition. (emphasis supplied)

Obviously, in view of the incorporation by reference of the prior application, Figures 7 - 12 of the specification are not new matter if they were a part of the disclosure of the prior application.

Petitioner should file Figures 7 - 12 of the drawings as a preliminary amendment. If Figures 7 - 12 are filed as a preliminary amendment, it will be reviewed by the examiner for new matter.

The application will be processed using only the application papers present on filing. The copy of the sheets of drawings containing Figures 7 - 12 filed with the present petition will not be processed for examination, but will be retained in the application file.

As this petition was necessitated by applicants' filing error rather than an error on the part of the Office, the petition fee will not be refunded.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 21 October, 2004, using only the application papers filed on that date.

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

DWood

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Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Choi et al.	:	DECISION ON PETITION
Application No. 10/971,282	:	
Filed: 21 October, 2004	:	
Attorney Docket No. 2080-3022C5	:	

This is a decision in reference to the petition styled under 37 CFR 1.182, filed on 31 January, 2005, which is treated as a petition under 37 CFR 1.53 requesting that the above-identified application be accorded a filing date of 21 October, 2004, with Figures 7, 8, 9, 10, 11, and 12 described in the specification as a part of the original disclosure.

The petition is dismissed.

On 21 October, 2004, the application was filed.

On 12 January, 2005, the Office of Initial Patent Examination (OIPE) mailed a Notice of Omitted Item(s) in a Nonprovisional Application stating that the application had been accorded a filing date of 21 October, 2004, but that Figures 7, 8, 9, 10, 11, and 12 described in the specification appeared to have been omitted from the application.

In response, on 31 January, 2005, the present petition was filed. Petitioners apparently concede that Figures 7, 8, 9, 10, 11, and 12 were inadvertently omitted from the application, but state that the omitted Figures are contained in Application No. 09/933,353, to which the present application claims domestic

priority. Additionally, the application transmittal letter for the present application submitted with the original application papers on 21 October, 2004, requests that the specification be amended by inserting before the first line a sentence stating that the present application is a continuation of Application No. 09/933,353, filed August, 20, 2001, "which application is hereby incorporated by reference in its entirety."

The petition is dismissed.

The mailing of a "Notice of Omitted Items" 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)).

In this case, however, petitioners neither assert that the missing page of specification was deposited on 21 October, 2004, nor request the 31 January, 2005 (the date the drawing was supplied), filing date.

MPEP 201.06(c) states that:

> . . . an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuing application to include any subject matter in such prior application(s), without the need for a petition. (emphasis supplied)

Obviously, in view of the incorporation by reference of the prior application, Figures 7, 8, 9, 10, 11, and 12 of the specification are not new matter if they were a part of the disclosure of the prior application.

Petitioner should file Figures 7, 8, 9, 10, 11, and 12 of the drawings as a preliminary amendment. If Figures 7, 8, 9, 10, 11, and 12 are filed as a preliminary amendment, it will be reviewed by the examiner for new matter.

The application will be processed using only the application papers present on filing. The copy of the sheets of drawings containing Figures 7, 8, 9, 10, 11, and 12 filed with the present petition will not be processed for examination, but will be retained in the application file.

As this petition was necessitated by applicants' filing error rather than an error on the part of the Office, the petition fee will not be refunded.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 31 January, 2005, using only the application papers filed on that date.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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3 World Financial Center
New York NY 10281-2101

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OFFICE OF PETITIONS

In re Application of
Nippert, et al.
Application No. 10/971,312
Filed: October 22, 2004
Attorney Docket No.: 6009-4729
For: WELDING ELECTRODE MATERIAL AND AN ELECTRODE MADE OF THE MATERIAL

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed June 30, 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 22, 2004 without an executed oath or declaration. Accordingly, on December 1, 2004, a "Notice to File Missing Parts of Nonprovisional Application" (Notice) was mailed, requiring an executed oath or declaration and a surcharge for its late filing.

In response, on June 30, 2005, a petition for a five (5) month extension of time and required fee, a declaration executed by 3 of 4 joint inventors, the surcharge, the petition fee, and the instant petition were filed. A declaration of facts of patent agent Michael A. Willis accompanied the petition. Mr. Willis explains that non-signing joint inventor, Mihnea Ghita, received numerous requests that he sign the declaration, but Mr. Ghita did not respond.

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the petition fee of $200, and
(4) the last known address of the omitted inventor(s).

This petition lacks item (1) above.

As to item (1), Applicants have failed to establish that the inventor has refused to sign the declaration. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events. The Office requires that the non-signing inventor be provided with a complete copy of the application as filed. This includes the specification with claims, drawings, if any, and a declaration. See MPEP 409.03(d). The statement of facts their accompanying exhibits do not establish that a complete copy of the application was mailed to Mr. Ghita.

Mr.Ghita 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. Ghita 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.

Mr. Ghita cannot make the necessary statements found in the declaration-- i.e. "I have reviewed and understand..." -- without having examined the patent application.

Petitioners must send Mr. Ghita a copy of the as filed above-identified application and request that he sign the declaration.

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

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

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

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

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
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New York NY 10281-2101

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OFFICE OF PETITIONS

In re Application of
Nippert, et al.
Application No. 10/971,312
Filed: October 22, 2004
Attorney Docket No.: 6009-4729
For: WELDING ELECTRODE MATERIAL AND AN ELECTRODE MADE OF THE MATERIAL

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.47(a), filed July 22, 2005.

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

The above-identified application was filed on October 22, 2004 without an executed oath or declaration. Accordingly, on December 1, 2004, a "Notice to File Missing Parts of Nonprovisional Application" (Notice) was mailed, requiring an executed oath or declaration and a surcharge for its late filing.

In response, on June 30, 2005, a petition for a five (5) month extension of time and required fee, a declaration executed by 3 of 4 joint inventors, the surcharge, the petition fee, and the instant petition were filed. A declaration of facts of patent agent Michael A. Willis accompanied the petition. Mr. Willis explains that non-signing joint inventor, Mihnea Ghita, received numerous requests that he sign the declaration, but Mr. Ghita did not respond.

On July 22, 2005, the Office received another copy of the June 30, 2005 petition that asserts Mr. Ghita has refused to sign the declaration **and** a declaration with a signature in all 4 joint inventor signature blocks.

A decision on petition was turned in for mailing prior to July 22, 2005, so the undersigned did not see the July 22, 2005 declaration.

Michael A. Willis called the undersigned mid August and alerted her to the fact that Mr. Ghita had signed the declaration.

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).

There are non-dated and non-initialed changes to Mr. Ghita's information listed on the declaration. It is suggested that applicants file an ADS with correct information for all inventors. If Mr. Ghita's information is not clarified, the examiner of record may request a supplemental declaration from Mr. Ghita that lists the entire inventive entity and corrects his information.

After the mailing of this decision, the application will be forwarded to Technology Center 1725 for examination in due course.

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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OFFICE OF PETITIONS

CORNING INCORPORATED
SP-TI-3-1
CORNING NY 14831

In re Application of	:	
George E. Berkey et al	:	
Application No. 10/971,319	:	ON PETITION
Filed: October 22, 2004	:	
Attorney Docket No. SP04-107	:	

This is a decision on the petition, filed March 23, 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 13, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2874 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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OFFICE OF PETITIONS

JONATHAN Y KANG
LEE HONG DEGERMAN KANG & SCHMADEKA
801 S FIGUEROA ST
14TH FLOOR
LOS ANGELES CA 90017

In re Application of	:	
Choi, et al.	:	
Application No. 10/971,327	:	DECISION ON PETITION
Filed: October 21, 2004	:	
Attorney Docket No. 2080-3022C3	:	

This is a decision on the "PETITION UNDER 37 CFR 1.182 TO RETAIN FILING DATE OF OCTOBER 21, 2004", filed January 31, 2005, requesting that the above-identified application be accorded a filing date of October 21, 2004, with Figures 7 - 12 of the drawings as part of the original disclosure.

The petition is **DISMISSED**.

The application was filed on October 21, 2004. However, on December 1, 2004, the Office mailed a "Notice of Omitted Item(s) in a Nonprovisional Application", stating that the application had been accorded a filing date of October 21, 2004; however, Figures 7 - 12 described in the specification appeared to have been omitted.

In response, the present petition was filed. Petitioner does not contend that Figures 7 - 12 were included with the papers filed with the Office on October 21, 2004. However, petitioner requests that Figures 7 - 12 be incorporated by reference into the above-identified application.

Figures not present on the filing date cannot be considered a part of the original disclosure of the application. As Figures 7 - 12 were not present in the Office on October 21, 2004, the application can not be accorded the October 21, 2004 filing date with the drawing of Figures 7 - 12 as a part of the original disclosure.

Accordingly, the Notice mailed on December 1, 2004, was correct in stating that Figures 7 - 12 of the drawings appeared to have been omitted. Therefore, the requirement for the omitted figure of drawings was proper and will not be withdrawn.

However, a review of the application file reveals that the first line of the specification included an incorporation by reference statement to Korean applications Nos. 2001-20929 and 2001-28405.

MPEP § 201.06(c) states that:

> . . . an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to **amend** the continuing application to include any subject matter in such prior application(s), **without the need for a petition** (emphasis added).

Obviously, in view of the incorporation by reference of Korean applications Nos. 2001-20929 and 2001-28405, the drawings of Figures 7 - 12 are not new matter if they were a part of the disclosure of that application.

The $400 petition fee will not be refunded because the petition was not necessitated by any error on the part of the United States Patent and Trademark Office.

The application is being returned to the Office of Initial Patent Examination for further processing, using the application papers filed October 21, 2004, and for indication in Office records that ten (10) sheets of drawings were present on filing.

Telephone inquiries specific to this matter should be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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JONATHAN Y KANG
LEE HONG DEGERMAN KANG & SCHMADEKA
801 S FIGUEROA ST
14TH FLOOR

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JUN 0 2 2005

OFFICE OF PETITIONS

In re Application of	:	
Choi, et al.	:	
Application No. 10/971,329	:	DECISION ON PETITION
Filed: October 21, 2004	:	
Attorney Docket No. 2080-3022C2	:	

This is a decision on the "PETITION UNDER 37 CFR § 1.182 TO RETAIN FILING DATE OF OCTOBER 21, 2004", filed January 31, 2005, requesting that the above-identified application be accorded a filing date of October 21, 2004, with Figures 7 - 12 of the drawings as part of the original disclosure.

The petition is **DISMISSED**.

The application was filed on October 21, 2004. However, on December 1, 2004, the Office mailed a "Notice of Omitted Item(s) in a Nonprovisional Application", stating that the application had been accorded a filing date of October 21, 2004; however, Figures 7 - 12 of the drawings as described in the specification appeared to have been omitted.

In response, the present petition was filed. Petitioner does not argue that Figures 7 - 12 were included with the application papers as filed. However, petitioner states that the drawings were filed with application No. 09/933,353 and Korean applications 2001-20929 and 2001-28405 which were incorporated by reference.

Figures not present on the filing date cannot be considered a part of the original disclosure of the application. As Figures 7 - 12 were not present in the Office on October 21, 2004, the application can not be accorded the October 21, 2004 filing date with the drawings of Figures 7 - 12 as a part of the original disclosure.

Accordingly, the Notice mailed on December 1, 2004, was correct in stating that Figures 7 - 12 of the drawings appeared to have been omitted. Therefore, the requirement for the omitted figures of drawings was proper and will not be withdrawn.

However, a review of the application file reveals that the first line of the specification included an incorporation by reference statement.

MPEP § 201.06(c) states that:

> . . . an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to **amend** the continuing application to include any subject matter in such prior application(s), **without the need for a petition** (emphasis added).

Obviously, in view of the incorporation by reference statement to prior filed applications, the drawings of Figures 7 - 12 are not new matter if they were a part of the disclosure of those applications.

The $400 petition fee will not be refunded because the petition was not necessitated by any error on the part of the United States Patent and Trademark Office.

The application is being returned to the Office of Initial Patent Examination for further processing, using the application papers filed October 21, 2004, and for indication in Office records that ten (10) sheets of drawings were present on filing.

Telephone inquiries specific to this matter should be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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LEE HONG DEGERMAN KANG & SCHMADEKA
801 S FIGUEROA ST
14TH FLOOR
LOS ANGELES CA 90017

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OFFICE OF PETITIONS

In re Application of	:	
Choi, et al.	:	
Application No. 10/971,329	:	DECISION ON PETITION
Filed: October 21, 2004	:	
Attorney Docket No. 2080-3022C2	:	

This is a decision on the "PETITION UNDER 37 CFR § 1.182 TO RETAIN FILING DATE OF OCTOBER 21, 2004", filed January 31, 2005, requesting that the above-identified application be accorded a filing date of October 21, 2004, with Figures 7 - 12 of the drawings as part of the original disclosure.

The petition is **DISMISSED**.

The application was filed on October 21, 2004. However, on December 1, 2004, the Office mailed a "Notice of Omitted Item(s) in a Nonprovisional Application", stating that the application had been accorded a filing date of October 21, 2004; however, Figures 7 - 12 of the drawings as described in the specification appeared to have been omitted.

In response, the present petition was filed. Petitioner does not argue that Figures 7 - 12 were included with the application papers as filed. However, petitioner states that the drawings were filed with application No. 09/933,353 and Korean applications 2001-20929 and 2001-28405 which were incorporated by reference.

Figures not present on the filing date cannot be considered a part of the original disclosure of the application. As Figures 7 - 12 were not present in the Office on October 21, 2004, the application can not be accorded the October 21, 2004 filing date with the drawings of Figures 7 - 12 as a part of the original disclosure.

Accordingly, the Notice mailed on December 1, 2004, was correct in stating that Figures 7 - 12 of the drawings appeared to have been omitted. Therefore, the requirement for the omitted figures of drawings was proper and will not be withdrawn.

However, a review of the application file reveals that the first line of the specification included an incorporation by reference statement.

MPEP § 201.06(c) states that:

> . . . an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to **amend** the continuing application to include any subject matter in such prior application(s), **without the need for a petition** (emphasis added).

Obviously, in view of the incorporation by reference statement to prior filed applications, the drawings of Figures 7 - 12 are not new matter if they were a part of the disclosure of those applications.

The $400 petition fee will not be refunded because the petition was not necessitated by any error on the part of the United States Patent and Trademark Office.

The application is being returned to the Office of Initial Patent Examination for further processing, using the application papers filed October 21, 2004, and for indication in Office records that ten (10) sheets of drawings were present on filing.

Telephone inquiries specific to this matter should be directed to the undersigned at 571-272-3207.

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

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

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OFFICE OF PETITIONS

In re Application of	:	
William J. Kohr	:	
Application No. 10/971,331	:	ON PETITION
Filed: October 21, 2004	:	
Attorney Docket No. 330440-100041	:	

This is in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed March 19, 2007.

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 in response to the non-final Office action mailed May 24, 2006, which set an extendable period for reply of three (3) months. Applicant filed a reply on November 30, 2006, which included a Certificate of Mailing dated November 24, 2006, and an authorization to charge a three month extension of time to Deposit Account No. 50-2468. However, when the Office attempted to charge the fee on November 30, 2006, the deposit account

lacked sufficient funds. Accordingly, the application became abandoned on November 25, 2006. A Notice of Abandonment was mailed on December 15, 2006. The Notice of Abandonment erroneously indicated that no reply was received. The Notice should have indicated that a reply was received, but the deposit account lacked a sufficient balance to charge the three month extension of time.

On renewed petition, petitioner would need to submit evidence that either a check was submitted, or submit Deposit Account statements for the applicable period to establish that the deposit account contained sufficient funds on November 30, 2006.

While the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable, petitioner is not precluded from obtaining relief by filing a petition pursuant to 37 CFR 1.137(b) on the basis of unintentional delay. 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); 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

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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OFFICE OF PETITIONS

In re Application of	:	
William J. Kohr	:	
Application No. 10/971,331	:	ON PETITION
Filed: October 21, 2004	:	
Attorney Docket No. 330440-100041	:	

This is in response to the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181 and the conditional petition to revive under 37 CFR 1.137(b), filed July 2, 2007.

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

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

The above-identified application became abandoned for failure to timely file a reply in response to the non-final Office action mailed May 24, 2006, which set an extendable period for reply of three (3) months. Applicant filed a reply on November 30, 2006, which included a Certificate of Mailing dated November 24, 2006, and an authorization to charge a three month extension of time to Deposit Account No. 50-2468. However, when the Office attempted to charge the fee on November 30, 2006, the deposit account lacked sufficient funds. Accordingly, the application became abandoned on August 25, 2006. A Notice of Abandonment was mailed on December 15, 2006. The Notice of Abandonment erroneously indicated that no reply was received. The Notice should have indicated that a reply was received, but the deposit account lacked a sufficient balance to charge the three month extension of time.

Applicant filed a petition to withdraw the holding of abandonment on March 19, 2007. The petition was dismissed in a decision mailed on May 2, 2007. The decision pointed out that petitioner would need to submit evidence that either a check was submitted, or submit Deposit Account statements for the applicable period to establish that the deposit account contained sufficient funds on November 30, 2006.

Petition Under 37 CFR 1.181:

On renewed petition, petitioner submitted a Deposit Account statement, showing the balances for the month of November, 2006. A review of the statement for November 30, 2006 showed that the deposit account contained a balance as low as $109.00 on that day, before it was subsequently replenished later that day. Accordingly, petitioner has not demonstrated that the deposit account contained a sufficient balance on November 30, 2006 at the time the Office attempted to charge the three month extension of time.

Accordingly, the petition under 37 CFR 1.181 is dismissed.

Petition Under 37 CFR 1.137(b):

With the instant petition, applicant made the proper statement of unintentional delay and paid the petition fee. The required reply in the form of an Amendment was previously filed on November 30, 2006.

Accordingly, the petition under 37 CFR 1.137(b) is granted.

The petition fee of $1500 has been charged to Deposit Account No. 50-2468, as authorized.

The matter is being forward to Group Art Unit 1657 for consideration of the Amendment filed November 30, 2006.

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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PATENT DOCKETING 39/361
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OFFICE OF PETITIONS

In re Application of :
Glenn Joseph Leedy :
Application No. 10/971,341 : ON PETITION
Filed: October 22, 2004 :
Attorney Docket No. ELM-1 CONT.16

This is a decision on the petition, filed February 14, 2008 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 9, 2008 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2815 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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SHEPPARD MULLIN RICHTER & HAMPTON LLP
333 South Hope Street, 48th Floor
Los Angeles, CA 90071-1448

Mail Date: 04/21/2010

Applicant	: Franz X. Zach	: DECISION ON REQUEST FOR
Patent Number	: 7588868	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/971,350	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/22/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1040** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

EDWARDS & ANGELL, LLP
P.O. BOX 55874
BOSTON, MA 02205

In re Application of
Osenar, Sabin, Enayetullah, and Formato
Application No. 10/971,356
Filed: July 1, 2005
Attorney Docket No 58330CIP (47071)
For: MEMBRANE BASED ELECTROCHEMICAL CELL STACKS

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

This is a decision on the petition under 37 CFR 1.47(a) July 1, 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 22, 2004, and was not accompanied by a properly executed oath or declaration. A Notice to File Missing Parts of Nonprovisional Application was then mailed on December 3, 2004, allowing a shortened period for reply of two months from its mailing date. Extensions of time were available pursuant to 37 CFR 1.136(a). The notice required a proper oath or declaration to be filed, along with replacement drawings, and payment of additional claim fees and a surcharge. The instant petition was filed on July 1, 2005, along with a request for an extension of time within the fifth month.

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

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

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

(3) the petition fee,

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

The instant petition lacks item (1) above.

As to item (1) sufficient proof was not provided that the entire application was sent to the non-signing inventor. Petitioner maintains that the non-signing inventor's conduct—initiation of legal proceedings against an interested party—is a clear indication that the non-signing inventor does not intend to join the prosecution of the application. However, for the purposes of satisfying the requirements of 37 CFR 1.47 when a refusal (whether constructive or express) by the non-signing inventor is alleged, petitioner must affirmatively establish that the non-signing inventor is aware of contents of the application before he can be said to have refused to join its prosecution. Guidance as to what is required to be sent to the non-signing before a refusal to join the prosecution of the application can be alleged is found in the *Manual of Patent Examining Procedure*, Section 409.03(d) which reads, in pertinent part:

> [a] refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not, itself, suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the non-signing inventor, or, if the non-signing inventor is represented by counsel, to the address of the non-signing inventor's attorney.
>
> 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.

Petitioner has provided a copy of the complaint filed on behalf of the non-signing inventor, however, because the non-signing inventor and Protonex apparently have several areas of disagreement, the copy of the compliant alone does not establish that the non-signing inventor is aware of the contents of the subject application such that the Patent and Trademark Office can be assured that the non-signing inventor has made an informed decision not join the prosecution of the application. Any renewed petition filed must, therefore, establish that the non-signing inventor was presented with a complete copy of the application papers and, thereafter, through word or deed, refused to join the prosecution of the application.

The fee for the instant petition is $200.00, but only $130.00 was remitted for the petition fee. Deposit account 04-1105 will be charged $70.00, accordingly.

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

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

By FAX: (703) 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

EDWARDS & ANGELL, LLP
P.O. BOX 55874
BOSTON, MA 02205

In re Application of
Osenar, Sabin, Enayetullah, and Formato
Application No. 10/971,356
Filed: July 1, 2005
Attorney Docket No 58330CIP (47071)
For: MEMBRANE BASED ELECTROCHEMICAL CELL STACKS

: DECISIONGRANTING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed March 8, 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.

The above-identified application was filed on October 22, 2004, and was not accompanied by a properly executed oath or declaration. A Notice to File Missing Parts of Nonprovisional Application was then mailed on December 3, 2004, allowing a shortened period for reply of two months from its mailing date. Extensions of time were available pursuant to 37 CFR 1.136(a). The notice required a proper oath or declaration to be filed, along with replacement drawings, and payment of additional claim fees and a surcharge. A petition under 37 CFR 1.47(a) was filed on July 1, 2005, along with a request for an extension of time within the fifth month. The petition was dismissed by a decision mailed August 8, 2005. The instant renewed petition was filed on March 8, 2006, with a request for an extension of time within the fifth month.

Petitioner has shown that inventor Formato has refused to execute the declaration and join the above-identified application The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

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

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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LAW OFFICES OF DOUGLAS W. RUDY LLC
14614 NORTH KIERLAND BLVD
SUITE 300
SCOTTSDALE AZ 85254

MAIL

AUG 1 8 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re application of:
Jerome H. Lemelson
Application No. 10/971364
Filed: October 22, 2004
For: **SYSTEM AND METHOD FOR ENHANCING SPEECH INTELLIGIBILITY FOR THE HEARING IMPAIRED**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record and change of address filed on February 25, 2005.

A grantable request to withdraw, as attorney/agent of record must:
(1) Indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) Be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) Be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) Indicate the address to which future correspondence should be mailed.

Petitioner has satisfied the requirements for successfully requesting withdrawal. Accordingly, the request is **GRANTED.**

The attorney with registration number (36994) Peter C. Warner is withdrawn.

The correspondence address is not affected by this withdraw.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

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United States Patent and Trademark Office
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Haynes and Boone, LLP
IP Section
2323 Victory Avenue
SUITE 700
Dallas, TX 75219

Mail Date: 04/21/2010

Applicant	: Seong-Young Lee	: DECISION ON REQUEST FOR
Patent Number	: 7576723	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/971,365	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/22/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1099** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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COCHRAN FREUND & YOUNG, LLC
2026 CARIBOU DRIVE
SUITE 201
FORT COLLINS, CO 80525

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SEP 0 6 2007

OFFICE OF PETITIONS

In re Application of
Joel S. Hartley
Application No. 10/971,377
Filed: October 22, 2004
Attorney Docket No. DRIV.01USU1

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

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

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

A review of the file record indicates that the power of attorney to Samuel M. Freund and all attorneys associated with customer number 27479 has been revoked by the applicant of the patent application on July 23, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Frances Hicks
Frances Hicks
Petitions Examiner
Office of Petitions

cc: Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.
La Jolla Centre II
9255 Towne Centre Drive, Suite 600
San Diego, CA 92121-3039

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4417 LANCASTER PIKE
WILMINGTON DE 19805

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MAR 2 8 2008

OFFICE OF PETITIONS

In re Application of	:	
Bletsos et al.	:	
Application No. 10/971382	:	ON PETITION
Filing or 371(c) Date: 10/22/2004	:	
Attorney Docket Number:	:	
TK3860USNA	:	

This is a decision on the Petition to Revive an Unintentionally Abandoned Application Under 37 C.F.R. § 1.137(b), filed January 14, 2008.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed November 30, 2006. The Office action set a three (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No timely and proper reply having been filed, the application became abandoned March 1, 2007.

Applicant files the present petition and Notice of Appeal and fee.

Accordingly, the petition is granted. The application is being referred to Technology Center Art Unit 1771 to await the brief in support of appeal.

Applicant has two (2) months from the mailing date of this Decision to file an appeal brief. Extensions of time are available under 37 CFR 1.136(a). Accord, MPEP 1215.01

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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4417 LANCASTER PIKE
WILMINGTON DE 19805

MAILED
JUN 02 2010
OFFICE OF PETITIONS

In re Application of	:	
Bletsos et al.	:	
Application No. 10/971,382	:	DECISION ON PETITION
Filed: October 22, 2004	:	
Docket No. TK3860USNA	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 21, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 18, 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 November 19, 2008. A Notice of Abandonment was mailed April 14, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $1,620.00, and (3) an adequate statement of unintentional delay.

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

This application is being referred to Technology Center AU 1794 for appropriate action by the Examiner in the normal course of business on the reply received.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

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Charles N.J. Ruggiero, Esq.
Ohlandt, Greeley, Ruggiero & Perle, L.L.P.
10th Floor
One Landmark Square
Stamford CT 06901-2682

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APR 14 2008

OFFICE OF PETITIONS

In re Application of	:
EDMUND A. GRESS	:
Application No. 10/971,413	: DECISION ON PETITIONS
Filed: 10/22/2004	: UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 0001467/2250USU	:

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed March 5, 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 Supplemental Application Data Sheet.

The petitions are **GRANTED.**

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

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application. All the above requirements having been satisfied, the late claim for benefit of priority under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3711 for consideration by the examiner of the claim under 35 U.S.C. §§ 120 and 119(e) of the prior-filed nonprovisional and provisional applications.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/971,413	10/22/2004	3711	557	0001467/2250USU	21	5

CONFIRMATION NO. 7186

CORRECTED FILING RECEIPT

OC000000029271510

Charles N.J. Ruggiero, Esq.
Ohlandt, Greeley, Ruggiero & Perle, L.L.P.
10th Floor
One Landmark Square
Stamford, CT 06901-2682

Date Mailed: 04/14/2008

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)

Edmund A. Gress, Guilford, CT;

Power of Attorney:
Charles Ruggiero--28468
Paul Greeley--31019

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/514,234 10/24/2003
and is a CIP of 09/693,145 10/20/2000 PAT 6,893,021
which claims benefit of 60/208,532 06/01/2000

Foreign Applications

If Required, Foreign Filing License Granted: 12/01/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/971,413**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

METHOD AND APPARATUS FOR CARD GAME

Preliminary Class

273

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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MICHAEL BEST & FRIEDRICH LLP
100 E WISCONSIN AVENUE
Suite 3300
MILWAUKEE, WI 53202

Mail Date: 04/21/2010

Applicant	: David E. Chen	: DECISION ON REQUEST FOR
Patent Number	: 7604647	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/971,421	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/22/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **511** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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2281 W. 190TH STREET
SUITE 200
TORRANCE, CA 90504

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JUL 30 2007

OFFICE OF PETITIONS

In re Application of	:	
Richard Cornelius et al	:	
Application No. 10/971,452	:	ON PETITION
Filed: October 22, 2004	:	
Attorney Docket No. 21947-502	:	

This is a decision on the petition filed March 28, 2007 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the formal drawings in a timely manner in reply to the Notice of Allowance mailed November 15, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on February 16, 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 the formal drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received.

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

This matter is being referred to the Publishing Division for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

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JUN 14 2005

OFFICE OF PETITIONS

In re Application of :
Michael P. Ellenbogen :
Application No. 10/971,453 : DECISION ACCORDING STATUS
Filed: October 21, 2004 : UNDER 37 CFR 1.47(b)
Attorney Docket No. L0632.70065US00 :

This decision is in response to the petition filed April 14, 2005 under 37 CFR 1.47(b).

The petition is **GRANTED**.

The above-identified application was filed October 21, 2004 naming Michael P. Ellenbogen as the sole inventor but without an executed Oath or Declaration. A Notice to File Missing Parts was mailed January 12, 2005 and in response, the instant petition was filed. The petition seeks status under 37 CFR 1.47(b) because the inventor has by his actions, refused to execute the oath or declaration and thus to cooperate with the filing of the 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 after having been presented with the application papers (specification, claims and drawings);

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

(3) the petition fee;

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

(5) proof of proprietary interest, and

(6) proof of irreparable damage.

Petitioners have shown that the application papers were forwarded to legal counsel for the non-signing inventor and that the sole inventor has not returned executed copies of the oath or declaration. Additionally, petitioners have included the last known address for Mr. Ellenbogen, have shown proprietary interest by providing a copy of the "Employee Patent and Proprietary Information Untilization Agreement" executed by Mr.

Ellenbogen, which shows that the inventor had an obligation to assign any patent rights to PerkinElmer, Inc. Petitioner further shows by legal memorandum, the chain of title in ownership of the patent application. Finally, petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64 and has demonstrated that such action is necessary to prevent irreparable damage.

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

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

The application is being forwarded to Technology Center 2882 for examination in due course.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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MICHAEL P. ELLENBOGEN
2 PLAINVIEW ROAD
WAYLAND, MA 01778

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JUN 14 2005

OFFICE OF PETITIONS

In re Application of
Michael P. Ellenbogen
Application No. 10/971,453
Filed: October 21, 2004
For: COMPUTED TOMOGRAPHY SYSTEM

Dear Mr. Ellenbogen:

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

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:
RICHARD F. GIUNTA
WOLF, GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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NOV 0 9 2005

OFFICE OF PETITIONS

In re Application of	:	
Michael P. Ellenbogen	:	
Application No. 10/971,453	:	DECISION ON PETITION
Filed: October 21, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. L0632.70065US00	:	37 CFR 1.102(c)(2)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(2)(iii), filed October 21, 2004, to make the above-identified application special based on the invention materially contributing to countering terrorism as set forth in M.P.E.P. § 708.02, Section XI.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(2)(iii) and MPEP § 708.02, Section XI: Inventions for Countering Terrorism, should state that special status is sought because the invention materially contributes to countering terrorism. International terrorism as defined in 18 U.S.C. 2331 includes:

> activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping...

If the disclosure it not clear on its face that the clamed invention is materially directed to countering terrorism, the petition must be accompanied by a statement by the applicant, assignee or a registered attorney/agent explaining how the materiality standard is met. The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems. No fee is required.

The instant petition fails to meet the criteria set out with respect to countering terrorism in MPEP § 708.02 (XI). There is no material showing in the claimed invention of how the invention counter terrorism.

Further steps would be required to actually offset or nullify terrorism. Furthermore, the countering terrorism aspect of this invention appears to be a tangential rather than a material improvement. There is nothing in the disclosure about how the tomography devices is adapted for the detection of terrorism devices such as explosives, and the system may be used for any type of object.

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

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

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

By FAX: (571) 273-8300

The $130 petition fee is being credited to Deposit Account No. 23-2825 as authorized.

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

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

This matter is being referred to Technology Center Art Unit 2882 for action in its regular turn.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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RICHARD F. GUNTA
WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

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JAN 12 2006

OFFICE OF PETITIONS

In re Application of	:	
ELLENBOGEN	:	
Application No. 10/971,453	:	DECISION ON PETITION
Filed: October 21, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. L0632.70065US00	:	37 CFR 1.102(c)(2)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(2)(iii), filed November 29, 2005, to make the above-identified application special based on the invention materially contributing to countering terrorism as set forth in M.P.E.P. § 708.02, Section XI.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(2)(iii) and MPEP § 708.02, Section XI: Inventions for Countering Terrorism, should state that special status is sought because the invention materially contributes to countering terrorism. International terrorism as defined in 18 U.S.C. 2331 includes:

> activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping...

If the disclosure it not clear on its face that the clamed invention is materially directed to countering terrorism, the petition must be accompanied by a statement by the applicant, assignee or a registered attorney/agent explaining how the materiality standard is met. The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems. No fee is required.

The instant petition includes an explanation of how the invention materially contributes to countering terrorism, including claims 52 and 65 which are directing toward a device and method for detecting explosives in checked-in baggage at the airport. Additionally, Applicant's disclosure provides evidence in the Background of the Invention and Detailed Description sections that the invention materially contributes to detecting explosives during the check-in process at the airport. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4787.

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 2882 for action on the merits commensurate with this decision.

Denise Pothier
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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Richard F. Giunta
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston MA 02210-2206

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MAY 24 2006
OFFICE OF PETITIONS

In re Application of:
Ellenbogen
Application No. 10/971,453
Filed: October 25, 2004

: ON PETITION

This application is before this office in view of a communication filed July 18, 2005, by a law firm requesting clarification of the rights of the below-captioned law firm to obtain copies of the above-captioned application in view of a combined declaration-power of attorney filed in a parent application that is alleged to give a power to all continuation applications to that firm.

The petition is granted to the extent that the **rights are clarified.**

The above-identified application was filed October 25, 2004, naming Michael Ellenbogen as the sole inventor, and styling it self as a continuation-in-part of prior application no. 10/677,976 filed October 3, 2003, naming Ellenbogen and Richard Biijani as joint inventors.

Any assignment of the prior provisional or non provisional applications does not apply to the instant CIP. See MPEP 306. Accordingly, any assignments of the prior applications have no bearing on the ownership of this application and cannot serve as a basis for any putative assignee to herein intervene or appoint or revoke a power, or give a power to inspect and make copies. Furthermore, Ellenbogen has not signed the declaration herein. Rather, L-3 Communications Security and Detection Systems Inc.,("L-3") has filed this application under the provisions of 37 CFR 1.47(b) on the grounds that Ellenbogen has refused to sign the declaration. The USPTO accepted this application making L-3 the Rule 47 applicant in the decision of June 14, 2005, and who has appointed the above captioned counsel as its representative. Furthermore, pursuant to 37 CFR 1.63(e), an oath or declaration from a parent application may not be used to execute, as here, a CIP application. Thus the declaration filed from the parent case is immaterial to this case. Further, while Ellenbogen may have jointly with Biijani given power to the below -captioned counsel to prosecute the patent application, this is

not the same thing as, acting sole, appointed below-captioned counsel to prosecute this or any other case. Accordingly, petitioner has no standing in this matter, other than that of any other member of the public, and clearly cannot be regarded as counsel of record in this application. As petitioner is a third party to this application, the USPTO will not further communicate or discuss this matter with petitioner.

Should petitioner seek copies of this currently non-published application, but lack authorization from the named inventor, petitioner may proceed by filing a separate petition and showing of cause for access under the provisions of 37 CFR 1.14(h), directed to the Office of Patent Legal Administration. See MPEP 103, subsection V. Alternately, petitioner may be authorized by the named inventor, in writing, to inspect or make or obtain copies of this application, even though the named inventor did not sign the declaration. See MPEP 409.03(i).

Telephone inquiries related to this communication should be directed to the undersigned at (571) 272-3217.

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

cc
MINTZ, LEVIN, COHN, FERRIS, GLOVSKY
AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON MA 02111

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1109 MCKAY DRIVE
SAN JOSE CA 95131

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JUL 14 2009

OFFICE OF PETITIONS

In re Application of	:	
Yoshikazu Suwa	:	
Application No. 10/971,459	:	ON PETITION
Filed: October 21, 2004	:	
Attorney Docket No. 34/1750US	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed June 9, 2009.

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

The above-identified application became abandoned for failure to timely file a reply in response to the final Office action, mailed May 12, 2008. This Office action set a shortened statutory period for reply of three (3) months. No reply having been received, the application became abandoned on August 13, 2008. A Notice of Abandonment was mailed on November 19, 2008.

With the instant petition, applicant paid the petition fee, made the proper statement of unintentional delay, and filed the required reply in the form of an RCE.

The application is being forwarded to Group Art Unit 2885 for consideration of the RCE, filed June 9, 2009.

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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P.O. Box 1450
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SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

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JUN 2 5 2007

OFFICE OF PETITIONS

In re Application of	:	
Charles G. Cochrane	:	
Application No. 10/971,461	:	DECISION ON PETITION
Filed: October 22, 2004	:	TO WITHDRAW
Attorney Docket No. TSRI 824.1	:	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 January 9, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Schwegman, Lundberg, Woessner & Kluth, PA has been revoked by the assignee of the patent application on December 13, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: HUGH WANG, ESQ. PH.D
THE SCRIPPS RESEARCH INSTITUTE
OFFICE OF THE PATENT COUNCIL TPC8
1055 NORTH TORREY PINES ROAD
LA JOLLA, CA 92037

UNITED STATES PATENT AND TRADEMARK OFFICE

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BRENT T. WINDER
JONES WALDO HOLBROOK & MCDONOUGH
SUITE 1500
170 SOUTH MAIN STREET
SALT LAKE CITY UT 84101-1644

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AUG 25 2009

OFFICE OF PETITIONS

In re Application of	:	
Teryl L. Mcknight	:	
Application No. 10/971,464	:	DECISION ON PETITION
Filed: October 22, 2004	:	
Attorney Docket No. 16435.0001	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 26, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal rejection mailed October 14, 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 June 26, 2009.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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30 ROCKEFELLER PLAZA
44TH FLOOR
NEW YORK, NY 10112-4498

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MAR 14 2007

OFFICE OF PETITIONS

In re Application of	:	
Greene, et al.	:	
Application No. 10/971,483	:	DECISION DISMISSING PETITION
Filed: October 22, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 070050.2879	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed December 11, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to prior-filed nonprovisional Application No. 10/809,312, filed March 24, 2004.

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 and after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) 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 amendment as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i). In this regard, the amendment is physically part of the 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.

Before the petition can be granted, petitioner must submit a substitute amendment in compliance with the aforementioned rules, along with a renewed petition under 37 CFR 1.78(a)(3).[1]

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

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

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

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

Any questions concerning this matter may be directed to Kenya A. McLaughlin at (571) 272-3222.

Nance Johnson for
Charles A. Pearson
Director
Office of Petitions

[1] The claim for priority may also be made in an Application Data Sheet in compliance with 37 CFR 1.121 and 37 CFR 1.76(b)(5).

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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

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30 ROCKEFELLER PLAZA
44TH FLOOR
NEW YORK, NY 10112-449

In re Application of :
Greene, et al. :
Application No. 10/971,483 : ON PETITION
Filed: October 22, 2004 :
Attorney Docket No. 070050.2879 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3) filed April 16, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed non-provisional application set forth in the amendment filed with instant petition, The petition will also be treated as a petition under 37 CFR 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority of the prior-filed provisional application set forth in the amendment filed concurrently with the instant petition.

The renewed petition under 37 CFR 1.78(a)(3) is **GRANTED**.

The renewed petition under 37 CFR 1.78(a)(6) is also **GRANTED**.

TREATMENT UNDER 37 CFR 1.78(a)(3)

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

1. the reference required by 35 U.S.C § 120 and 37 CFR § 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;

2. the surcharge set forth in § 1.17(t), and

3. a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and a proper claim for the benefit of priority to the prior-filed application is submitted after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior filed application was submitted during the pendency of the instant nonprovisional application for which the claim for benefit of priority is sought. See 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

TREATMENT UNDER 37 CFR 1.78(a)(6)

A petition for acceptance of a claim for late priority 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 the expiration of the period specified in 37 CFR 1.78(a)(5)(ii). In addition, the petition under 37 CFR 1.78(a)(6) must be accompanied by:

1. the reference required by 35 USC 119(e) and paragraph (a)(5) of this section to the prior-filed provisional 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 paragraph (a)(5)(ii) of this section and the date the claim was filed was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional application is submitted after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior filed application was submitted during the pendency of the instant nonprovisional application for which the claim for benefit of priority is sought. See 35 U.S.C. § 119(e). Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for benefit of priority under 35 U.S.C. § 119(e) to the prior-filed provisional application satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6) should not be construed as meaning 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) and 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 nonprovisional application and provisional application, accompanies this decision on petition.

It is noted that the fee for instant petition was paid twice. Deposit Account 02-4377 will be refunded $1,370.00, in due course.

Any inquiries concerning this decision may be directed to Kenya A. McLaughlin, Petitions Attorney, at (571)272-3222.

This matter is being referred to Technology Center 1600, Art Unit 1636 for further processing, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C.§ § 120 and 119(e) to the prior-filed nonprovisional and provisional applications.

Charles Pearson
Director
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/971,483	10/22/2004	1636	1470	070050.2879	54	19

CONFIRMATION NO. 8210

CORRECTED FILING RECEIPT

21003
BAKER BOTTS L.L.P.
30 ROCKEFELLER PLAZA
44TH FLOOR
NEW YORK, NY 10112-4498

OC000000027041217

Date Mailed: 12/03/2007

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Lloyd A. Greene, Larchmont, NY;
James M. Angelastro, Davis, CA;

Power of Attorney: The patent practitioners associated with Customer Number 21003

Domestic Priority data as claimed by applicant

This application is a CIP of 10/809,312 03/24/2004
which claims benefit of 60/460,242 04/04/2003

Foreign Applications

If Required, Foreign Filing License Granted: 03/04/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/971,483**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

Methods for regulating the growth and/or survival of tumor cells and stem cells by modulating the expression or function of the transcription factor ATF5

Preliminary Class

435

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

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The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

UNITED STATES PATENT
AND TRADEMARK OFFICE

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

Date Mailed: May 1, 2008
Patent No. :7,265,717 B2
Ser. No. :10/971490
Inventor(s) :September 4, 2007
Issued : Nov. 27, 2007
Title: ULTRA-WIDEBAND ANTENNA AND ULTRAHIGH FREQUENCY CIRCUIT MODULE

Re: Request for Certificate of Correction

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

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

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

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

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

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

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

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

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

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

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

Magdalene Talley
For Mary F. Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 116

Christensen O'Connor Johnson Kindness
1420 fifth Avenue, Ste. 2800
Seattle, WA 98101

MD/mt

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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CHRISTENSEN O'CONNOR JOHNSON KINDNESS PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE WA 98101-2347

COPY MAILED

OCT 1 0 2008

OFFICE OF PETITIONS

In re Patent No. 7,265,717	:	
Issue Date: September 4, 2007	:	
Application No. 10/971,490	:	DECISION ON PETITION
Filed: October 22, 2004	:	
Attorney Docket No. NAII123846	:	

This is a decision on the "REQUEST TO CORRECT MISSING ASSIGNEE INFORMATION IN PATENT PURSUANT TO 37 CFR § 3.81(b)", filed June 17, 2008.

The petition is **GRANTED**.

An application may issue in the name of an assignee rather than the applicant if requested prior to issuance of a patent.[1] However, in the event the request is not made prior to issuance, a Certificate of Correction under 37 CFR 1.323 may be requested. A request for a Certificate of Correction under 37 CFR 1.323 to correct the assignee's name will not be granted unless a petition under 37 CFR 3.81(b) is granted. Such request under 37 CFR 3.81(b) should include:

(A) the processing fee required by 37 CFR 1.17(i);

(B) a request for issuance of the application in the name of the assignee, or a request that a patent be corrected to state the name of the assignee;

---

[1] See 37 CFR 3.81.

(C) a statement that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent; and

(D) a request for a certificate of correction under 37 CFR 1.323 accompanied by the fee set forth in 37 CFR 1.20(a).[2]

Receipt of the $130 processing fee set forth in 37 CFR 1.17(i) and the $100 fee for the Certificate of Correction is acknowledged.

The file is being forwarded to the Certificate of Corrections Branch for issuance of the requested Certificate of Correction.

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

Cliff Congo
Petitions Attorney
Office of Petitions

[2] MPEP 307.

UNITED STATES PATENT AND TRADEMARK OFFICE

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MORRISON & FOERSTER, LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO, CA 92130-2040

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AUG 2 2 2007

OFFICE OF PETITIONS

In re Application of
Warren Coon et al.
Application No. 10/971,497
Filed: October 22, 2004
Attorney Docket No. MGNC-14cip

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 7, 2007.

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

A review of the file record indicates that the power of attorney to Richard C. Kim and all attorneys/agents associated with customer number 25225 has been revoked by the assignee of the patent application on May 25, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

There are no outstanding Office actions at this time.

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

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Intellectual Property Law Office
of Joel Voelzke
24772 Saddle Peak Road
Malibu, CA 90265

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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JOHN P. LUTHER
JENKENS & GILCHRIST
225 W. WASHINGTON STREET
SUITE 2600
CHICAGO, IL 60606

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OCT 21 2005

OFFICE OF PETITIONS

In re Application of	:	
Daniel Amato	:	DECISION ON PETITION
Application No. 10/971,500	:	TO MAKE SPECIAL UNDER
Filed: October 21, 2004	:	37 CFR 1.102(d)
Attorney Docket No. Amato 002	:	

This is a decision on the petition under 37 CFR §1.102(d), filed September 13, 2005 and resubmitted on September 21, 2005, to make the above-identified application special based on actual infringement as set forth in M.P.E.P. § 708.02, Section II and prospective manufacture as set forth in MPEP § 708.02, Section I - manufacture.

The petition based on actual infringement is **GRANTED.**

The petition based on prospective manufacture is **DISMISSED** as moot since special status has been accorded to this application on other grounds as addressed below.

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

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

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

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

This matter is being referred to the Office of Initial Patent Examination for preexamination processing and will be accorded "special" status.

Dinn Vorhem for
Amelia Au
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SEP 14 2005

JOHN P. LUTHER, JENKENS & GILCHRIST
225 W. WASHINGTON STREET, SUITE 2600
CHICAGO IL 60606

In re Application of	:
Daniel Amato	:
Serial No.: 10/971,501	: PETITION TO MAKE SPECIAL
Filed: October 21, 2004	:
Attorney Docket No.: 68687-00004uspt	:

This is in response to the petition filed September 6, 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, I. Therefor the petition is **GRANTED**.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at 571-273-8300.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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SEP 14 2009

OFFICE OF PETITIONS

Paper No.

DAVIS WRIGHT TREMAINE, LLP/Seattle
1201 Third Avenue, Suite 2200
SEATTLE WA 98101-3045

In re Application of :
Nason et al. :
Application No. 10/971,503 :
Filed: October 21, 2004 : DECISION ON PETITION
Attorney Docket No. 59312-83 : UNDER 37 C.F.R. § 1.137(B)
Title: SECONDARY USER INTERFACE :

This is a decision on the petition filed June 17, 2009, 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 October 16, 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 January 17, 2009. A notice of abandonment was mailed on May 18, 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.

37 C.F.R. § 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional. Since the statement contained in this petition varies from the language required by 37 C.F.R. § 1.137(b)(3), the statement contained in this petition is being construed as the statement required by 37 C.F.R. § 1.137(b)(3) and Petitioner must notify the Office if this is not a correct interpretation of the statement contained in this petition.

With this petition, Petitioner filed the petition fee and a statement that is being construed as the proper statement of unintentional delay. Petitioner further submitted a Request for Continued Examination (RCE) under 37 C.F.R. § 1.114, including a request for consideration of a concurrently submitted amendment and payment of the RCE fee. The RCE has been accepted as the required reply under 37 C.F.R. § 1.137(b)(1).

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]

Petitioner has also submitted a three-month extension of time. An extension of time under 37 C.F.R. § 1.136 must be filed prior to the expiration of the maximum extendable period for reply.[2] Accordingly, since the $ 555 extension of time submitted with the petition on June 17, 2009 was filed subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to Petitioner's Deposit Account in due course.

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 that was submitted on June 17, 2009 - 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

1 See Rule 1.137(d).
2 See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).

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.[3] 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

---

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

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MORRIS MANNING MARTIN LLP
3343 PEACHTREE ROAD, NE
1600 ATLANTA FINANCIAL CENTER
ATLANTA GA 30326

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OCT 29 2008
OFFICE OF PETITIONS

In re Application of	:	
Yu, et al.	:	DECISION ON PETITION
Application No.10/971,515	:	
Filed: October 22, 2004	:	
Atty Docket No. 14963-46217	:	

This is a decision on the petition under 37 CFR 1.57(a), filed September 12, 2008 and supplemented on October 3, 2008, requesting that the above-identified application be accorded a filing date of October 22, 2004, using the drawings submitted with the present petition.

The petition under 37 CFR 1.57(a) is **DISMISSED AS UNNECESSARY**.

The application was filed on October 22, 2004.

Petitioners filed the present petition in order to substitute drawings from Taiwan Patent Application 092132701, filed November 21, 2003. Petitioners state the correct drawings were inadvertently omitted from the application filed on October 22, 2004, but because the correct drawings were contained in Taiwan Patent Application 092132701, and the above-identified application contains a claim for benefit of priority under 37 CFR 1.55 to that application, that petitioners are permitted to amend the above-identified application to include the correct drawings and thereby, obtain an October 22, 2004 filing date for the correct drawings.

The applicable rule provides (in pertinent part):

> § 1.57 Incorporation by reference.
>
> (a) Subject to the conditions and requirements of this paragraph, if all or a portion of the specification or drawing(s) is inadvertently omitted from an application, but the application contains a claim under § 1.55 for priority of a prior-filed foreign application, or a claim under § 1.78 for the benefit of a prior-filed provisional, nonprovisional, or international application, that was present on the filing date of the application, and the inadvertently omitted portion of the specification or drawing(s) is completely contained in the prior-filed application, the claim under

§ 1.55 or § 1.78 shall also be considered an incorporation by reference of the prior-filed application as to the inadvertently omitted portion of the specification or drawing(s).

(1) The application must be amended to include the inadvertently omitted portion of the specification or drawing(s) within any time period set by the Office, but in no case later than the close of prosecution as defined by § 1.114(b), or abandonment of the application, whichever occurs earlier. The applicant is also required to:

(i) Supply a copy of the prior-filed application, except where the prior-filed application is an application filed under 35 U.S.C. 111;

(ii) Supply an English language translation of any prior-filed application that is in a language other than English; and

(iii) Identify where the inadvertently omitted portion of the specification or drawings can be found in the prior-filed application.

...

(3) If an application is not otherwise entitled to a filing date under § 1.53(b), the amendment must be by way of a petition pursuant to this paragraph accompanied by the fee set forth in § 1.17(f).

The petition is dismissed because the application as filed was entitled to a filing date even if drawings were not present in the application; see MPEP 601.01(f). Whether done in error or not, the proper filing date was given to the present application. Thus, a petition under Rule 57(a) is not the proper vehicle to achieve petitioners' goal.

Since a petition is not required, the amendment filed September 12, 2008 to include the inadvertently omitted drawing(s) will be considered by the examiner. Please note that this amendment must comply with 37 CFR 1.57(a) and 37 CFR 1.121. See MPEP § 201.17.

Given the basis for granting this petition, the petition fee is being refunded.

Entry of the amendment filed September 12, 2008 will be determined by the examiner. As such, this application is being forwarded to the Technology Center for consideration of the amendment.

Telephone inquiries concerning this decision may be directed to Shirene Willis Brantley at (571) 272-3230. All other inquiries should be directed to the examiner of record.

Anthony Knight
Supervisor
Office of Petitions

10/971517

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Walter E. Wyles
Date Filed: October 22, 2004
Title: Radio Frequency Hydrogen and Oxygen Generator and Method

PETITION GRANTED

William Krynski
Special Program Examiner
TC 1700
FEB 18 2005

October 22, 2004

PETITION TO MAKE SPECIAL PURSUANT TO 37 CFR 1.102(c)

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

Dear Commissioner:

Due to the fact that the applicant herein, Walter E. Wyles, is over 65 years old, he petitions the Commissioner to accord 'special' status to the instant patent application entitled "Radio Frequency Hydrogen and Oxygen Generator and Method", so that it can be advanced out of turn for expedited examination. No fee accompanies this Petition, however, a copy of his Driver's License is attached hereto as evidence of age being greater than 65 years.

For the above-stated reasons, the applicant herein respectfully requests that the Commissioner give the instant patent application "special" status, so that it may receive expedited examination.

Respectfully submitted on behalf of Walter E. Wyles, by:

Dorothy S. Morse, Esq. Attorney for Applicant
515 Park Drive, N.W.
Bradenton, FL 34209-1847
(941) 747-4313 (phone)/ (941) 748-4008 (fax)
U.S. Patent and Trademark Office Registration Number: 38,977

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : March 28, 2008

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/971543 Patent No.: 7045538 B2

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

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within **7** days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

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

Thank You For Your Assistance

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

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

Comments: _____

SPE

1624
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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FAEGRE & BENSON, LLP
32469
2200 WELLS FARGO CENTER
90 SOUTH SEVENTH STREET
MINNEAPOLIS MN 55402-3901

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JUL 0 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Jason Alan Shiroff et al	:	
Application No. 10/971,549	:	DECISION GRANTING PETITION
Filed: October 22, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 306384	:	

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 16, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 3766 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Karen Creasy
Petitions Examiner
Office of Petitions

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

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

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JAN 23 2006

OFFICE OF PETITIONS

In re Application of	:	
John L. Sokol et al	:	
Application No. 10/971,565	:	DECISION ON PETITION
Filed: October 22, 2004	:	TO WITHDRAW
Attorney Docket No. 16869-002001	:	FROM RECORD
	:	

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 13, 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 request cannot be approved because USPTO records show that the inventors granted a power of attorney to Customer Number 26181 on April 13, 2005. See Combined Declaration and Power of Attorney dated April 13, 2005. The request to withdraw from representation provides reasons for withdrawing, including a disagreement between disputing parties of "Nisvara's Board of Directors." No evidence of an assignment from the inventors to Nisvara can be located. In addition, there is no evidence that Nisvara gave Customer Number 26181 power of attorney for the above-identified application. Accordingly, the inventors are the attorney's clients, and any request to withdraw from representation relating to problems with the Nisvara's Board of Directors do not fall into the mandatory or permissive categories in 37 CFR 10.40 for withdrawing from employment.

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 Irvin Dingle at 571-272-3210.

Denise Pothier
Petitions Examiner
Office of Petitions

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FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

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OFFICE OF PETITIONS

In re Application of	:	
John L. Sokol et al	:	
Application No. 10/971,565	:	DECISION ON PETITION
Filed: October 22, 2004	:	TO WITHDRAW
Attorney Docket No. 16869-002001	:	FROM RECORD
	:	

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 8, 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).

Tamara Fraizer signed the request on behalf of herself and other attorneys of record. Tamara Fraizer and the other practitioners of record have been withdrawn. There is no attorney of record at this time.

Consistent with 37 C.F.R. 1.33 (a) when no correspondence address has been specified, the office may treat the mailing address of the fist named inventor, John Sokol, as the correspondence address. All future communications from the office will be directed to John Sokol until otherwise properly notified.

There is an outstanding office action mailed July 6, 2006 that requires a reply from the applicant. A review of above-identified application demonstrates that Nisvara is a partial assignee. All future correspondence filed with the office must conform to 37 C.F.R. 371. In accordance with 37 C.F.R. 3.71 (b) (2), Nisvara may only conduct prosecution of the above-identified application together with all inventors (Murthy, Amaro) who have not assigned their interest in the application. See MPEP 324 for more details.

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

David Bucci
Petitions Examiner
Office of Petitions

Cc: John Sokol
9839 Vernon Ave.
Montclair, CA 91763

Cc: K.R.S. Murthy
4312 Albany Drive
#M166
San Jose, CA 95129

Cc: Allen Amaro
4104 Converse St.
Fremont, CA 94538

Cc: Nisvara Inc.
6745 Camden Avenue
Santa Clara, California 95054

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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ROYAL W. CRAIG
A PROFESSIONAL CORPORATION
SUITE 153
10 NORTH CALVERT STREET
BALTIMORE MD 21202

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AUG 2 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Korber, et al.	:	
Application No. 10/971,571	:	DECISION ON PETITION
Filed: October 22, 2004	:	TO WITHDRAW
Attorney Docket No. KORBER et al.-CIP-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 March 1, 2006.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, inventors have become involved in litigation and two (Peter Stengel & Thomas White) have demanded withdrawal, does not meet any the conditions set forth in 37 CFR 10.40. The office is unclear whether the attorney/agent has been discharged by the client.

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

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

Denise Pothier
Petitions Examiner
Office of Petitions

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Royal Craig
Ober Kaler Grimes & Shriver
120 East Baltimore Street
Baltimore MD 21202

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SEP 07 2007

OFFICE OF PETITIONS

In re Application of
Korber, Stengel, White,
Application No. 10/971,571
Filed: July 7. 2005
For: METHOD AND APPARATUS FOR RETROFITTING A FLAT PANEL WORKSTATION SYSTEM TO EXISTING DESK TOPS AND OTHER LIKE STRUCTURES

ON PETITION

This is a decision on the petitions filed (1) January 10, 2007, by Royal Craig to withdraw as counsel of record under 37 CFR 1.36 (b) for the reasons set forth in 37 CFR 10.40(b)(2) and (2) January 18, 2007, on behalf of Korber and CBT Supply (CBT) in its capacity as a partial assignee being the successor in title to the interest of White, seeking a revocation and appointment of a power of attorney by less than all the named inventors and assignees as provided for in MPEP 402.10 and 37 CFR 1.183 waiver of 37 CFR 1.32(b)(4).

The petition by Royal Craig to withdraw is**granted** to the extent necessary.

The petition under MPEP 402.10 and 37 CFR 1.183 waiver of 37 CFR 1.32(b)(4).for separate representation of Korber and CBT by Stone et al. is**granted**.

With respect to the withdrawal:

The petition asserts that Mr. Stengel is now deceased. The death of any of the joint inventors terminates the power of attorney to Mr. Craig. See MPEP 409.01. While the request for withdrawal is thus moot, nevertheless, for the reasons given in the petition, the withdrawal is granted to the extent necessary.

With respect to the petition under 37 CFR 1.183 and MPEP 402.10 for appointment of a power by less than all the named inventors and assignees:

As noted above, the death of Stengel has terminated the power all 3 named inventors gave to Craig. The assignment of White's interest to CBT Supply Inc. (CBT)operates to neither revoke or appoint a any power given by White unless CBT successfully intervenes to the extent of its 1/3 interest. Korber, in his dual capacity as one of the named inventors and also as president of the assignee of the entire interest of White's 1/3 part interest in this application, requests a revocation and appointment of various counsel of Whiteford Taylor & Preston: Gregory Stone #43,165; Jeffrey Maynard, # 46,208; Christopher Rueppell;#47,045; and Joseph Morales, #58,835.

Korber and CBT's request for separate representation by their own counsel of choice is granted under the provisions of 37 CFR 1.183 and MPEP 402.10.

Inspection of the record reveals, however, that Stengel is deceased, and the legal representative, heirs, or executor of Stengel's estate has not made him or her self known to the USPTO.

In order to assure that all interests are properly and effectively represented, all further correspondence to the United States Patent and Trademark Office (USPTO) in this application--or resultant patent-- must be signed **both** by any one counsel appointed above and also by the legal representative(s), heir(s), or executor(s) of Stengel's estate, coupled with the presentation of his or her bona fides. See MPEP 402.10:

> The acceptance of such papers by petition under 37 CFR 1.183 will result in more than one attorney, agent, applicant, or owner prosecuting the application at the same time. Therefore, each of these parties must sign all subsequent replies submitted to the Office. See In re Goldstein, 16 USPQ2d 1963 (Dep. Assist. Comm'r Pat. 1988).

It should be noted that the legal representative, heir or executor of Stengel's estate may also present a petition under 37 CFR 1.183 (and fee) and MPEP 402.10 for his or her own registered representative. Under the circumstances of this case, that party will have to present competent proof of the relationship.

Since Mr. Craig has withdrawn, any one of the above-appointed counsel from Whiteford Taylor, and Preston will also be responsible for coordinating all replies or submissions to the USPTO. See MPEP 402.10. Any person signing subsequent papers must indicate whom he or she represents.

To preserve neutrality in this matter, and in view of Mr. Craig's offer to serve as the correspondence address, and given that it is far from clear that all owners constituting the entire interest in this application are aware of the instant proceeding, the correspondence address remains that of Mr. Craig, at this time. It should be noted that the USPTO does not have the ability to recognize more than one correspondence address at a time for a given application. All parties are reminded that dual correspondence is not permitted, and will not be undertaken by the USPTO. Nevertheless, on a one time basis, as a courtesy, all presumably interested parties are being copied with this decision. In view of the prior association of Ms. Tung with an unsuccessful attempt for representation by an apparent associate of Stengel, she is being copied on a one time basis. .

All parties are again reminded that the USPTO will not undertake dual correspondence.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3217.

Brian Hearn
Petitions Examiner

cc:
WHITEFORD, TAYLOR & PRESTON L.L.P.
7 SAINT PAUL STREET
BALTIMORE, MARYLAND 21202

cc:
Mary B. Tung
Conwell LLC
2138 Priest Bridge Road
Suite 4
Crofton MD 2114

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OCT 04 2007

OFFICE OF PETITIONS

Royal Craig
Ober Kaler Grimes & Shriver
120 East Baltimore Street
Baltimore MD 21202

In re Application of :
Korber, Stengel(deceased), White :
Application No. 10/971,571 : ON PETITION
Filed: July 7. 2005 :
For: METHOD AND APPARATUS FOR RETROFITTING A FLAT PANEL WORKSTATION SYSTEM TO EXISTING DESK TOPS AND OTHER LIKE STRUCTURES :

This is a decision on the petition filed September 18, 2007, on behalf of the putatitve partial assignee of the entire interest of White, and by the representative of the estate of Stengel, seeking a revocation and appointment of a power of attorney by less than all the named inventors and assignees as provided for in MPEP 402.10 and 37 CFR 1.183 waiver of 37 CFR 1.32(b)(4).

The petition is granted to the extent that separate representation of the interests of Stengel *only* is approved for Tung and Field.

A petition under MPEP 402.10 and 37 CFR 1.183 for waiver of 37 CFR 1.32(b)(4).for separate representation of Korber and CBT as the successor to Korber's title and interests by Messrs. Stone et al. was previously approved in the decision of September 7, 2007.

Now comes Marcia Stengel, in her dual capacity as judicially designated personal representative of the estate and interests of deceased inventor Peter Stengel, and as Director of Technical Furniture Group LLC, the alleged successor in title to the interests of White, as well as White acting on his own seek to appoint as their representatives Mary Tung Reg. No. 50007 and H. Robert Field, reg. No. 41,745. The petition points to an assignment of White's title and interest herein executed January 9, 2007, recorded at reel 18748 frame 641, that conveys his interest to Technical Furniture Group LLC("TFG"), and contends that the ownership of this application, which includes questions as to the validity of one or more assignments, is currently being litigated.

Unfortunately, that is not the first and only conveyance of White recorded against this application. Inspection of USPTO assignment records reveals that at reel 17249, frame 401, the USPTO recorded on March 3, 2006, White's assignment of this application to CBT Supply Inc., executed November 3, 2005. The USPTO has also recorded at reel frame 19847, frame 858 on June 25, 2007, a document styled as a corrective assignment of White's interest in this application to CBT Supply Inc. D/B/A/ Smart Desks, likewise executed November 3, 2005, in addition to the assignment executed January 9, 2007 to TFG.

The USPTO has a long established policy for such situations. It is well settled that the USPTO will not undertake to settle disputes between conflicting assignees, but will leave this to the courts of competent jurisdiction. Ex Parte Partridge, 1912 Dec. Comm'r Pats. 299 (1912 C.D.) Nevertheless, the USPTO must decide which of the parties claiming the right to prosecute the application is to be recognized for that purpose. In this instance there are two parties both claiming the right to represent the interest of one of the named inventors, and, of course, that named inventor is likewise seeking to appoint his own attorney.

The USPTO simply acts in a ministerial capacity in recording documents that have been submitted for recordation. See 35 U.S.C. § 261 and 37 CFR 3.11. However, the recording of a document pursuant to 37

CFR 3.11 is not a determination by the USPTO of the validity of the document per se or the effect that document has on the title to a patent or application. See 37 CFR 3.54 Where, as here, there are conflicting assignments of an application, the first assignee, if he intervenes, will be recognized by the USPTO to prosecute the application until his assignment is set aside by either mutual agreement, or by a decision of a competent court. See Sparkes v. Small, 1904 Dec. Comm'r Pats. 547 (1904 C.D.); Partridge, Id., Insofar as the USPTO is concerned, the instrument passes title as of its execution date. Murray Co. v. Continental Gin Co., 149 Fed.989 (CCA 1907). The earliest executed instrument that transfers White's rights title and interest herein is dated November 3, 2005, and conveys title to CBT Supply, Inc. Accordingly the first power of attorney given to Stone et al. for both Korber and CBT Supply Inc. remains in full force and effect, and necessarily and inherently subsumes the issue of representation of CBT Supply in its capacity also as successor in title to White's interest in this application due to the conveyance executed November 3, 2005 and recorded at reel 17,249 frame 401.

Such must take precedence over both White now seeking to independently appoint his own counsel or TFG as White's alleged successor in title, seeking to appoint its own counsel.Sparkes; supra; Partridge, supra Again, the USPTO takes no sides in this matter, and makes no determination of or assurance as to the validity of any of the documents recorded against this application in its purely ministerial capacity.

The requested power of attorney is partially granted as of the mail date of this decision under the provisions of 37 CFR 1.183 and MPEP 402.10, which is a limited appointment of Mary Tung Reg. No. 50007 and H. Robert Field, reg. No. 41,745 as counsel ONLY for the interests of now deceased Stengel. See MPEP 402.10 .

In order to assure that all interests are properly and effectively represented, all further correspondence to the United States Patent and Trademark Office (USPTO) in this application--or resultant patent-- must be signed both by counsel previously appointed in the decision of September 7, 2007, for Korber and CBT Supply AND herein appointed for Stengel sole. See MPEP 402.10:

> The acceptance of such papers by petition under 37 CFR 1.182 will result in more than one attorney, agent, applicant, or owner prosecuting the application at the same time. Therefore, each of these parties must sign all subsequent replies submitted to the Office. See In re Goldstein, 16 USPQ2d 1963 (Dep. Assist. Comm'r Pat. 1988).

Mr Craig, who was previously counsel for all parties and whose correspondence address remains the address of record, will also be responsible for coordinating all replies or submissions to the USPTO. See MPEP 402.10. Any registered practitioner signing subsequent papers must indicate whom he or she represents. **Any future paper not signed by one appointed counsel for each of the 2 parties will be treated as an informal/non-responsive communication.**

All parties are reminded that dual correspondence is not permitted, and will not be undertaken by the USPTO

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3217.

Brian Hearn
Petitions Examiner

cc:
WHITEFORD, TAYLOR & PRESTON L.L.P.
7 SAINT PAUL STREET
BALTIMORE, MARYLAND 21202

cc:
Mary B. Tung
Conwell LLC
2138 Priest Bridge Road
Suite 4
Crofton MD 2114

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

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SEP 07 2005

OFFICE OF PETITIONS

In re Application of	:
Paul S. Charifson et al	: DECISION ON PETITIONS
Application No. 10/971,573	: UNDER 37 CFR 1.78(a)(3) AND
Filed: October 21, 2004	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. VPI/02-128CIP2 US	:

This is a decision on the petition filed May 2, 2005, which is being treated under 37 CFR 1.78(a)(3) and 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

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

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. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. See MPEP Section 201.11, Rev. 2, May 2004, Reference to Prior Application. The amendment fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) and is therefore unacceptable.

Accordingly, before the petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) and a substitute amendment[1] to correct the above matters is required.

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

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

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

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

---

[1] *Note* 37 CFR 1.121

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

Frances Hicks

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

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OFFICE OF PETITIONS

In re Application of	:
Paul Charifson et al	: DECISION ON PETITIONS
Application No. 10/971,573	: UNDER 37 CFR 1.78(a)(3) AND
Filed: October 21, 2004	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. VPI/02-128CIP2 US	:

This is a decision on the renewed petition, filed September 27, 2005, which is being treated under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petition is **GRANTED**.

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

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

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

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

to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii) and 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been previously submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 119(e) to the prior-filed applications satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), the petition is granted.

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

The second petition fee ($1,370) is unnecessary and will be credited to petitioner's deposit account in due course.

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

Any inquiries concerning this decision may be directed to Wan Laymon at (571) 272-3220. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center AU 1625 for appropriate action on the amendment submitted September 27, 2005, including consideration by the examiner of the claim under 35 U.S.C. § §120 and 37 CFR 1.78(a)(2) for the benefit of the prior-filed nonprovisional application, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional application.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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Stinson Morrison Hecker LLP
ATTN : PATENT GROUP
1201 Walnut Street, Suite 2800
Kansas City, MO 64106-2150

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JUN 30 2006

Director's Office
Group 3700

In re application of Edward Young, et al.	: : :	**NOTICE OF WITHDRAWAL FROM ISSUE UNDER 37 CFR. 1.313**
Serial Number: 10/971,581 Filed: October 22, 2004	: :	

For: **DIVERTER VALVE WITH IMPROVED SEAL**

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue pursuant to 37 CRF 1.313.

The application is being withdrawn from issue to permit reopening of prosecution, due to newly discovered prior art. The examiner will communicate an office action to you.

Patent and Trademark Office records reveal that the issue fee has not been paid. If the issue fee has been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a Deposit Account.

The application is being forwarded to the examiner for action.

Karen M. Young

Karen M. Young, Director
Technology Center 3700
571-272-3750

rt/ 6/28/06

UNITED STATES PATENT AND TRADEMARK OFFICE

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STINSON MORRISON HECKER LLP
ATTN: PATENT GROUP
1201 WALNUT STREET, SUITE 2800
KANSAS CITY, MO 64106-2150

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SEP 25 2007
OFFICE OF PETITIONS

In re Application of

Young, et al.

Application No. 10/971,581

Filed: October 22, 2004

Attorney Docket No. 506407-0007

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), September 4, 2007, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee of $700.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed May 31, 2007. The Notice set forth a three (3) month statutory period for reply. No response was received within the allowable period. Accordingly, this application became abandoned on September 1, 2007. A Notice of Abandonment was mailed on September 11, 2007.

The issue fee was received on September 4, 2007.

Form PTOL-85B was also received on September 4, 2007.

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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LYNN MARCUS-WYNER
GENENCOR INTERNATIONAL, INC.
925 PAGE MILL ROAD
PALO ALTO CA 94304-1013

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MAY 02 2007

OFFICE OF PETITIONS

In re Application of
Hans De Nobel et al.
Application No. 10/971,596
Filed: October 22, 2004
Attorney Docket No. GC815

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

This is a decision on the petition under 37 CFR §§ 1.78(a)(6), filed February 26, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**.

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

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

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(iii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

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

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that 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 provisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 1654 for appropriate action on the amendment filed February 26, 2007, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 119(e) to the prior-filed provisional application.

Charles Pearson
Director,
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
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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/971,596	10/22/2004	1654	1222	GC815	27	5

CONFIRMATION NO. 7121

CORRECTED FILING RECEIPT

OC000000023647550

LYNN MARCUS-WYNER
GENENCOR INTERNATIONAL, INC.
925 PAGE MILL ROAD
PALO ALTO, CA 94304-1013

Date Mailed: 05/02/2007

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)

Hans De Nobel, Almere, NETHERLANDS;
David A. Estell, San Mateo, CA;
Wei Liu, Palo Alto, CA;
Scott D. Power, San Bruno, CA;
Brian Schmidt, Half Moon Bay, CA;
Huaming Wang, Fremont, CA;

Power of Attorney:

Janet Castaneda–33228
Margaret Horn–33401
Lynn Marcus-Wyner–34869
Christopher Stone–35696
Kamrin MacKnight–38230
H. Anderton Jr.–40895
Victoria Boyd–43510

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/518,154 11/06/2003

Foreign Applications

If Required, Foreign Filing License Granted: 12/17/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/971,596

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Expression in filamentous fungi of protease inhibitors and variants thereof

Preliminary Class

435

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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IRELL & MANELLA LLP
840 NEWPORT CENTER DRIVE
SUITE 400
NEWPORT BEACH, CA 92660

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JAN 23 2008

OFFICE OF PETITIONS

In re Application of :
Vyacheslav M. Ryaboy :
Application No. 10/971,623 : ON PETITION
Filed: October 22, 2004 :
Attorney Docket No. 155603-0320 (P080X) 12807 :

This is a decision in response to the petition, filed September 26, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 18, 2007, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extension of time under the provisions of 37 CFR 1.136(a) was obtained. This decision precedes the mailing of a Notice of Abandonment. On September 26, 2007 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 $1,500; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 3632 for consideration of the response filed September 26, 2007.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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SAND & SEBOLT
AEGIS TOWER, SUITE 1100
4940 MUNSON STREET, NW
CANTON OH 44718-3615

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OCT 2 6 2005

OFFICE OF PETITIONS

In re Application of	:	
Warren, David O.	:	
Application No. 10/971,632	:	ON PETITION
Filed: October 22, 2004	:	
Attorney Docket No. 1463-AN-DIV	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 17, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed July 11, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on October 12, 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 Issue Fee Transmittal and requisite 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.

The file is being forwarded to the Publishing Division for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Oct. 21, 2008

TO SPE OF : ART UNIT 3726
SUBJECT : Request for Certificate of Correction for Appl. No.:/10/971638 /7396049

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: _____

Changes are approved.

/David P. Bryant/ SPE, Art Unit 3726

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MARSHALL, GERSTEIN & BORUN LLP
233 SOUTH WACKER DRIVE
6300 SEARS TOWER
CHICAGO IL 60606-6357

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JAN 04 2010

In re Application of	:	
Anthony J. Manning et al	:	
Application No. 10/971,670	:	ON PETITION
Filed: October 22, 2004	:	
Attorney Docket No. 06005/40547	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 26, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to timely file a proper reply to the Final Rejection mailed March 16, 2009.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1).

No reply was received with the petition on October 26, 2009. An advisory action was mailed on July 20, 2009, alerting applicant that the reply received June 15, 2009, fails to place this application in condition for allowance. A copy is enclosed for your convenience.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

By internet: EFS-Web
www.uspto.gov/ebc/efs_help.html
(for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

Enclosed: Copy of Advisory Action mailed July 20, 2009

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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.
10/971,670	10/22/2004	Anthony J. Manning	06005/40547	7239

4743 7590 07/20/2009
MARSHALL, GERSTEIN & BORUN LLP
233 SOUTH WACKER DRIVE
6300 SEARS TOWER
CHICAGO, IL 60606-6357

EXAMINER
BHAT, ADITYA S

ART UNIT	PAPER NUMBER
2863	

MAIL DATE	DELIVERY MODE
07/20/2009	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.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/971,670	Applicant(s) MANNING ET AL.	
	Examiner ADITYA BHAT	Art Unit 2863	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 15 June 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 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: See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Aditya Bhat/
Examiner, Art Unit 2863

Continuation of 11. does NOT place the application in condition for allowance because: Applicant argues that the Nixon reference does not teach a host computer having a database with project history information (Page 5-6, paragraph 0045) and integrating quality control data transmitted from a portable computer to the host device with the project history information in the host database.(Page 6, paragraph 0047) Further while displaying would require the information to be stored, the Nixon reference explicitly teaches storing the information at the host computer (page 6, paragraph 0046)

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JUN 1 8 2007

OFFICE OF PETITIONS

Townsend and Townsend and Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 9411-3834

In re Application of	:	
Joost A. Kolkman et al.	:	
Application No. 10/971,679	:	DECISION ON PETITION
Filed: October 22, 2004	:	TO WITHDRAW
Attorney Docket No. 022013-000210US	:	FROM RECORD
	:	

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 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 Terri Williams at 571-272-2991.

T Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Joost A. Kolkman**
9830 Sint-Martens-Latern
Voetweg 13
Belgium

cc: **Charles K. Sholtz, Ph.D**
Amgen, Inc.
1120 Veterans Boulevard
South San Francisco, CA 94080

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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
10/971,679	10/22/2004	Joost A. Kolkman	022013-000210US

CONFIRMATION NO. 8174

OC000000024395729

20350
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Date Mailed: 06/18/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/21/2006.

- 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.

Jerri S. Williams

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199

FORMER ATTORNEY/AGENT COPY

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PROSKAUER ROSE LLP
ONE INTERNATIONAL PLACE
BOSTON, MA 02110

MAILED

JUN 08 2009

OFFICE OF PETITIONS

In re Application of	:	
Arthur Keigler, et al.	:	
Application No. 10/971,726	:	DECISION ON PETITION
Filed: October 22, 2004	:	TO WITHDRAW
Attorney Docket No. NEX-008C	:	FROM RECORD
	:	

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 27, 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 Scott K. Witonsky on behalf of all attorneys of record who are associated with customer No. 42532. All attorneys/agents associated with the Customer Number 42532 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There is an outstanding Office action mailed December 11, 2008 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: ARTHUR KEIGLER
20 PINE PLAIN ROAD
WELLESLEY, MA 02481

cc: HERCULES TECHNOLOGY
GROWTH CAPITAL, INC
400 HAMILTON AVENUE
SUITE 310
PALO ALTO, CA 94301

cc: HERCULES TECHNOLOGY
GROWTH CAPITAL, INC
PERMAN & GREEN
425 POST ROAD
FAIRFIELD, CT 06824

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/971,726	10/22/2004	Arthur Keigler	NEX-008C

CONFIRMATION NO. 6481

POWER OF ATTORNEY NOTICE

42532
PROSKAUER ROSE LLP
ONE INTERNATIONAL PLACE
BOSTON, MA 02110

OC000000036257000

Date Mailed: 06/02/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/27/2009.

- 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080610

DATE : April 25, 2008

TO SPE OF : ART UNIT 2884

SUBJECT : Request for Certificate of Correction on Patent No.: 7217927

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

SPE: Georgia Y. Epps 2878 Art Unit

For Dave Porta - 2884

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7-30-07

TO SPE OF : Technology Center 2816

10/971762

SUBJECT : Request for Certificate of Correction on Patent No.: 7230462 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.

- [x] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments:

_____

_____

_____

_____

_____

SPE

2816

Art Unit

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Rao, et al.	Docket No.:	543822009800 (2003 P 52870 US)
Patent No.:	7,230,462 B2	Serial No.:	10/971,762
Issued:	June 12, 2007	Filed:	October 25, 2004
For:	Clock Signal Synchronizing Device, and Clock Signal Synchronizing Method		

Certificate of Corrections Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR ISSUANCE OF CERTIFICATE OF CORRECTION PURSUANT TO 35 U.S.C. § 255 AND 37 C.F.R. § 1.323

Dear Sir:

Upon review of the above-identified issued patent, Patentee notes errors that should be corrected as shown on the attached Certificate of Correction.

Some of the mistakes noted on the attached Certificate of Correction were not incurred through the fault of the Patent and Trademark Office. Accordingly, please charge the required fee of $100.00 for this Request for Certificate of Correction and any other required fees to Deposit Account 50-1065.

Patentee respectfully solicits the issuance of the requested Certificate of Correction.

Respectfully submitted,

7/20/07
Date

Ira S. Matsil
Attorney for Applicants
Reg. No. 35,272

SLATER & MATSIL, L.L.P.
17950 Preston Rd., Suite 1000
Dallas, TX 75252
(972) 732-1001 (phone)
(972) 732-9218 (fax)

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,230,462 B2

APPLICATION NO. : 10/971,762

ISSUE DATE : 6/12/2007

INVENTOR(S) : Rao, 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:

Column 2, line 42: Insert "of" between "ahead" and "or";
Column 2, line 46: Replace --result-- with "results";
Column 3, line 16: Insert "a" before the first occurrence of "delay";
Column 3, line 54: Replace --are time flow diagrams-- with "is a time flow diagram";
Column 3, line 57: Replace --are time flow diagrams-- with "is a time flow diagram";
Column 3, line 64: Replace --are time flow diagrams-- with "is a time flow diagram";
Column 5, line 40: Insert "of" between "ahead" and "or";
Column 8, line 30: Replace --module-- with "modules";
Column 10, line 6: Replace --fist-- with "first";
Column 11, line 28: Insert "of" after "ahead";
Column 11, line 48: Replace --of after-- with "or after"
Column 11, line 53: Insert "of" between "ahead" and "or";
Column 12, line 2: Insert "of" between "ahead" and "or";
Column 12, line 12: Insert "of" between "ahead" and "or";
Column 12, line 21: Replace --signal,or-- with "signal, or";
Column 12, line 22: Replace --first,signal-- with "first signal";
Column 12, line 23: Insert "of" between "ahead" and "the";
Column 12, line 32: Insert "of" between "ahead" and "the";
Column 12, line 42: Replace --of-- with "or";
Column 12, line 46: Insert "of" between "ahead" and "or";
Column 12, line 56: Insert "of" between "ahead" and "or".

MAILING ADDRESS OF SENDER(Please do not use customer number below):

Slater & Matsil, L.L.P.
17950 Preston Road
Suite 1000
Dallas, TX 75252

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 for 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.

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

GILBRETH & ASSOCIATES, P.C.
P.O. BOX 2428
BELLAIRE TX 77402-2428

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NOV 1 4 2007

OFFICE OF PETITIONS

In re Application of :
Bradford S. Hubbard et al. :
Application No. 10/971,767 : ON PETITION
Filed: October 21, 2004 :
Attorney Docket No. 27620/06CIP :

This is a decision on the petition under 37 CFR 1.137(b), filed October 17, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed May 24, 2007, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on August 25, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue Fee; (2) the petition fee of $1,540; and (3) the required statement of unintentional delay have been received. Accordingly, the Issue Fee payment is 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 Patent Publication.

David Bucci
Petitions Examiner
Office of Petitions

SPE: M. Smith

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/28/07

TO SPE OF : ART UNIT 2823

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/971,774 Patent No.: 7078294

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: No issues with changes

SPE

2823
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 04/20/2010

Applicant	: Robert L. Assell	: DECISION ON REQUEST FOR
Patent Number	: 7588574	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/971,780	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/22/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **714** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

ACUSHNET COMPANY
333 BRIDGE STREET
P. O. BOX 965
FAIRHAVEN MA 02719

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MAR 2 2 2005

OFFICE OF PETITIONS

In re Application of
Hogge, et al.
Application No.: 10/971,792
Filed: October 22, 2004
Attorney Docket No.: B03-22
For: COATING COMPOSITIONS FOR USE IN GOLF BALLS

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed February 1, 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 22, 2004 without an executed declaration. On December 2, 2004, the Office mailed a Notice to File Missing Parts of Nonprovisional Application requiring applicants to submit an executed oath/declaration and a surcharge for its late filing within an extendable two month period from the mail date of the Notice.

In response, on February 1, 2005, petitioners timely filed a declaration executed by 2 of 3 joint inventors, the surcharge, the instant petition and petition fee. The petition is signed by Practitioner Troy R. Lester, who explains the non-signing inventor, Mitchell E. Lutz, received "appropriate documents" through the mail, but refused to sign the enclosed declaration in a note and in a follow-up telephone call on January 20,2 005 with Mr. Lutz' former supervisory, Kevin Harris.

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,

(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the petition fee of $200, and
(4) the last known address of the omitted inventor(s).

This petition lacks item (1) above.

As to item (1), Applicants have failed to establish that the inventor has refused to sign the declaration.

As stated in MPEP 409.03(d), "When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts."

In addition, the Office would like Mr. Lutz' former supervisor, Kevin Harris, to provide a statement regarding Mr. Lutz' January 20, 2005 refusal to sign the declaration. 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.

Petitioners are requested to submit (1) the note created by Mr. Lutz that indicates he would not sign the declaration and (2) a statement from Mr. Harris regarding Mr. Lutz' oral refusal to execute the declaration in a reconsideration petition.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (703) 872-9306 – ATTN: Office of Petitions

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ACUSHNET COMPANY
333 BRIDGE STREET
P. O. BOX 965
FAIRHAVEN MA 02719

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JUN 3 0 2005

OFFICE OF PETITIONS

In re Application of
Hogge, et al.
Application No.: 10/971,792
Filed: October 22, 2004
Attorney Docket No.: B03-22
For: COATING COMPOSITIONS FOR USE IN GOLF BALLS

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed May 17, 2005.

The petition is granted.

Petitioners have shown that the non-signing inventor, Mitchell E. Lutz, has expressly refused to join in the filing of the above-identified application. Specifically, Mr. Lutz' e-mail refusal states that his commitments to his former employer are over and he will not extend Titleist any favors. In addition, the declaration/statement of facts of Kevin Harris, Mr. Lutz' former supervisor, establishes that the inventor refused to sign any documents for his former employer during a telephone call on January 20, 2005. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be forwarded to Technology Center GAU 1712 for examination in due course.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MITCHELL E. LUTZ
55 CEDAR STREET
FAIRHAVEN, MA 02719

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JUN 30 2005

OFFICE OF PETITIONS

In re Application of
Hogge, et al.
Application No.: 10/971,792
Filed: October 22, 2004
Attorney Docket No.: B03-22
For: COATING COMPOSITIONS FOR USE IN GOLF BALLS

Letter

Dear Mr. Lutz:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).
Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: ACUSHNET COMPANY
333 BRIDGE STREET
P. O. BOX 965
FAIRHAVEN MA 02719

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

CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON MA 02210

COPY MAILED

MAY 3 1 2005

OFFICE OF PETITIONS

In re Application of :
Kateman, et al. :
Application No. 10/971,796 : ON PETITION
Filed: October 22, 2004 :
Attorney Docket No. 17303-0008D1C1 :
For: METHOD AND APPARATUS FOR DISPENSING A PRODUCT FROM A RORATY SURFACE

This is a decision on the petition filed December 16, 2004, requesting, in effect, withdrawal of a Notice mailed December 2, 2004.

The application was filed on October 22, 2004. However, on December 2, 2004, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" (Notice) stating, *inter alia*, that the application had been accorded a filing date of October 22, 2004, and advising applicants that figures 6B, 6C, 6D, 7, 8A, 8D, 8E, and 9-11 appeared to have been omitted.

In response, the present petition was filed. Petitioners argue that the drawings should be included with the papers filed on June 10, 2002, because they were originally filed in prior application No. 10/160,674, the entire disclosure of which was incorporated by reference at the time of this application's filing.

The petition is dismissed.

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, petitioners neither assert that the missing drawings were actually deposited in the PTO on October 22, 2004 with the other application papers nor request a later filing date.

Instead, applicants seek to add the figures to the present application on the basis that the figures

are not new matter. However, no petition is necessary for that purpose. Additional figures may be entered by the primary examiner without a petition so long as the pages contain no new matter. See MPEP § 608.02(a).

MPEP 201.06(c) states that:

> . . . an applicant may incorporate by reference the prior application by including, in the continuation of divisional application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter.... The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuing application to include any subject matter in such prior application(s), <u>without the need for a petition</u>.... (emphasis supplied)

If applicants desire that figures 6B, 6C, 6D, 7, 8A, 8D, 8E, and 9-11 be added to the application, the appropriate procedure is by way of amendment requesting the entry of the figures. Any such amendment should be filed prior to the first action on the merits and will be considered by the primary examiner.

Accordingly, the petition is inappropriate and is subject to dismissal.

Regarding fees, President Bush signed the Consolidated Appropriations Act on December 8, 2004. This Act changed many patent fees. The filing date petition fee became $400.00. The $400.00 petition fee will be charged to deposit account no. 03-1237. The petition fee is required and will not be refunded, since the petition was not necessitated by any error on the part of the Office.

After the mailing of this decision, the application will be returned to the Office of Initial Patent Examination for further processing with a filing date of October 22, 2004. Drawing figures 6B, 6C, 6D, 7, 8A, 8D, 8E, and 9-11 will not be processed at this time.

Thereafter, the application will be forwarded to Technology Center G.A.U. 1761 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

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

INTERNATIONAL BUSINESS MACHINES CORPORATION
9000 SOUTH RITA ROAD
TUCSON, AZ 85744

Mail Date: 04/20/2010

Applicant	: Carl E. Jones	: DECISION ON REQUEST FOR
Patent Number	: 7650435	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/971,806	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/22/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1282** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

BROOKS KUSHMAN P.C.
1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD, MI 48075

Mail Date: 04/21/2010

Applicant	: Isao Hasegawa	: DECISION ON REQUEST FOR
Patent Number	: 7576169	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/971,809	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/22/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1253** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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WILLIAM M. HANLON, JR.
YOUNG & BASILE, PC
3001 WEST BIG BEAVER ROAD, SUITE 624
TROY, MI 48084-3107

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APR 16 2008

In re Application of	:	
KATEFIDIS, et al.	:	
Application No. 10/971,834	:	DECISION ON PETITION
Filed: October 22, 2004	:	TO WITHDRAW
Attorney Docket No. **OST-071245**	:	FROM RECORD

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 27, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to **YOUNG & BASILE, PC** has been revoked by the assignee of the patent application on December 14, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **FACTOR & LAKE, LTD**
1327 W. WASHINGTON BLVD, SUITE 5G/H
CHICAGO, IL 60607

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United States Patent and Trademark Office
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KOPPEL, PATRICK, HEYBL
& DAWSON
2815 TOWNSGATE ROAD
SUITE 215
WESTLAKE VILLAGE CA 91361-5827

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MAR 05 2009

OFFICE OF PETITIONS

In re Application of Thomas C. Sloan et al Application No. 10/971,841 Filed: October 22, 2004 Attorney Docket No. 772-27-004	: : : : :	DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 2, 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 the issue fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance mailed August 11, 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 the Office of Data Management to be processed into a patent.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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Trellis Intellectual Property Law Group, PC
1900 EMBARCADERO ROAD
SUITE 109
PALO ALTO CA 94303

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DEC 2 6 2007

OFFICE OF PETITIONS

In re Application of	:	
Rosario Michael Ingargiola et al.	:	
Application No. 10/971,842	:	DECISION ON PETITION
Filed: October 21, 2004	:	TO WITHDRAW
Attorney Docket No. 100113-000300US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 8, 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, [summarize reasons], 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.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Rosario M. Ingargiola**
Financial Technology & Research LLC
355 Grandview Avenue
Novato, CA 94945

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Trellis Intellectual Property Law Group, PC
1900 Embarcadero Road
Suite 109
Palo Alto, CA 94303

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JUN 12 2008

OFFICE OF PETITIONS

In re Application of	:	
Rosario Michael Ingargiola	:	
Application No. 10/971,842	:	DECISION ON PETITION
Filed: October 21, 2004	:	TO WITHDRAW
Attorney Docket No. 100113-000300US	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 5, 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 Charles J. Kulas 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 Rosario Michael Ingargiola at the address indicated below.

There is an outstanding Office action mailed January 14, 2008 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Rosario M. Ingargiola**
Financial Technology & Research LLC
355 Grandview Ave.
Novato, CA 94945

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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
10/971,842	10/21/2004	Rosario Michael Ingargiola	100113-000300US

CONFIRMATION NO. 7757

POWER OF ATTORNEY NOTICE

37490
Trellis Intellectual Property Law Group, PC
1900 EMBARCADERO ROAD
SUITE 109
PALO ALTO, CA 94303

OC000000030438513

Date Mailed: 06/12/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/05/2008.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tswilliams/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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ROBERT C. CURFISS
P.O. BOX 903
HUMBLE TX 77347

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APR 1 1 2006
OFFICE OF PETITIONS

In re Application of	:	
Monroe et al.	:	
Application No. 10/971,857	:	DECISION ON PETITION
Filed: October 22, 2004	:	
Atty Docket No. 121817.0001.089	:	

This is a decision on the petition under 37 CFR 1.137(b),[1] filed December 15, 2005, which is being treated as a petition under 37 CFR 1.53(e), requesting that the USPTO accord the above-identified application a filing date of October 22, 2004, with Figures 5-8 as part of the original disclosure. The petition was recently forwarded to the Office of Petitions for a decision on the merits. The Office sincerely apologizes for any inconvenience.

On October 22, 2004, applicants filed the above-identified application. On January 12, 2005, the Office of Initial Patent Examination mailed a Notice of Omitted Item(s) in a Nonprovisional Application ("Notice of Omitted Items"), stating that the application had been accorded a filing date of October 22, 2004, and advising applicants that Figures 5-8 described in the specification appeared to have been omitted.

---

[1] The filing of the "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" is inappropriate under these circumstances because the application is not abandoned. Specifically, the Notice of Omitted Item(s) stated, in pertinent part: "The failure to file a petition (and petition fee under the above options (I) or (II) within **TWO MONTHS** of the date of this Notice . . . will be treated as a constructive acceptance by the applicant of the application as deposited in the USPTO." "In the absence of a timely filed petition in reply to this Notice, the application will maintain a filing date as of the date of deposit of the application papers in the USPTO, **and original application papers (*i.e.*, the original disclosure of the invention) will include only those application papers present in the USPTO on the date of deposit**." Id. (Emphasis added).

On December 15, 2005, applicants submitted the present petition, 4 sheets of drawings (Figures 5-8), an Appointment of New Power of Attorney, a Change of Correspondence Address, a Preliminary Amendment, and a $1,500.00 petition fee.

In the present petition, applicants stated:

> Applicant has included the omitted items (Figures 5-8) in the current patent application which is a continuation of patent application 09/725,368. These figures (5-8) as well as the originally submitted figures 1-4, were all submitted in the parent patent application (09/725,368). Since Figures 5-8 were originally in the parent patent application, the date the omitted items (Figures 5-8) were filed in the USPTO should minimally be the date of filing of the continuation patent application. No amendment was made to the specification as Figures 5-8 were already described therein.

Response of December 15, 2005, p. 3.

Upon filing the application, applicants submitted a former version of a USPTO form for the transmittal letter, which contained an incorporation by reference statement of prior Application No. 09/725,368.

Pursuant to MPEP 201.06(c)(IV):

> An applicant may incorporate by reference the prior application by including, in the continuation or divisional application-as-filed, an explicit statement that such specifically enumerated prior application or applications are 'hereby incorporated by reference.' This statement must appear in the specification. See 37 CFR 1.57(b) and MPEP § 608.01(p). The inclusion of this incorporation by reference statement will permit an applicant to amend the continuation or divisional application to include subject matter from the prior application(s), **without the need for a petition** provided the continuation or divisional application is entitled to a filing date notwithstanding the incorporation by reference.
>
> For applications filed on or after September 21, 2004, a claim under 35 U.S.C. 120 and 37 CFR 1.78 for benefit of a prior-filed nonprovisional application or international

> application designating the U.S. that was present on the filing date of the continuation or divisional application is considered an incorporation by reference of the prior-filed application as to inadvertently omitted material, subject to the conditions and requirements of 37 CFR 1.57(a).

(Emphasis added). "If a continuation or divisional application as originally filed on or after September 21, 2004, does not include an explicit incorporation by reference statement in the specification and is entitled to a filing date despite the inadvertent omission of a portion of the prior application(s), an applicant may be permitted to add the omitted material by way of an amendment under 37 CFR 1.57(a)." MPEP 201.06(c)(IV)(B). "Such an amendment must be made within the time period set by the Office. See 37 CFR 1.57(a)(1)." Id.

A review of the record indicates that the above-identified application as originally filed on October 22, 2004, which was entitled to a filing date, did not include an explicit incorporation by reference statement in the specification.

As the above-identified application contains a benefit claim under 37 CFR 1.78 of a prior-filed application that was present on the filing date of the application, applicants may file an amendment in compliance with 37 CFR 1.57(a) to add the inadvertently omitted material to the above-identified application within **TWO MONTHS** of the date of this decision without the need for a petition. This **TWO MONTH** period is not extendable under 37 CFR 1.136(a) or (b).

In the alternative, since applicants submitted a former version of a USPTO form for the transmittal letter, which contained an incorporation by reference statement of prior Application No. 09/725,368, the Office will permit applicants to amend the specification to insert an explicit incorporation by reference statement in compliance with 37 CFR 1.57(b) without the need for a petition. The amendment should be filed with the examiner prior to the first Office Action on the merits.

As applicants did not submit Figures 5-8 upon filing the application, the Office correctly mailed the Notice of Omitted Items. For this reason, the application cannot be accorded the filing date of October 22, 2004, with the Figures 5-8 as a part of the original disclosure. Accordingly, the petition is **dismissed**.

The $1,500.00 fee for filing the petition under 37 CFR 1.137(b) is unnecessary and will be credited to applicants' credit card.

The Office of Initial Patent Examination is directed to process the application with a filing date of October 22, 2004, using only the 4 sheets of drawings (Figures 1-4) filed on that date. Figures 5-8 submitted with the petition on December 15, 2005, will **not** be entered at this time.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3211.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 06/08/2010

Applicant	: Stephen D. Fisher	: DECISION ON REQUEST FOR
Patent Number	: 7630929	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/971,888	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/22/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1197** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Crain, Caton & James
Five Houston Center
1401 McKinney, 17th Floor
Houston, TX 77010

AUG 16 2007

In re Application of:	:	
Clark Fitzsimmons et al.	:	
Appl. No.: 10/971,889	:	
Filed: October 22, 2004	:	DECISION ON PETITION
Attorney Docket No.: 33849-000009	:	UNDER 37 C.F.R. § 1.59
For: SYSTEM AND METHOD FOR	:	
INTERPRETING REVERSE FAULTS AND	:	
MULTIPLE Z-VALUED SEISMIC HORIZONS	:	

This is a decision on the petition under 37 C.F.R. §1.59(b), filed July 21, 2005, to expunge information from the above-identified application.

The petition is GRANTED.

Petitioner asserts that that the Information Disclosure Statement (IDS), filed on July 21, 2005, is proprietary and requests that it be expunged from the record.

The information in question has been determined by the undersigned to not be material to the examination of the instant application.

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

The expunged material was improperly scanned but has now being removed (i.e., closed) from the Image File Wrapper. As such, the expunged material will not be returned to applicant.

Any inquiries regarding this decision should be directed to Edward Westin at (571) 272-1638.

Andrew Hirshfeld, Acting Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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DORSEY & WHITNEY, LLP
INTELLECTUAL PROPERTY DEPARTMENT
370 SEVENTEENTH STREET
SUITE 4700
DENVER, CO 80202-5647

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JAN 1 0 2005

OFFICE OF PETITIONS

In re Application of	:	
Matthew T. Jarman	:	
Application No. 10/971,899	:	ON PETITION
Filed: October 22, 2004	:	
Attorney Docket No. 34814/US/2	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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DENVER, CO 80202-5647

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OFFICE OF PETITIONS

In re Application of	:	
Matthew T. Jarman	:	
Application No. 10/971,899	:	DECISION ON PETITION
Filed: October 22, 2004	:	TO WITHDRAW
Attorney Docket No. 34814/US/2	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 18, 2009.

The request is **APPROVED**.

The request was signed by Gregory P. Durbin on behalf of the practitioners of record associated with Customer Number 20686.

Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to inventor Matthew T. Jarman at the first address indicated below.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Matthew T. Jarman
3830 South 300 West
Salt Lake City, UT 84109

cc: ClearPlay, Inc.
c/o Lee Jarman
5284 South Commerce Drive, Suite C-134
Salt Lake City, UT 84107

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/971,899	10/22/2004	Matthew T. Jarman	34814/US/2

CONFIRMATION NO. 7554

POWER OF ATTORNEY NOTICE

20686
DORSEY & WHITNEY, LLP
INTELLECTUAL PROPERTY DEPARTMENT
370 SEVENTEENTH STREET
SUITE 4700
DENVER, CO 80202-5647

OC000000040218769

Date Mailed: 02/26/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/18/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/idingle/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/971,899	10/22/2004	Matthew T. Jarman	34814/US/2

CONFIRMATION NO. 7554

POA ACCEPTANCE LETTER

MATTHEW T. JARMAN
3830 SOUTH 300 WEST
SALT LAKE CITY, UT 84109

OC000000040218917

Date Mailed: 02/26/2010

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/18/2009.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/idingle/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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CHRIS A. CASEIRO
VERRILL DANA, LLP
ONE PORTLAND SQUARE
PORTLAND ME 04112-0586

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OCT 2 5 2005

OFFICE OF PETITIONS

In re Application of :
Nelson et al. :
Application No. 10/971,905 : ON PETITION
Filed: October 22, 2004 :
Attorney Docket No. ENI-013-CIP :

This is a decision on the petition under 37 CFR 1.137(b), filed October 7, 2005, to revive the above-identified application.

This application became abandoned for failure to respond timely to the Notice to File Missing Parts of Nonprovisional Application mailed on January 12, 2005, which set a two-month extendable period to reply. Petitioners did not obtain any extensions of time to respond to the Notice. Accordingly, this application became abandoned on March 13, 2005. The present petition precedes the mailing of the Notice of Abandonment.

Petitioners have met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Accordingly, the petition is **granted.**

This matter is being referred to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosures: Notice of Acceptance of Power of Attorney
Notice Regarding Change of Power of Attorney

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BLACKWELL SANDERS PEPER MARTIN LLP
4801 MAIN STREET
SUITE 1000
KANSAS CITY, MO 64112

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SEP 1 1 2006

OFFICE OF PETITIONS

In re Application of
Ross, et al.
Application No. 10/971,918
Filed: October 22, 2004
Attorney Docket No. 16967.10001-1.6

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, 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 Lara Dickey Lewis on behalf of all attorneys of record who are associated with customer No. 27526.

All attorneys/agents associated with the Customer Number 27526 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Charles Ross at the address indicated below.

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).

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: Charles A. Ross, SR.
11952 Farley Street
Stilwell, KS 66213

cc: ICOP Digital, Inc.
16801 West 116th Street
Lenexa, KS 66219

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/971,918	10/22/2004	Charles A. Ross SR.	16967.10001-1.6

CONFIRMATION NO. 8439

OC000000020363835

OC000000020363835

27526
BLACKWELL SANDERS PEPER MARTIN LLP
4801 Main Street
Suite 1000
KANSAS CITY, MO 64112

Date Mailed: 09/08/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/12/2006.

- 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
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

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Third Floor
PASADENA CA 91103-3842

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JAN 03 2008
OFFICE OF PETITIONS

In re Application of :
Morse, et al. : DECISION
Application No.: 10/971,924 :
Filed: October 21, 2004 :
Docket No.: 17001-8 :

This decision is in response to the petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.36(a), filed October 1, 2007.

The petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.36(a) is hereby **DISMISSED**.

A grantable petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.36(a) requires that petitioners establish that this is an extraordinary situation where justice requires waiver of the rules.

Moreover, in accordance with MPEP 402.10, "[p]apers revoking a power of attorney in an application (or giving a power of attorney) will not be accepted by the Office when signed by less than all of the applicants or owners of the application unless they are accompanied by a petition under 37 CFR 1.36(a) and fee under 37 CFR 1.17(f) with a showing of sufficient cause (if revocation), or a petition under 37 CFR 1.183 and fee under 37 CFR 1.17(f) (if appointment) demonstrating the extraordinary situation where justice requires waiver of the requirement of 37 CFR 1.32(b)(4) that the applicant, or the assignee of the entire interest of the applicant sign the power of attorney." Further, the acceptance of such papers by petition under 37 CFR 1.36(a) or 1.183 will result in more than one attorney, agent, applicant, or owner prosecuting the application at the same time. Therefore, each of these parties must sign all subsequent replies submitted to the Office. *See, In re Goldstein*, 16 USPQ2d 1963 (Dep. Assist. Comm'r Pat. 1988).

Petitioners argue that the inventors named herein have assigned all right, title, and interest to the application to Dwain E. Morse and Jerry Friedman and that Mr. Morse and Mr. Friedman are

now adverse parties in a pending law suit. Petitioners, therefore, request, in accordance with the procedures outlined at MPEP 402.10, the acceptance of papers appointing more than one attorney, agent, applicant, or owner to prosecute the instant application at the same time.

However, a review of the USPTO assignment records reveals that the application was assigned by Mr. Morse and Mr. Friedman to Clear Water Technology, Inc. (CWT) by way of assignments recorded December 20, 2007 and September 4, 2007, respectively. The instant petition is not accompanied by a copy of the assignment documents. Thus, the undersigned is unable to establish whether all right, title, and interest has been assigned by CWT. If all right, title, and interest now rests with CWT, the instant petition is seemingly moot.

Any renewed petition must be accompanied by evidence of ownership.

Petitioners are given TWO MONTHS from the mailing date of this decision to reply. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.183." Any extensions of time will be governed by 37 CFR 1.136(a).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300

By hand: U.S. U.S. Patent and Trademark Office
Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The application is being directed to Technology Center 1700 for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

TRELLIS INTELLECTUAL PROPERTY LAW GROUP, PC
1900 EMBARCADERO ROAD, SUITE 109
PALO ALTO, CA 94303

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FEB 21 2008

OFFICE OF PETITIONS

In re Application of	:	
INGARGIOLA, et al.	:	
Application No. 10/971,954	:	DECISION ON PETITION
Filed: October 21, 2004	:	TO WITHDRAW
Attorney Docket No. **100113-000200US**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 8, 2007 and re-submitted February 5, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Charles J. Kulas on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Rosario M. Ingargiola at the address indicated below.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **ROSARIO M. INGARGIOLA**
FINANCIAL TECHNOLOGY & RESEARCH, LLC
355 GRANDVIEW AVENUE
NOVATO, CA 94945

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20081021

DATE : October 21, 2008

TO SPE OF : ART UNIT 3677

SUBJECT : Request for Certificate of Correction on Patent No.: 7121780 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:
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:

Correction of inventorship is as follows.

Inventor CRISTOPHER D. HARTMAN has been added.

Vict Bat

VICTOR BATSON
SUPERVISORY PATENT EXAMINER
Au 3677

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

LEONARD TACHNER, A PROFESSIONAL LAW CORPORATION
17961 SKY PARK CIRCLE, SUITE 38-E
IRVINE, CA 92614

MAILED

MAR 2 9 2010

OFFICE OF PETITIONS

In re Application of
Edwin Todd Voiles, et al.
Application No. 10/971,996
Filed: October 22, 2004
Attorney Docket No. MOSK-166

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 14, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure s to timely pay the issue and publication fees on or before May 12, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed February 12, 2008, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on May 13, 2009.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) 1.

The application became abandoned for failure to timely pay the issue and publication fee. 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. A review of the record shows that petitioner did provide an authorization to charge the by way of deposit account, however did not supply the deposit account number for the fees to be charged.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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JUN 07 2010

OFFICE OF PETITIONS

LEONARD TACHNER, A PROFESSIONAL LAW CORPORATION
17961 SKY PARK CIRCLE, SUITE 38-E
IRVINE, CA 92614

In re Application of
Edwin Todd Voiles, et al.
Application No. 10/971,996
Filed: October 22, 2004
Attorney Docket No. MOSK-166

DECISION ON PETITION

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed April 29, 2010, to revive the above-identified application.

This application became abandoned for failure to timely pay the issue and publication fees on or before May 12, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed February 12, 2008. Accordingly, the date of abandonment of this application is May 13, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755 and the publication fee of $300, (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning this application should be directed to the Office of Data Management at their hotline 571-272-4200.

This application is being referred to the Office of Data Management for processing into a patent.

April M. Wise
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/15/07

TO SPE OF : ART UNIT 3676

SUBJECT : Request for Certificate of Correction on Patent No.: 7222891

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:

SPE

3673
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
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WILLIAM W. HAEFLIGER
201 S. LAKE AVE
SUITE 512
PASADENA, CA 91101

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FEB 20 2007

OFFICE OF PETITIONS

In re Application of

James M. Galvez :

Application No. 10/972,009

: DECISION ON PETITION

Filed: October 25, 2004

:

Attorney Docket No. 12,665

This is a decision on the petition under 37 CFR 1.137(b), filed, December 26, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 22, 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 May 23, 2006. A Notice of Abandonment was mailed September 27, 2006.

The amendment filed December 26, 2006, is noted.

The application is being forwarded to Technology Center 2800, GAU 2875 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GREENLEE WINNER AND SULLIVAN P C
4875 PEARL EAST CIRCLE
SUITE 200
BOULDER CO 80301

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JUL 1 8 2005

OFFICE OF PETITIONS

In re Application of	:	
Pierce et al.	:	
Application No. 10/972,053	:	ON PETITION
Filed: October 22, 2004	:	
Attorney Docket No. 49-02A	:	

This is a decision on the petition under 37 CFR 1.53, filed May 5, 2005, requesting that the above-identified application be accorded a filing date of October 22, 2004.

On October 22, 2004, applicants deposited the above-identified application. On April 19, 2005, the Office mailed a Notice of Incomplete Nonprovisional Application, stating that the application was deposited without drawings and that the filing date would be the date of receipt of the drawings. Additionally, the Notice required applicants to submit an executed oath or declaration, the statutory basic filing fee, and additional claim fees.

On May 5, 2005, applicants submitted the present petition, an executed declaration and a copy of Figure 1, as well as paid the statutory basic filing fee, the additional claim fees, and the petition fee. Additionally, applicants submitted a copy of applicants' date-stamped postcard receipt acknowledging receipt of one sheet of drawings on October 22, 2004.

Upon review of the record, the one drawing sheet, deposited on October 22, 2004, has not been located among the application papers. However, the evidence is convincing that the application papers deposited on October 22, 2004, included one drawing sheet, which was subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application, including the one drawing sheet (Figure 1), was complete on filing and will be granted a filing date of October 22, 2004.

Accordingly, the petition is granted.

The requirement for drawings set forth in the Notice of Incomplete Nonprovisional Application was sent in error and is hereby vacated. Accordingly, no petition fee is necessary. The $400.00 petition fee

The Office of Initial Patent Examination is directed **to accord the above-identified application a filing date of October 22, 2004,** using the one drawing sheet (Figure 1) submitted on May 5, 2005, as part of the original disclosure, and to mail a corrected filing receipt.

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Date Mailed : July 14, 2010
Serial No. :10/972061
Patent No. :7,201,229 B2
Patent Issued :April 10, 2007
Title :TREE MOUNTED WELL FLOW INTERFACE DEVICE

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent.

Respecting the allege error noted in your request, the claim for priority in the Amendment filled 4-27-06., as per MPEP 1481.036 a Reissue application would be required to correct this priority claim.

In view of the foregoing your request is hereby denied.

Magdalene Talley
For Mary F. Diggs, Supervisor
Decisions and Certificate
Of Correction Branch
(571)272-0423
FAX 571-270-9942

Ralph Graham
Vetco Gray Inc.
12221 North Houston Rosslyn .
Houston, TX 77086

MD/mt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : January 22, 2010

TO SPE OF : ART UNIT 3671

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/972061 Patent no. 7201229

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

Magdalene Talley

Certificates of Correction Branch

571-272-0423

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: APPLICANT REMOVED THE CLAIM FOR PRIORITY IN THE AMENDMENT FILED 4/27/2006. AS PER MPEP 1481.03b A REISSUE APPLICATION WOULD BE REQUIRED TO CORRECT THIS PRIORITY CLAIM

SPE 3671

PTOL-308 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

NEXSEN PRUET ADAMS KLEEMEIER, INC
PO BOX 2426
COLUMBIA, SC 29202

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SEP 30 2005

OFFICE OF PETITIONS

In re Application of	:
John Bradley Mason et al	:
Application No. 10/972,068	: DECISION ON PETITION
Filed: October 22, 2004	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 23564-33	:

This is a decision on the renewed petition filed June 14, 2005, which is being treated under 37 CFR 1.78(a)(3), to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional Application No. 10/374,293, filed February 26, 2003, as set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the above-noted, prior-filed nonprovisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the above-noted, prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR

1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t); and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the above-noted, prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the above-noted, prior-filed application. In order for the instant application to be entitled to the benefit of the above-noted, prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the above-noted, prior-filed application should not be construed as meaning that applicants are entitled to the claim for benefit of priority to the above-noted, prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the above-noted, prior-filed nonprovisional application, accompanies this decision on petition.

As authorized, the $1,370 fee required by 37 CFR 1.78(a)(3)(ii) will be charged to petitioner's Deposit Account No. 08-0719.

Any inquiries concerning this decision may be directed to Wan Laymon (571) 272-3220. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 1754 for appropriate action on the amendment filed June 14, 2005, including consideration by the examiner of applicants' entitlement to claim benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BLACK LOWE & GRAHAM,
PLLC
701 FIFTH AVENUE
SUITE 4800
SEATTLE, WA 98104

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OFFICE OF PETITIONS

In re Application of

Miller, et al.

Application No. 10/972,071

Filed: October 22, 2004

Attorney Docket No. MLLR-1-1013

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 13, 2006, 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 1, 2006, which set a shortened statutory period for reply of three-months from its mailing date. A response was filed on June 1, 2006. The response did not place the application in condition for allowance as indicted by a notice mailed June 9, 2006. The application became abandoned on June 2, 2006.

The Request for Continued Examination filed December 13, 2006, is noted.

The application file is being forwarded to Technology Center 3700, GAU 3728 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patrick M. Dwyer P.C.
1818 Westlake Avenue N, Suite 114
Seattle, WA 98109

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JUL 25 2006

OFFICE OF PETITIONS

In re Application of	:	
Ross T. ATKINSON	:	
Application No. 10/972,074	:	DECISION ON PETITION
Filed: October 22, 2004	:	TO WITHDRAW
Attorney Docket No. BONPAR.P01	:	FROM RECORD
	:	

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 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 Patrick M. Dwyer the sole attorney of record.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

Telephone inquiries concerning this decision should be directed to Monica Graves at 571-272-7253.

David Bucci
Petitions Examiner
Office of Petitions

cc: Ross T. Atkinson
22606 41st Place West
Mountlake Terrance, WA 98043

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

DLA PIPER US LLP
4365 EXECUTIVE DRIVE
SUITE 1100
SAN DIEGO, CA 92121-2133

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In re Application of	:	
DENISE, Sue et al.	:	
Application No. 10/972,079	:	DECISION ON PETITION
Filed: October 22, 2004	:	TO WITHDRAW
Attorney Docket No. **MMI1110-2**	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 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 Lisa A. Haile on behalf of all attorneys of record who are associated with customer No. 28213. 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 are no outstanding office actions at this time.

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: **SUE DENISE**
412 ALVARADO AVENUE
DAVIS, CA 95616

cc: **EDWIN C. QUATTLEBAUM, PH.D.**
METAMORPHIX, INC.
8000 VIRGINIA MANOR ROAD
SUITE 140
BELTVILLE, MD 20705

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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KING & SPALDING
1180 PEACHTREE STREET , NE
ATLANTA GA 30309-3521

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JUN 04 2009

OFFICE OF PETITIONS

In re Application of	:	
Denise et al.	:	
Application No. 10/972,079	:	ON PETITION
Filed: October 22, 2004	:	
Attorney Docket No. MMFX-0102	:	
(13122.105004)		

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 6, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center AU 1634 for processing of the Request for Continued Examination (RCE) under 37 CFR 1.114 filed April 14, 2009.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CARDICA, INC.
900 SAGINAW DRIVE
REDWOOD CITY CA 94063

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MAR 27 2009

OFFICE OF PETITIONS

In re Application of :
Jose R. CARRANZA et al. :
Application No. 10/972,094 : DECISION ON PETITION
Filed: October 22, 2004 :
Attorney Docket No. :

This is a decision on the petition, filed January 9, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This application was held abandoned for failure to properly reply to the Notification of Non-Compliant Appeal Brief mailed July 9, 2008, which set a one (1) month shortened statutory period for reply. A Communication Re: Appeal was mailed on December 22, 2008. This communication dismissed the appeal and abandoned the application.

Petitioner asserts that the Notification of Non-Compliant Appeal Brief dated July 9, 2008 did not provide adequate notice of the grounds of non-compliance. The Notification of Non-Compliant Appeal Brief states on paragraphs 6 and 10 that "[t]he brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii))" and that "c(7) The argument section must match the grounds section insomuch as each grounds corresponds to a heading within the argument section". Petitioner argues that there was no proper notification since "[p]aragraph 6 and 10 of the Notification are unclear" because both "identify the headings in the Appeal Brief as the source of noncompliance".

37 CFR 41.37(c)(1)(vii) states:

> The contentions of appellant with respect to each ground of rejection presented for review in paragraph (c)(1)(vi) of this section, and the basis therefor, with citations of the statutes, regulations, authorities, and parts of the record relied on. Any arguments or authorities not included in the brief or a reply brief filed pursuant to § 41.41 will be refused consideration by the Board, unless good cause is shown. **Each ground of rejection must be treated under a separate heading**. For each ground of rejection applying to two or more claims, the claims may be argued separately or as a group. When multiple claims subject to the same ground of rejection are argued as a group by appellant, the Board may select a single claim from the group of claims that are argued together to decide the appeal with respect to the group of claims as to the ground of rejection on the basis of the selected claim alone. Notwithstanding any other provision of this paragraph, the failure of appellant to separately argue claims which appellant has grouped together shall constitute a waiver of any argument that the Board must consider the patentability of any grouped claim separately. **Any claim argued separately should be placed under a subheading identifying the claim by number. Claims argued as a group should be placed under a subheading identifying the claims by number.** A statement which merely points out what a claim recites will not be considered an argument for separate patentability of the claim. **[Emphasis added].**

However, the redundancy of paragraphs 6 and 10 do not appear to make the requirement unclear, but rather it provides further explanation as to what the requirement is (*i.e.*, the headings in the argument section must match the grounds of rejections). Petitioner's confusion does not prove a lack of clarity on the Notification. Moreover, petitioner is charged with knowledge of the rules.

37 CFR 1.135 (b) requires that prosecution of an application to save it from abandonment must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment. In this case, the substitute Appeal Brief filed July 24, 2008 is defective for failure to comply with 37 CFR 41.37(c)(1)(vii), since the headings in the argument section do not match the grounds of rejections. Accordingly, the Abandonment of this application is proper. (It is further noted that the Appeal Brief filed January 9, 2009 is also defective since the headings in the argument section do not match the grounds of rejections.)

37 CFR 41.37(d) states:

> If a brief is filed which does not comply with all the requirements of paragraph (c) of this section, appellant will be notified of the reasons for noncompliance and given a time period within which to file an amended brief. If appellant does not file an amended brief within the set time period, **or files an amended brief which does not overcome all the reasons for non-compliance stated in the notification, the appeal will stand dismissed. [Emphasis added].**

Petitioner also asserts that the Communication Regarding: Appeal, mailed December 22, 2008, sets forth a new ground of non-compliance for the first time, the application was abandoned prematurely. However, as set forth in 37 CFR 41.37(d), *supra*, petitioner's failure to correct the defect under 37 CFR 41.37(c)(1)(vii) discussed above renders this assertion moot.

Accordingly, absent the required evidence to establish that the Notification was improper, the petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $810.00 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to Felix O. Figueroa at (571) 272-6052, or in his absence to the undersigned at (571) 272-9077.

David Bucci
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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www.uspto.gov

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 07/06/2010

Applicant	: Gregory H. Lambrecht	: DECISION ON REQUEST FOR
Patent Number	: 7658765	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/972,106	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/22/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **918** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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

Eric D. Cohen
Welsh & Katz, Ltd.
22nd Floor
120 South Riverside Plaza
Chicago, IL 60606

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APR 1 5 2008

OFFICE OF PETITIONS

In re Application of	:	
Yi-Shan Chu et al.	:	
Application No. 10/972,123	:	DECISION ON PETITION
Filed: October 22, 2004	:	TO WITHDRAW
Attorney Docket No. 9019-93171	:	FROM RECORD
	:	

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** because it is 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 16, 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.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Rabin & Berdo, PC**
1101 14th Street, NW
Suite 500
Washington, DC 20005

UNITED STATES PATENT AND TRADEMARK OFFICE

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DAVIS WRIGHT TREMAINE LLP
2600 CENTURY SQUARE
1501 FOURTH AVENUE
SEATTLE, WA 98101-1688

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OCT 27 2005

OFFICE OF PETITIONS

In re Application of	:	
Shawn P. Iadonato et al	:	
Application No. 10/972,135	:	DECISION ON PETITION
Filed: October 22, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 55382-21	:	37 C.F.R. § 1.102(d)
	:	

This is a decision on the petition filed October 22, 2004, under 37 CFR 1.102(d), to make the above-identified application special. The petitioner failed to identify which section of the MPEP 708.02 he is petitioning for under CFR 1.102(d). Therefore, the petitioner's invention does not fit in any of the categories set forth in the MPEP 708.02 sections I thru XII.

The petition is **DISMISSED**.

A grantable petition under 37 CFR 1.102(d) must also meet the requirements under one of the categories set forth in MPEP 708.02 (I. Manufacture; II. Infringement; VII. Inventions relating to Recombinant DNA; VIII Accelerated examination; X. Inventions relating to HIV/AIDS and Cancer; or XII. Biotechnology applications filed by small entities.) and be accompanied by the fee under 1.17(h).

The instant petition has been considered, but does not identify which section of MPEP 708.02 is the basis of the petition to make special.

A review of the application and the statements in the petition show that the invention is directed towards a group of novel, naturally-occurring genetic mutations in humans that confer resistance to flavivirus infection, particularly infection by hepatitis C virus which does not fall under any of the categories set forth in MPEP 708.02, sections I thru XII.

For the above-mentioned reasons, the petition is dismissed. The application will therefore be taken up by the examiner for action in its regular turn.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to Irvin Dingle at 571-272-3210.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 1637 for action in its regular turn.

Amelia AU
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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DEC 7 2005

DAVIS WRIGHT TREMAINE, LLP
2600 CENTURY SQUARE
1501 FOURTH AVENUE
SEATTLE WA 98101-1688

In re Application of	:
Shawn P. Iadonato et al	:
Serial No.: 10/972,135	: PETITION TO MAKE SPECIAL
Filed: October 22, 2004	:
Attorney Docket No.: 55382-21	:

This is in response to the renewed petition filed November 30, 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**.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at 571-273-8300.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 4/9/08

TO SPE OF : ART UNIT 2839

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/972137 Patent No: 7294008 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

The class/subclass for the reference should be 174/110R (and not 174/110)

T. Patel
SPE

~~2839~~ 2839
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

KATTEN MUCHIN ROSENMAN LLP (MARVELL)
IP DOCKET
1025 THOMAS JEFFERSON STREET NW
SUITE 700, EAST LOBBY
WASHINGTON, DC 20007-5201

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JUN 27 2005

OFFICE OF PETITIONS

In re Application of	:	
Sehat Sutardja et al	:	
Application No. 10/972,143	:	DECISION GRANTING PETITION
Filed: October 25, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. MP0088.1C1	:	

This is a decision on the petition, filed June 8, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 30, 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 2812 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* **must** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MARSHALL GERSTEIN & BORUN LLP
233 S. WACKER DRIVE, SUITE 6300
SEARS TOWER
CHICAGO, IL 60606

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OCT 1 2 2006
OFFICE OF PETITIONS

In re Application of	:
Evren Eryurek et al	:
Application No. 10/972,155	: DECISION ON PETITIONS
Filed: October 22, 2004	: UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 30203/40056	:

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed September 27, 2006, 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.

This nonprovisional application was pending at the time of filing of the reference to the prior-filed provisional applications as required by 37 CFR 1.78(a)(5)(ii). Additionally, the intermediate applications were filed within twelve months of the filing date of the prior-filed provisional applications for which priority is claimed.

All the above requirements having been satisfied, the late claim for priority under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to Irvin Dingle at (571) 272-3210. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2863 for appropriate action on the amendment submitted September 27, 2006, including consideration by the examiner of the claim under 35 U.S.C. § §120 and 119(e) of the prior-filed nonprovisional and provisional applications.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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
10/972,155	10/22/2004	2863	2068	30203/40056	34	40	4

CONFIRMATION NO. 9045
CORRECTED FILING RECEIPT
OC000000020790449
OC000000020790449

04743
MARSHALL, GERSTEIN & BORUN LLP
233 S. WACKER DRIVE, SUITE 6300
SEARS TOWER
CHICAGO, IL 60606

Date Mailed: 10/12/2006

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)

Evren Eryurek, Edina, MN;
Kadir Kavaklioglu, Eden Prairie, MN;
John P. Miller, Eden Prairie, MN;

Assignment For Published Patent Application

FISHER-ROSEMOUNT SYSTEMS, INC., Austin, TX

Power of Attorney: The patent practitioners associated with Customer Number **04743**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/549,796 03/03/2004
and is a CIP of 10/484,907 01/26/2004
which is a 371 of PCT/US03/06018 02/28/2003
and is a CIP of 10/104,586 03/22/2002
which is a CIP of 09/896,967 06/29/2001 PAT 6,975,219
which is a CIP of 09/861,790 05/21/2001 ABN
which claims benefit of 60/273,164 03/01/2001
and said 10/484,907 01/26/2004
is a CIP of 10/087,308 03/01/2002
which claims benefit of 60/273,164 03/01/2001

Foreign Applications

If Required, Foreign Filing License Granted: 12/02/2004

The country code and number of your priority application, to be used for filing abroad under the Paris

Convention, is US10/972,155

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Data presentation system for abnormal situation prevention in a process plant

Preliminary Class

702

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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Michael C. Schiffer - Legal Dept.
BECKMAN COULTER, INC.
250 S. Kraemer Boulevard
BREA, CA 92821

Mail Date: 04/20/2010

Applicant	: Robert J. Mattila	: DECISION ON REQUEST FOR
Patent Number	: 7662339	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/972,164	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/22/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1423** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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YAMAHA
C/O KEATING & BENNETT, LLP
1800 Alexander Bell Drive
SUITE 200
Reston, VA 20191

Mail Date: 04/20/2010

Applicant	: Yasuo Suzuki	: DECISION ON REQUEST FOR
Patent Number	: 7659007	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/972,168	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/22/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **488** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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CANCELLED

In re Application of
Anthony Berkman et al.
Application No. 10/972,179
Filed: October 22, 2004
Attorney Docket No: **J108U001US00**

: DECISION GRANTING PETITION

This is a decision on the petition, filed February 12, 2007, 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 October 21, 2005. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the

due date of the reply until the filing of a grantable petition was unintentional.

The present petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(I) has been rescinded. The projected publication date is July 5, 2007 and a copy of the communication regarding rescission is included herein.

The petition fee in the amount of $750.00 has been applied to the finance records for this application.

This matter is being referred to Technology Center 3609 for further 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3/6/08

Paper No.: —

TO SPE OF : ART UNIT ~~2818~~ 2892

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/972180 Patent No: 7202112 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within **7** days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

THAO XUAN LE
SUPERVISORY PATENT EXAMINER

SPE

2892
Art Unit

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TECHNOLOGY CENTER 2600

BUCKLEY, MASCHOFF, TALWALKAR LLC
50 LOCUSTAVENUE
NEW CANAAN CT 06840

In re Application of:
Emily Clarie Louise WALLIS, et al.
Serial No.: 10/972,193
Filed: October 22, 2004
Attorney Docket Number: **VO1.003**
Title: **NON-LINEAR INTERACTIVE VIDEO NAVIGATION**

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 December 22, 2006 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DENIED**.

REGULATION AND PRACTICE

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), the following conditions must be satisfied:

1. The application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);
2. The application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours;
3. The application, at the time of filing, must be complete under 37 CFR 1.51 and in condition for examination;
4. The application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

The application as filed is not eligible for the accelerated examination under 37 C.F.R. § 1.102(d) because it was not filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; and because the petition was not filed together with the application on or after August 25, 2006. See also MPEP 708.02.

For the above-stated reasons, the petition is denied. Therefore, the file will be taken up by the examiner in its regular turn.

Any inquiry regarding this decision should be directed to Krista Zele, Quality Assurance Specialist, at (571) 272-7288.

Krista Zele
Quality Assurance Specialist
Technology Center 2600
Communications

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ALEXANDRIA VA 22313-1404

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APR 26 2006

OFFICE OF PETITIONS

Applicant: Saoud et al.
Appl. No.: 10/972,203
Filing Date: October 25, 2004
Title: CIGARETTES AND CIGARETTE COMPONENTS CONTAINING NANOSTRUCTURED FIBRIL MATERIALS
Attorney Docket No.: 021238-568
Pub. No.: US 2005/0121047 A1
Pub. Date: June 9, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on July 12, 2005, for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

Inquiries relating to this matter may be directed to Mark O. Polutta at (571) 272-7709 (voice).

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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AUG 26 2008

In re Application of	:	
Deevi, et al.	:	
Application No. 10/972,204	:	DECISION ON PETITION
Filed: October 25, 2004	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 021238-632	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed July 2, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to a prior-filed provisional application.

The petition is **DISMISSED.**

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

This pending nonprovisional application was filed on October 25, 2004, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/514,525, which was filed on October 27, 2003, and for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is

included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 119(e) after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 119(e) is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a renewed petition under 37 CFR 1.78(a)(6) and either an Application Data Sheet or a substitute amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)) deleting the incorporation by reference statement (with respect to Application No. 60/514,525), are required.

As authorized, the $1,410.00 fee required by 37 CFR 1.78(a)(6)(ii) was charged to petitioners' deposit account.

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) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
Deevi, et al.
Application No. 10/972,204
Filed: October 25, 2004
Attorney Docket No. 021238-632

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(6)

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed October 28, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to a prior-filed provisional application.

The petition is **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.

This pending nonprovisional application was filed on October 25, 2004, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/514,525, which was filed on October 27, 2003, and for which priority is claimed.

The petition complies with the requirements for a grantable petition under 37 CFR §1.78(a)(6) in that (1) a reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR §1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority

under 35 U.S.C. §119(e) to the prior-filed provisional application satisfies the conditions of 37 CFR §1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR § 1.78(a)(6) should <u>not</u> be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should <u>not</u> 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 application, accompanies this decision on petition.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3230. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1791 for consideration by the examiner of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed application.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: corrected filing receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/972,204	10/25/2004	1791	1908	021238-632	70	4

CONFIRMATION NO. 8231

CORRECTED FILING RECEIPT

21839
BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

OC000000033125290

Date Mailed: 11/17/2008

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)

Sarojini Deevi, Midlothian, VA;
Rangaraj S. Sundar, Midlothian, VA;
Yezdi B. Pithawalla, Richmond, VA;

Assignment For Published Patent Application

PHILIP MORRIS USA INC.

Power of Attorney:

Charles Glenn--29796
Kevin Osborne--33750
Hillary Hawkins--42235

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/518,680 11/12/2003
and claims benefit of 60/514,525 10/27/2003

Foreign Applications

If Required, Foreign Filing License Granted: 12/02/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/972,204**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

In situ synthesis of composite nanoscale particles

Preliminary Class

131

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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OFFICE OF PETITIONS

Applicant: Reddy et al.
Appl. No.: 10/972,208
Filing Date: October 25, 2004
Title: REDUCTION OF CARBON MONOXIDE AND NITRIC OXIDE IN SMOKING ARTICLES USING NANOSCALE PARTICLES AND/OR CLUSTERS OF NITRIDED TRANSITION METAL OXIDES
Attorney Docket No.: 021238-644
Pub. No.: US 2005/0109356 A1
Pub. Date: May 26, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on July 1, 2005, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains material errors, as dependent claim 6, formula "$M_2O_{3-x}N_x$" is misprinted as "$M_2O_{3-x}N_z$", dependent claim 7, formula "$M_3O_{4-x}N_x$" is misprinted as "$M_3O_{4-x}N_z$", dependent claim 23, formula "$M_2O_{3-x}N_x$" is misprinted as "$M_2O_{3-x}N_z$" and dependent claim 42 "$1x10^{-4}$" is misprinted as "$1x10^{4}$".

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The errors noted by requestor in dependents claims 6, 7, 23 and 43 are not material Office errors under 37 CFR 1.221. The errors noted by requestor with respect to the typographical errors in this published application are due to the poor quality of the text in the application. Some of the

[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).

text in the chemical formula such as the subscripts and superscripts are very small. The text of the application must be written by either a typewriter or machine printed in dark ink. See 37 CFR 1.52. While the text is legible, the text is not clear, as the text of the subscripts and superscripts 1" is very small, which makes it difficult to electronically reproduce by digital imaging and optical character recognition.

Applicants have been advised to file applications having larger text, which is cleaner and with sufficient clarity and contrast to permit reproduction to avoid errors in the patent application publication process. See 37 CFR 1.52. When, the text in the application, which is small and close together, which makes it blurry and not clear, also makes it difficult to read and to electronically reproduce by digital imaging and optical character recognition.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice).

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Steven W. Weinrieb
LAW OFFICES OF STEVEN W. WEINRIEB
8717 Cold Spring Road
Potomac MD 20854

In re Application of	:	
AYERS, ANDREW S.	:	
Application No.: 10/972210	:	DECISION ON
Filing or 371(c) Date: October 25, 2004	:	PETITION
Attorney Docket Number: **71-865-1**	:	

This is a decision in response to the "Petition to Withdraw Holding of Abandonment," filed December 18, 2008.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance, mailed June 30, 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 Sprull
Application Assistance Unit
Office of Data Management

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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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Paper No. 010905

JAN 25 2005

TIPTON. L. RANDALL
19371 55TH AVENUE
CHIPPEWA FALLS, WI 54729

In re Application of:	:	
MARVIN V. SCHILLINGER	:	DECISION ON PETITION
Serial No.: 10/972,218	:	TO MAKE SPECIAL
Filed: October 25, 2004	:	
Attorney Docket No.: **TLR-5183 US**	:	

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed October 25, 2004, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.) § 708.02, Section IV: Applicant's Age.

A grantable petition to make special under 37 C.F.R. § 1.102, and in accordance with M.P.E.P. § 708.02, Section IV, must include evidence showing that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a statement from attorney Tipton L. Randall, stating that Marvin V. Schillinger is sixty-five (65) years of age or more. In addition, a copy of the driver's license for Marvin L. Schillinger is included as evidence.

Accordingly, the petition is GRANTED.

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

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

THE McBRIDE LAW FIRM, P.C.
4265 SAN FELIPE
SUITE 1100
HOUSTON TX 77027

COPY MAILED
SEP 11 2008

In re Application of	:	
Glen Jones	:	
Application No.: 10/972225	:	ON PETITION
Filing or 371(c) Date: 10/22/2004	:	
Attorney Docket Number:	:	
AUGU002	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed June 27, 2008, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely reply to the Office communication, mailed October 9, 2007. The Office communication set a one (1) month period for reply. Extensions of time under 37 CFR 1.136(a) were available. No complete and proper reply having been received, the application became abandoned on November 10, 2007. A Notice of Abandonment was mailed May 1, 2008.

Applicant files the present renewed petition and response to the Office communication. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a response to the Restriction/Election Requirement; (2) the petition fee; and (3) the required statement of unintentional delay are filed with the present petition. Accordingly, the reply is accepted as having been unintentionally delayed.

This application is being forwarded to Technology Center Art Unit 3634 for processing of the response in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
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.

AMGEN INC.
MAIL STOP 28-2-C
ONE AMGEN CENTER DRIVE
THOUSAND OAKS CA 91320-1799

COPY MAILED

SEP 14 2009

OFFICE OF PETITIONS

In re Application of	:	DECISION ON
Ng et al.	:	APPLICATION FOR
Application No. 10/972,236	:	PATENT TERM ADJUSTMENT
Filed: October 21, 2004	:	
Attorney Docket No.	:	
A-836B	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(b) filed on March 31, 2009, which is treated as a request that the Patent Term Adjustment for the above-identified patent be increased by thirty-one (31) days from six hundred ninety (690) to seven hundred twenty-one (721) days.

The request for correction of the initial determination of patent term adjustment (PTA) is **GRANTED**.

The Office has updated the PALM and PAIR screens to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is SEVEN HUNDRED TWENTY-ONE (721) days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On February 3, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is six hundred ninety (690) days. This was based on an Office delay of 721 (394 + 90 +237) days reduced by an applicant delay of 31 days. Applicants timely filed the instant application for patent term adjustment.[1]

[1] A review of PALM financial records indicates that the issue fee was paid on March 31, 2009. A supplement to the application for patent term adjustment

Applicants assert that the reduction in patent term adjustment of 31 days for the filing of a substitute sequence listing three (3) months and 31 days after the mailing of the notice to file missing parts mailed on February 7, 2005, is incorrect. On February 7, 2005, a notice to file missing parts was mailed, requiring an executed oath or declaration and surcharge, and a substitute sequence listing. On April 6, 2005, the oath or declaration, surcharge, and a substitute sequence listing was provided. On April 25, 2005, a notice to comply with requirements for patent applications containing nucleotide sequences and/or amino acid sequence disclosures was mailed, requiring a substitute sequence listing. On June 21, 2005, a new sequence listing was supplied.

Applicants are correct. Section 1.704(c)(7) establishes submission of a reply having an omission (1.135(c)) as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. Submitting a reply having an omission requires the Office to issue an action under 1.135(c) and await and process the applicant's reply to the action under 1.135(c) before the initial reply (as corrected) can be treated on its merits. Section 1.704(c)(7) also provides that in such a case the period of adjustment set forth in 1.703 shall be reduced by the number of days, if any, beginning on the date the reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed. The reference to "1.135(c)" is parenthetical because 1.704(c)(7) is not limited to Office actions under 1.135(c) but applies when the Office issues any action or notice indicating that a reply has an omission which must be corrected: e.g., (1) a decision on a petition under 1.47 dismissing the petition as lacking an item necessary to grant the petition; or (2) a notice indicating that the computer readable format sequence listing filed in reply to a Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures (PTO-1661) does not comply with 1.821 et seq.

In this case, applicants filed a substitute sequence listing on June 21, 2005, within three months of the mailing of the Notice

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was filed on April 2, 2009, clarifying the previously filed application for Patent Term Adjustment.

to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures (PTO-1661) mailed on April 25, 2005. As the sequence listing filed in response to the Notice to Comply was not non-compliant, entry of a period of reduction is not warranted. Further, all requirements of the notice to file missing parts were timely filed. Accordingly, the reduction of 31 days for applicant delay is not warranted and will be removed.

In view of the supplemental request for reconsideration of patent term adjustment filed on April 2, 2009, patentee does not dispute any other PTA calculations.

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance should be adjusted to seven hundred twenty-one (721) days (721 days of Office delay reduced by no (0) days of applicant delay).

The $200 fee set forth in 37 CFR 1.18(e) has been received. No additional fees are required.

The application is being forwarded to the Office of Patent Publication 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 matter should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Anthony Knight
Supervisor
Office of Petitions

Enclosure: Copy of adjusted PAIR calculation

Day : Saturday
Date: 9/12/2009

PALM INTRANET

Time: 09:37:03

PTA Calculations for Application: 10/972236			
Application Filing Date:	10/21/2004	PTO Delay (PTO):	721
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	31
Post-Issue Petitions:	0	Total PTA (days):	721
PTO Delay Adjustment:	31		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
82	09/12/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	31		
65	02/03/2009	MAIL NOTICE OF ALLOWANCE	237		55
61	12/08/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
60	12/08/2008	CASE DOCKETED TO EXAMINER IN GAU			
59	12/08/2008	EXAMINER'S AMENDMENT COMMUNICATION			
58	12/08/2008	NOTICE OF ALLOWABILITY			
56	09/19/2008	DATE FORWARDED TO EXAMINER			
55	02/11/2008	RESPONSE TO A LETTER TO COMPLY WITH THE SEQUENCE RULES			
54	07/31/2008	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
53	06/19/2008	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
52	06/19/2008	RULE 47 / 48 CORRECTION OF INVENTORSHIP PAPERS FILED			
51	01/25/2008	RULE 47 / 48 CORRECTION OF INVENTORSHIP PAPERS FILED			
50	01/11/2008	MAIL LETTER REQUIRING CRF (UNREADABLE, NON-COMPLIANT, NOT SUBMITTED)	90		45
49	09/04/2007	CRF DISKETTE UNREADABLE / DID NOT COMPLY / REQUIRED BUT NOT SUBMITTED			
48	06/27/2007	CRF IS FLAWED TECHNICALLY / NOT ENTERED INTO DATABASE			
47	06/13/2007	MISCELLANEOUS INCOMING LETTER			
46	06/26/2007	DATE FORWARDED TO EXAMINER			
45	06/13/2007	RESPONSE AFTER NON-FINAL ACTION			
44	03/30/2007	MAIL NON-FINAL REJECTION			

43	03/29/2007	NON-FINAL REJECTION			
42	05/04/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
41	01/13/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
40	03/27/2007	DATE FORWARDED TO EXAMINER			
39	03/19/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
38	03/19/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
37	01/19/2007	MAIL RESTRICTION REQUIREMENT	394		-1
36	01/08/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
35	09/09/2006	CASE DOCKETED TO EXAMINER IN GAU			
34	05/10/2006	MISCELLANEOUS INCOMING LETTER			
33	06/21/2005	MISCELLANEOUS INCOMING LETTER			
31	06/07/2005	MISCELLANEOUS INCOMING LETTER			
30	04/06/2005	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
28	11/02/2004	MISCELLANEOUS INCOMING LETTER			
27	05/12/2006	CRF DOES NOT MATCH APPLICATION SPECIFICATION -- APPLICANT MUST CORRECT			
26	06/07/2005	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
25	04/13/2005	CRF IS FLAWED TECHNICALLY / NOT ENTERED INTO DATABASE			
24	11/09/2004	CRF IS FLAWED TECHNICALLY / NOT ENTERED INTO DATABASE			
22	01/13/2006	REFERENCE CAPTURE ON IDS			
21.7	01/13/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	01/13/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	05/04/2005	REFERENCE CAPTURE ON IDS			
19.7	05/04/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	05/04/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	06/20/2005	APPLICATION DISPATCHED FROM OIPE			
17	06/20/2005	APPLICATION IS NOW COMPLETE			
16	06/07/2005	ADDITIONAL APPLICATION FILING FEES		31	9
15	06/07/2005	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			

13	04/25/2005	SEQUENCE ERRORS			
12	04/06/2005	ADDITIONAL APPLICATION FILING FEES			
11	04/06/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
9	02/07/2005	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
8	10/21/2004	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
7	02/03/2005	CLEARED BY L&R (LARS)			
6	11/29/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
5	11/29/2004	CASE CLASSIFIED BY OIPE			
4	11/10/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	10/21/2004	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	10/21/2004	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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AMGEN INC.
MAIL STOP 28-2-C
ONE AMGEN CENTER DRIVE
THOUSAND OAKS, CA 91320-1799

Mail Date: 04/21/2010

Applicant	: Gordon Ng	: DECISION ON REQUEST FOR
Patent Number	: 7605120	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/972,236	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/21/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1012** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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AMGEN INC.
MAIL STOP 28-2-C
ONE AMGEN CENTER DRIVE
THOUSAND OAKS, CA 91320-1799

Mail Date: 05/18/2010

Applicant : Gordon Ng
Patent Number : 7605120
Issue Date : 10/20/2009
Application No : 10/972,236
Filed : 10/21/2004

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **1086** 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).

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	§	BEFORE THE EXAMINER:
Datta et al.	§	Not Yet Assigned
Serial No.: 10/972,244	§	Group Art Unit No.: Not Yet Assigned 1711
Filed: October 22, 2004	§	Attorney Docket No.: 1998B037A/7
For: Elastic Blends Comprising	§	Confirmation No.: Not Yet Assigned
Crystalline Polymer and	§	
Crystallizable Polymers of Propylene	§	
Customer No.: 23455	§	February 14, 2005

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

PETITION TO MAKE SPECIAL

Sir:

Pursuant to 37 CFR § 1.102(c) and MPEP § 708.02 IV. (APPLICANT'S AGE), Applicant, Charles Cozewith, hereby petitions the Commissioner, through his attorney, that this application be made special and that the prosecution thereof be expedited as much as possible. As a basis for granting the above petition, it is submitted that Applicant is 65 years of age or more. Attached herewith is a copy of Applicant's birth certificate.

Respectfully submitted,

February 14, 2005
Date

Leandro Arechederra III
Attorney for Applicants
Registration No. 52,457

ExxonMobil Chemical Co.
Law Technology
P.O. Box 2149
Baytown, Texas 77522-2149
Phone: 281-834-2173
Fax: 281-834-2495

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC 1700 MAR - 3 2005

I:\BPC\LAW\Prosecution\EMCC Prosecution\1998\1998B037A-7\1998B037A-7 (US)\1998B037-7-US-2005FEB14-Petition to Make Special.doc

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Paper No.

FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

COPY MAILED
FEB 19 2010

In re Patent No. 7,485,660	:	DECISION ON REQUEST
Scanlan et al.	:	FOR
Issue Date: February 3, 2009	:	RECONSIDERATION OF
Application No. 10/972,250	:	PATENT TERM ADJUSTMENT
Filed: October 22, 2004	:	and
Atty Docket No. 19459-0002002	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on April 3, 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 six hundred ninety (690) 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 six hundred ninety (690) 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 **six hundred ninety (690)** 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 : 7,485,660

DATED : **February 3, 2009** **DRAFT**

INVENTOR(S) : Scanlan 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 287 days

Delete the phrase "by 287 days" and insert – by 690 days--

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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JAN 5 2005

Paper No. 120904

John S. Egbert
HARRISON & EGBERT
412 Main Street 7th Floor
Houston TX 77002

In re Application of:	:	
Robert Mack	:	DECISION ON PETITION
Serial No.: 10/972,266	:	TO MAKE SPECIAL
Filed: October 25, 2004	:	
Attorney Docket No.: **2047-1**	:	

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed November 08, 2004, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.) § 708.02, Section IV: Applicant's Age.

A grantable petition to make special under 37 C.F.R. § 1.102, and in accordance with M.P.E.P. § 708.02, Section IV, must include evidence showing that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a statement from Robert Mack stating that the he is sixty-five (65) years of age or more. In addition, a copy of a birth certificate for Leo L. Burrell is included as evidence.

Accordingly, the petition is GRANTED.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

Inquiries regarding this decision should be directed to Hien H. Phan at (571) 272-1606.

Hien H Phan, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

HHP/nmc

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OFFICE OF PETITIONS

In re Application of
Shalva Gedevanishvili
Application No. 10/972,295
Filed: October 25, 2004
Attorney Docket No. 021238-620

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 3, 2008, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, February 6, 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 May 7, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642.

This application is being referred to Technology Center AU 1791 for appropriate action by the Examiner in the normal course of business on the reply received November 3, 2008.

April M. Wise
Petitions Examiner
Office of Petitions

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VITALSPRING TECHNOLOGIES
8260 GREENSBORO DRIVE
SUITE 100
MCLEAN, VA 22102

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OFFICE OF PETITIONS

In re Application of	:	
Sudhir Anandarao, et al.	:	
Application No. 10/972,300	:	DECISION ON REQUEST FOR
Filed: October 25, 2004	:	REVOCATION OF POWER
Attorney Docket No. VITL-002/00US	:	OF ATTORNEY
	:	

This is a decision on the Request to Revoke the attorney or agent of record under 37 C.F.R. § 1.36(a), filed December 21, 2007.

The request is **NOT APPROVED**.

A power of attorney, pursuant to § 1.32(b), may be revoked at any stage in the proceeding of a case by an applicant for patent (§ 1.41(b)) or an assignee of the entire interest of the applicant under § 3.71(b). Fewer than all of the applicants (or by fewer than the assignee of the entire interest of the applicant) may only revoke the power of attorney upon a showing of sufficient cause, and payment of the petition fee set forth § 1.17(h). For the assignee to take action a proper statement under § 3.73(b) is required.

The request cannot be approved because the statement under 3.73(b) is not proper or no statement under 3.73(b) was filed and the request is signed by only one 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). The power of attorney filed on December 21, 2007 does not include one of the above two options.

Petitioner's attention is directed to 37 CFR 1.33(b), which states.

(b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:

(1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);

(2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;

(3) An assignee as provided for under §3.71(b) of this chapter; or

(4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

An unsigned amendment (or other paper) or one not properly signed by a person having authority to prosecute the application is not entered. This applies, for instance, where the amendment (or other paper) is signed by only one of two or more applicants and the one signing has not been given a power of attorney by the other applicants.

Therefore, as the petition is not signed by all the inventors and the record herein fails to disclose that petitioner herein (Sreedhar V. Potarazu) was ever given a power of attorney to act on behalf of inventor of Sudhir Anandarao, Lawrence N. Croney, Rahul Ghate, Anand Iyengar or James T. Tierney, or that he is an assignee of the entire interest and has complied with the provisions of 37 CFR 3.73(b), the request is considered to be a proper request.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

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COOLEY GODWARD KRONISH LLP
ATTN: PATENT GROUP
SUITE 1100
777 – 6TH STREET, NW
WASHINGTON, DC 20001

In re Application of	:	
Sudhir Anandarao, et al.	:	
Application No. 10/972,300	:	DECISION ON PETITION
Filed: October 25, 2004	:	TO WITHDRAW
Attorney Docket No. VITL-002/00US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 23, 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, "Applicant's representatives have disengaged from representation and Applicant has not named substitute counsel", does not meet any of the conditions set forth in 37 CFR 10.40.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the

assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: MR. SUDHIR ANANDARAO
VITAL SPRING TECHNOLOGIES
1750 TYSONS BOULEVARD
MCLEAN, VA 22102

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ATTN: PATENT GROUP
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777 – 6TH STREET, NW
WASHINGTON, DC 20001

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OFFICE OF PETITIONS

In re Application of	:	
Sudhir Anandarao, et al.	:	
Application No. 10/972,300	:	DECISION ON PETITION
Filed: October 25, 2004	:	TO WITHDRAW
Attorney Docket No. VITL-002/00US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed April 7, 2008.

The request is **APPROVED**.

A review of the file record indicates that Cooley Godward Kronish, LLP: (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, Cooley Godward Kronish, LLP has been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) the intervening assignee of the entire interest. 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).

Applicant is reminded that there is no attorney of record at this time.

There is an outstanding Office action mailed March 27, 2008 that requires a reply from the applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: SUDHIR ANANDARAO
415 HOLMES DRIVE
VIENNA, VA 22180

cc: SUDHIR ANANDARAO
VITALSPRING TECHNOLOGIES
1750 TYSONS BOULEVARD
MCLEAN, VA 22102

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SUDHIR ANANDARAO
415 HOLMES DRIVE
VIENNA VA 22180

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OFFICE OF PETITIONS

In re Application of
Sudhir Anandarao et al.
Application No. 10/972,300
Filed: October 25, 2004
Title of Invention: **SYSTEM AND METHOD FOR MODELING BENEFITS**

ON PETITION

This is a decision on the petition filed November 26, 2008, to revive the above identified application under 37 CFR 1.137(b)[1].

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application became abandoned on April 28, 2008, for failure to file a timely response to a Restriction Requirement mailed March 27, 2008, which set a one month shortened statutory period for reply. No extensions of the time for reply under 37 CFR 1.136(a) were obtained prior to the expiration of the extendable period. The instant petition and this decision precede the mailing of the Notice of Abandonment.

The petition fee in the amount of $810.00 has been applied to the finance records for the instant patent application.

Additionally, however, there is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being mailed to

---

[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)).

petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

The response to the Restriction Requirement filed November 26, 2008 will be referred to Technology Center 3696 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:

MICHAEL E. WHITHAM
WHITHAM, CURTIS, CHRISTOFFERSON & COOK
11491 SUNSET HILLS ROAD,
SUITE 340
RESTON, VA 20190

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DEC -7 2005

In re Application of	:	
Hsi-Ming Cheng et al.	:	
Serial No. 10/972,308	:	DECISION ON PETITION
Filed: October 22, 2004	:	TO MAKE SPECIAL
For: MESH CONTAINER, SYSTEM USING	:	
MESH CONTAINERS, AND METHOD	:	
FOR MAKING MESH CONTAINERS	:	

Applicant's petition, filed October 22, 2004, seeks to have this application made special pursuant to the Accelerated Examination Program. The petition is GRANTED.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(VIII) of the Manual of Patent Examining Procedures (MPEP).

Applicant is advised that the examiner's search will be restricted to the subject matter encompassed by the claims. In the event that the application receives a first action rejection, applicant is encouraged to arrange for an interview with the examiner, and to provide the examiner with a working copy of any proposed amendment one working day prior to the interview. Any amendment filed in response to a first action rejection which would require broadening of the field of search will be treated as an improper response.

PETITION GRANTED.

Richard A. Bertsch

Richard A. Bertsch, Director
Technology Center 3700

Perry J. Saidman
Saidman Design Law Group
1110 Bonifant Street, Suite 510
Silver Spring, MD 20910

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Searete LLC
Suite 110
1756-114th Ave. S.E.
Bellevue, WA 98004

Mail Date: 05/18/2010

Applicant	: Paul G. Allen	: DECISION ON REQUEST FOR
Patent Number	: 7657125	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/972,319	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/22/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1380** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/972,338	10/26/2004	Guido Tesch	07781.0180-00	1304

22852 7590 12/24/2008
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

EXAMINER
HOANG, SON T

ART UNIT	PAPER NUMBER
2165	

MAIL DATE	DELIVERY MODE
12/24/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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C. Gregory Gramenopoulos
FINNEGAN, HENDERSON, FARABOW
GARRETT & DUNNER, L.L.P.
901 New York Avenue, NW
Washington DC 20001-4413

In re Application of:
G. TESCH et al
Application No. 10/972,338
Filed: October 26, 2004
For: SYSTEMS AND METHODS FOR SEARCHING AND DISPLAYING SEARCH HITS IN HIERARCHIES

DECISION GRANTING PETITION TO RESET PERIOD FOR REPLY

This is a decision on the petition, filed on 19 September 2008, requesting that the shortened statutory period for reply set forth in the Office communication mailed on 25 April 2008 be restarted.

In the absence of any apparent irregularity associated with the mailing of an Office communication, the Office presumes that the communication was properly mailed to the address of record. This presumption may be overcome by showing that the Office communication was not received.

The relevant portion of MPEP § 711.03(c) states:

> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

In support of the petition, the petitioner stated that the Office Action mailed 25 April 2008 was never received by applicants and stated applicant's representative only discovered the Office Action during a recent review of the PAIR system on 09 September 2008. The petitioner supplied a copy of docket record (PTO Mail Search report) showing that the Office Action was never received by applicant's representative. The docket record shows no entry reflecting receipt of the Office Action on or about 25 April 2008.

Since the petitioner failed to provide a statement attesting to the fact that a search of the file jacket and docket record indicated that the Office Action was not received, he has not met the criteria of set out in MPEP § 711.03(c) for establishing failure to receive the Office Action mailed 25 April 2008. To expedite the prosecution of this application, the undersigned is hereby

assuming that the petitioner did search the file jacket and docket record and the petitioner found no record of receiving the Office Action.

For the above-stated reasons, the petition is **GRANTED**. Accordingly, the shortened statutory period that was originally set forth in the Office Action mailed on 25 April 2008 is hereby reset to run FROM THE DATE OF 09 September 2008.

A review of the application file indicates that a Notice of Appeal and a Request for three-month extension of time were filed on 23 October 2008. Since the shortened statutory period has been reset to run from 09 September 2008, the fee ($1110) for three-month extension of time is not required. The amount of $1110 will be credited to Deposit Account No. 06-0916.

Any inquiry concerning this decision should be directed to the undersigned whose telephone is (571) 272-3613.

/Vincent N. Trans/
Vincent N. Trans, SPRE/QAS
Technology Center 2100
Computer Architecture, Software, and
Information Security

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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

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FEB 15 2008

OFFICE OF PETITIONS

In re Application of :
Naohiro Hirose :
Application No.: 10/972,352 :
Filed: October 26, 2004 :
Attorney Docket No.: 260354US90CONT :

ON PETITION

This is a decision on the petition, filed February 14, 2008, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 21, 2007, 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 2874 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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OBLON SPIVAK MCCLELLAND MAIER & NEUSTADT, LLP
1940 DUKE STREET
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Munetake Ebihara et al
Application No. 10/972,382
Filed: October 26, 2004
Attorney Docket No. 260883US6

This is a decision on the petition, filed May 7, 2010 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 6, 2010 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2431 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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TOWNSEND AND TOWNSEND AND CREW, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

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JAN 13 2010

In re Application of	:	
Vikas Sanathana Murthy, et al.	:	
Application No. 10/972,388	:	DECISION ON PETITION
Filed: October 26, 2004	:	TO WITHDRAW
Attorney Docket No. 026970-006310US	:	FROM RECORD
	:	

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 9, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 S. Morris 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 October 14, 2009 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Terri Johnson at 571-272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Vikas Sanathana Murthy**
3242 Alder Avenue
Freemont, CA 94536

cc: **Alston & Bird LLP**
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/972,388	10/26/2004	Vikas Sanathana Murthy	026970-006310US

CONFIRMATION NO. 1265

POWER OF ATTORNEY NOTICE

20350
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

OC000000039616184

Date Mailed: 01/12/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/09/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/mbrunson/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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DEC 0 4 2006

OFFICE OF PETITIONS

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

In re Application of	:
Nurishi	: DECISION ON PETITION
Application No. 10/972,427	:
Filed: October 26, 2004	:
Atty. Dkt. No.: 02975.103237	:

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 September 21, 2006.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is hereby **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." This is not a final agency decision.

This application became abandoned April 13, 2006 for failure to timely submit a proper reply to the non-final Office action mailed January 12, 2006. The non-final Office action set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed September 1, 2006.

Petitioner alleges non-receipt of the non-final Office mailed January 12, 2006.

In the absence of any irregularity in the mailing of the non-final Office action, there is a strong presumption that the non-final Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the non-final Office action was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. *See*, MPEP 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after

receipt rather than a conclusion that the Office communication was lost in the mail.

Office records indicate the Office communication was properly mailed to the correspondence address of record at the time of mailing. Accordingly, there was no irregularity in mailing the Office communication on the part of the United States Patent and Trademark Office.

The instant petition and supporting documentation have been carefully considered but are not found convincing. The copy of the docketing records submitted herewith is, to a great extent, illegible. Moreover, the records do not appear to reference the period of time in question. The non-final Office action was mailed January 12, 2006. The docketing records submitted at petitioner's Exhibit 1 are dated July 12, 2006. The docketing records submitted at petitioner's Exhibit 2 are dated April 5, 2006 to April 25, 2006.

Any renewed petition must be supported by sufficiently supporting evidence to establish non-receipt of the non-final Office action.

Further correspondence with respect to this matter should be addressed as follows:

By mail: **Mail Stop Petition**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300

By hand delivery: U.S. Patent and Trademark Office
Customer Window, **Mail Stop Petition**
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

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APR 19 2007

OFFICE OF PETITIONS

In re Application of :
Nurishi : DECISION ON PETITION
Application No. 10/972,427 :
Filed: October 26, 2004 :
Atty. Dkt. No.: 02975.103237 :

The above-identified application has been forwarded to the Office of Petitions for consideration of the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181 filed February 5, 2007.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is hereby **GRANTED**.

This application became abandoned April 13, 2006 for failure to timely submit a proper reply to the non-final Office action mailed January 12, 2006. The non-final Office action set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed September 1, 2006.

Petitioner continues to allege non-receipt of the non-final Office mailed January 12, 2006.

In the absence of any irregularity in the mailing of the non-final Office action, there is a strong presumption that the non-final Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the non-final Office action was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. *See*, MPEP 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

Office records indicate the Office communication was properly mailed to the correspondence address of record at the time of mailing. Accordingly, there was no irregularity in mailing the Office

communication on the part of the United States Patent and Trademark Office.

The arguments and supporting documentation presented have been carefully considered and support the conclusion that the non-final Office was not received.

In view thereof he Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The application file is being forwarded to Technology Center 2800 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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ROSENBERG KLEIN & LEE
3458 ELLICOTT CENTER DRIVE
SUITE 101
ELLICOTT CITY, MD 21043

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OFFICE OF PETITIONS

In re Application of	:	
Yuan-Wei Zheng et al	:	
Application No. 10/972,458	:	DECISION GRANTING PETITION
Filed: October 26, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. MR1035-1585	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 21, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before April 12, 2006, as required by the Notice of Allowance and Fee(s) Due mailed January 12, 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 $1,400 issue fee and $300 publication fee; (2) the $1,500 petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue and publication fees are accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

The application file is being referred to Publishing Division.

Frances Hicks
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DEERE & COMPANY
ONE JOHN DEERE PLACE
MOLINE IL 61265

MAILED

JAN 3 1 2008

Technology Center 2100

In re Application of:
Karl-Heinz Otto Mertins et al.
Application No. 10/972,467
Filed: October 25, 2004
For: METHOD AND SYSTEM FOR DETERMINING A LOCATION OF A WIND-POWERED ELECTRICAL ENERGY FACILITY

DECISION ON PETITION UNDER 37 C.F.R. § 1.84(a)(2) TO ACCEPT COLOR DRAWINGS

This is a decision on the petition under 37 C.F.R. § 1.84(a)(2) & (b)(2), filed October 25, 2004 requesting acceptance of color drawings.

The petition requests that the color drawings of Figures 8-14 be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. § 1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3 (three) sets of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"the file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition was filed with the required fee, three (3) sets of color drawings of Figures 8-14 and a request for amendment to the specification prior to labeled paragraph 4 containing the required notification described above.

The petition is **GRANTED**.

The application file is being forwarded to the Group technical support staff for entry of the proposed amendment filed with this petition. From there, the application file will be forwarded to Publications Branch to complete preparation for issue.

Kakali Chaki
Quality Assurance Specialist,
Technology Center 2100

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2180 TWO WACHOVIA CENTER
301 S. TRYON STREET
CHARLOTTE NC 28282

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OFFICE OF PETITIONS

In re Application of
Luke Charles Bradshaw et al.
Application No. 10/972,469
Filed: October 25, 2004
Attorney Docket No: 148/377

: DECISION GRANTING PETITION

This is a decision on the petition filed January 31, 2005, in response to the Notice to File Missing Parts ("Notice") mailed December 3, 2004, which is treated under 37 CFR 1.182.

The instant application was filed October 25, 2004 and a filing date was accorded. However, a "Notice" was mailed December 3, 2004 advising, amongst other things, that Figures 6a-6b described in the specification appeared to have been omitted.

Petitioner asserts that Figures 6a-6b were among the papers filed on October 25, 2004, and submits, *inter alia*, a "legible" postcard receipt in evidence thereof. The postcard receipt, identifies the application and acknowledges, inter alia, that the application included seven (7) sheets of drawings and bears a United States Patent and Trademark Office date-stamp of October 25, 2004. However, only six (6) sheets of drawing figures is of record and while the postcard did not specifically itemize the number of Figures, it is obvious that Figures 6a-6b were on sheet 6 of 7. Additionally, the postcard receipt lacks any notation of non-receipt of any item listed. In view thereof, the petition is **GRANTED.**

Given the basis for granting the petition, no petition fees are due and none have been charged.

This application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing, using the application papers received in the Office on October 25, 2004 and Figures 6a-6b submitted on petition January 31, 2005.

Telephone inquiries regarding 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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POLSTER, LIEDER, WOODRUFF & LUCCHESI
12412 POWERSCOURT DRIVE - SUITE 200
ST. LOUIS, MO 63131-3615

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DEC 21 2005

OFFICE OF PETITIONS

In re Application of	:	
David Keating, et. al.	:	
Application No. 10/972,488	:	ON PETITION
Filed: October 21, 2004	:	
Attorney Docket No. POWO 9270 C1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 2, 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 13, 2005. The Notice set a period for reply of two (2) months from the mail date of the Notice. Since no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the application became abandoned after midnight March 13, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Oath/Declaration along with the surcharge of $130; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

The Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address filed September 2, 2005, has been accepted and 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

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12412 POWERSCOURT DRIVE - SUITE 200
ST. LOUIS, MO 63131-3615

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OFFICE OF PETITIONS

In re Patent No. 7,145,085 :
Issue Date: December 5, 2006 :
Application No. 10/972,488 : ON PETITION
Filed: October 21, 2004 :
Patentee(s): David Keating, et. al. :

This is a decision on the petition under 37 CFR 3.81 filed February 12, 2007, which is being treated as a request under 37 CFR 3.81[1], to correct the assignee data on the front page of the above-identified patent by way of a Certificate of Correction.

Since the request is found to be in compliance with 37 CFR 3.81(b), the request is **GRANTED**.

The Certificates of Correction Branch will be notified of this decision granting the request under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3226. Inquiries regarding the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Andrea Smith
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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J. Scott Denko
Andrews & Kurth LLP
111 Congress Ave.
Suite 1700
Austin, TX 78701

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OFFICE OF PETITIONS

In re Application of	:	
Todd Tredeau et al.	:	
Application No. 10/972,496	:	DECISION ON PETITION
Filed: October 25, 2004	:	TO WITHDRAW
Attorney Docket No. 350-100	:	FROM RECORD
	:	

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 9, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, **no office action for which a response is due in the next 90 days**, 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: Gary Barton
FTI Consulting, Inc.
1001 Fannin, Suite 500
Houston, TX 77002

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OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA VA 22320

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OFFICE OF PETITIONS

In re Application of	:	
Kenjiro Hata	:	
Application No. 10/972,512	:	DECISION GRANTING PETITION
Filed: October 26, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 121628	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 2, 2006, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July7, 2006 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to April Wise at (571) 272-1642.

This application is being referred to Technology Center AU 2874 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Frances M. Hicks
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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RG and Associates
1103 Twin Creeks
Allen, TX 75013

Mail Date: 08/03/2010

Applicant	: Chiang Yeh	: DECISION ON REQUEST FOR
Patent Number	: 7639674	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/972,524	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/25/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **855** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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WELSH & KATZ, LTD
120 S RIVERSIDE PLAZA
22ND FLOOR
CHICAGO, IL 60606

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MAR 1 2 2008

OFFICE OF PETITIONS

In re Application of
CHUNG, Ho-Min
Application No. 10/972,525
Filed: October 25, 2004
Attorney Docket No. **9019-93166**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 19, 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 November 21, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **ROSENBERG, KLEIN & LEE**
3458 ELLICOTT CENTER DRIVE
SUITE 101
ELLICOTT CITY, MD 21043

PATENT
Docket No.: 35856/141

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	Dreyer, Harold B.	)	Examiner: T.M. Lithgow
Serial No.	:	10/972,554	)	Art Unit: 1797
Cnfrm. No.	:	1367	)	
Filed	:	October 25, 2004	)	
For	:	WATER FILTRATION SYSTEM HAVING REMOVABLE FILTER PANELS	)	

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Upon reviewing the patent term adjustment ("PTA") identified on form PTOL-85, applicant has identified what appears to be several errors in the PTA calculation. In particular, the response after non-final action, entered October 28, 2007, should have resulted in no applicant delay (rather than 32 days as indicated) because the shortened three-month period of response expired *after* entry of the response on October 31, 2007. Also, the response to election/restriction, entered December 27, 2006, should have resulted in applicant delay of 122 days (rather than 61 days as indicated). Consequently, by applicant's calculation, applicant is entitled to a patent term adjustment of 187 days rather than 216 days as indicated.

Applicant therefore requests that the U.S. Patent and Trademark Office ("PTO") re-calculate the PTA for the above-identified application. Because these errors appear to be the fault of the PTO, no fee is enclosed herewith. To the extent a fee is required, the PTO is hereby authorized to charge deposit account 14-1138 for any such charges.

Respectfully submitted,

Date: June 5, 2008

/Edwin V. Merkel/
Edwin V. Merkel
Registration No. 40,087

NIXON PEABODY LLP – Patent Group
1100 Clinton Square
Rochester, New York 14604
Telephone: (585) 263-1128
Facsimile: (585) 263-1600

12/18/2008 GARIAS 00000003 141138 10972554
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Edwin V. Merkel
Nixon Peabody LLP
Clinton Square
P.O. Box 31051
Rochester NY 14603-1051

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OFFICE OF PETITIONS

In re Application of	:	
Dreyer	:	DECISION ON APPLICATION
Application No. 10/972,554	:	FOR PATENT TERM ADJUSTMENT
Filed: October 25, 2004	:	
Atty. Dkt. No.: 35856-141	:	

This is a decision on the "REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT", filed June 5, 2008. This matter is being properly treated as an application for patent term adjustment pursuant to 37 CFR 1.705(b).

The application for patent term adjustment (PTA) under 37 CFR 1.705(b) is **DISMISSED**.

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b), mailed April 21, 2008, indicated a patent term adjustment (PTA) to date of 216 days. The instant application for PTA was timely filed June 5, 2008, at the time of submission of the issue fee payment.

The correct PTA at the time of the allowance is 216 days, as indicated on the Determination of Patent Term Adjustment mailed April 21, 2008.

Applicant does not dispute the adjustments totaling 309 days as of the time of allowance. Instead, applicant disputes the reductions totaling 93 days.

As concerns the reduction of 61 days in connection with the reply filed December 27, 2006, applicant argues that the correct reduction is 122 days. A review of the record reveals that the proper reduction under 37 CFR 1.704(b) is 61 days. The reduction commenced October 28, 2006, the day after the date that is three months after the date that the restriction requirement was mailed, and ended December 27, 2006, the date the reply in response thereto was filed.

As concerns the reduction of 32 days in connection with the reply (amendment) filed October 28, 2007, applicant argues that this reduction is in error because "the shortened three-month period of response expired *after* entry of the response on October 31, 2007." Applicant's argument has been carefully considered but is not found convincing. The adjustment is properly reduced 32 days in accordance with 37 CFR 1.704(c)(7). The reduction commenced September 27, 2007, the day after the date that the initial reply containing an omission was filed, and ended October 28, 2007, the date that the reply correcting the omission was filed.

In view thereof, as of the time of allowance, the application is entitled to an adjustment of 216 days, (adjustments totaling 309 days less reductions totaling 93 days).

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).

The required application for patent term adjustment fee of $200.00 has been charged to applicant's deposit account, as authorized.

This application is being forwarded to the Office of Data Management for further processing.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Kery Fries
Senior Patent Attorney
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

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Five Becker Farm Road
Roseland NJ 07068

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OFFICE OF PETITIONS

In re Application of	:	
Richard A. Chubb	:	
Application No. 10/972,565	:	DECISION ON PETITION
Filed: October 25, 2004	:	
Attorney Docket No. 690520.6	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 6, 2007, to revive the above-identified application.

The petition is **DISMISSED** as moot.

A review of this file record discloses that a non-final Office action was mailed on December 18, 2006, which set a three month shortened statutory period for reply, with extensions of time being available under 37 CFR 1.136(a). Accordingly, a reply was due on or before June 18, 2007, with a three month extension of time fee. A reply to the non-final Office action was received on June 6, 2007 and a three-month extension of time fee was received on June 7, 2007. Accordingly, as this application is not abandoned, the petition to revive was prematurely filed and is hereby dismissed as involving a moot issue. Further, the request for extension of time filed on June 7, 2007 recognized that the petition to revive was filed in error.

In view of the above, the $750 petition fee is unnecessary and will be refunded to petitioner's deposit account in due course.

This application is being referred to Technology Center AU 3618 for appropriate action in the normal course of business on the reply received June 6, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

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

LEONG C. LEI
PMB # 1008
1867 YGNACIO VALLEY ROAD
WALNUT CREEK, CA 94598

COPY MAILED

DEC 0 2 2008

OFFICE OF PETITIONS

In re Application of	:	
Jang Chung Fang	:	
Application No. 10/972,570	:	ON PETITION
Filed: October 25, 2004	:	
Attorney Docket No. 1035.1014	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 2, 2008, to revive the above-identified application.

The instant petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Charles E. Baxley 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 on whose behalf he/she acts. If Mr. Baxley desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted.

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 respond to the Notice of Non-Compliant Amendment (37 CFR 1.121) mailed September 30, 2005.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. *See* MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (3).

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (almost 3 years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on October 31, 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 Leong C. Lei was the counsel of record at the time of abandonment, he/she should explain why this application became abandoned while it was under his/her control and what efforts was made to reply and with whom this matter was discussed outside of his/her Office. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from the responsible person, Leong C. Lei and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons at the Offices of Leong C. Lei, and the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n

order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, almost 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 then at the Offices of Leong C. Lei 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.

A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Charles E. Baxley
90 John Street, Suite 309
New York, NY 10038-3243

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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LEONG C. LEI
PMB # 1008
1867 YGNACIO VALLEY ROAD
WALNUT CREEK, CA 94598

COPY MAILED

JUL 29 2009

OFFICE OF PETITIONS

In re Application of
Jang Chung Fang
Application No. 10/972,570
Filed: October 25, 2004
Attorney Docket No. 1035.1014

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed January 21, 2009, to revive the above-identified application.

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark 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; (2) the petition fee of $770; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

It is noted that petitioner provided the Office with a copy of a stamped postcard receipt that shows the USPTO received a power of attorney or authorization of agent on June 15, 2005, but was subsequently misplaced within the Office. Petitioner should note that the power of attorney, if located, would not be accepted since it was not accompanied by the appropriate Statement under 37 CFR 3.73(b). Thus, this will be the last communication being addressed to petitioner until a proper power of attorney along with a Statement under 37 CFR 3.73(b) and any supporting documentation has been submitted.

This application file is being referred to Technology Center Art Unit 1745 for review of the amendment filed October 2, 2008.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Charles E. Baxley
90 John Street – Suite 309
New York, NY 10038

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

COPY MAILED
JUL 18 2008

In re Application of	:	
Hamid Sayar	:	
Application No. 10/972,584	:	ON PETITION
Filed: October 26, 2004	:	
Attorney Docket No. 2003P16341US01	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 6, 2007, to revive the above-identified application.

The application became abandoned for failure to respond to the non-final Office action mailed April 2, 2007. A Notice of Abandonment was mailed on October 18, 2007.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Gary H. Monka 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 Mr. Monka desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

Additionally, 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 petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment and terminal disclaimer under 37 CFR 1.321 with the $130 fee; (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 3752 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Gary H. Monka
Canavan & Monka, LLC
62 Grove Street
Somerville, NJ 08876

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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HENKEL CORPORATION
One Henkel Way
ROCKY HILL, CT 06067

Mail Date: 04/21/2010

Applicant	: Shawn E. Dolan	: DECISION ON REQUEST FOR
Patent Number	: 7569132	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/972,592	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/25/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **138** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/20/09

TO SPE OF : ART UNIT 3731

SUBJECT : Request for Certificate of Correction for Appl. No.: 10972633 Patent No.: 7318436

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

Valerie Jackson
Certificates of Correction Branch
703-308-9390 ext. 114

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: _____

ANH TUAN T. NGUYEN
SUPERVISORY PATENT EXAMINER
SPE 4/28/09

3731
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/972,649	10/26/2004	Satoru Furuya	MAE 331	3238

23995 7590 07/22/2008
RABIN & Berdo, PC
1101 14TH STREET, NW
SUITE 500
WASHINGTON, DC 20005

EXAMINER
TRAN, THAO T

ART UNIT	PAPER NUMBER
1794	

MAIL DATE	DELIVERY MODE
07/22/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

wk

Mailed: 7-22-08

In re application of	:	
Furuya et al.	:	DECISION ON
Serial No. 10/972,649	:	PETITION
Filed: October 26, 2004	:	
For: TRANSFER MEMBER AND IMAGE FORMING APPARATUS	:	

This is a response to the applicant's request filed June 2, 2008 asking that the Director exercise his supervisory authority by requiring the Examiner to comply with MPEP 2144.03. Applicant's request is being considered a PETITION UNDER RULE 37 C.F.R. 1.181.

The petition requests that the Examiner be directed to supply the requested evidence supporting the statement "it is noted that it has been conventional in the electrophotography art to select the type and amount of conductive agents to adjust electric resistivity of the layers in the photosensitive drum, transfer roll, or other part of the apparatus" and to also restart the period for responding to the Office Action of April 2, 2008.

The statement by the Examiner was presented in the office action that was mailed on January 10, 2007. In certain circumstances where appropriate, an examiner may take official notice of facts not in the record or rely on "common knowledge" in making a rejection. Official Notice unsupported by documentary evidence should only be taken by the examiner where the facts asserted to be well-known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well-known.

If applicant challenges a factual assertion as not properly officially noticed or not properly based upon common knowledge, the Examiner must support the finding with adequate evidence. To adequately traverse such a finding, an applicant must specifically point out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art. See 37 CFR 1.111(b).

DECISION

Applicants' amendment filed on February 20, 2008 challenged the assertion made by the Examiner. The Office Action of April 2, 2008 did not attempt to justify the Examiner's assertion despite the Applicants' request for supporting evidence.

10/972,649

The petition is **GRANTED**.

The previous office action of April 2, 2008 is being vacated and the application is being returned to the Examiner for an issuance of a new office action addressing Applicants request for supporting evidence on the Examiner's assertion. The issuance of a new office action will also restart the period for response based on the mailing date of the new action.

Jacqueline M. Stone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Allen Wood
RABIN & BERDO, PC
1101 14TH STREET, NW
SUITE 500
WASHINGTON DC 20005

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TOWNSEND AND TOWNSEND AND CREW, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

COPY MAILED

JAN 13 2010

In re Application of	:	
Vikas Sananthana Murthy, et al.	:	
Application No. 10/972,650	:	DECISION ON PETITION
Filed: October 26, 2004	:	TO WITHDRAW
Attorney Docket No. 026970-006340US	:	FROM RECORD
	:	

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 9, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 S. Morris 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 August 10, 2009 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Terri Johnson at 571-272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Vikas Sanathana Murthy**
3242 Alder Avenue
Freemont, CA 94536

cc: **ALSTON & BIRD LLP**
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000

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
10/972,650	10/26/2004	Vikas Sanathana Murthy	026970-006340US

CONFIRMATION NO. 9577

POWER OF ATTORNEY NOTICE

20350
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

OC000000039638417

Date Mailed: 01/13/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/09/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tsjohnson/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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SAP / FINNEGAN, HENDERSON LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

Mail Date: 05/04/2010

Applicant	: Janet Dorothy Salmon	: DECISION ON REQUEST FOR
Patent Number	: 7624341	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/972,679	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/26/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **675** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 (MICROSOFT CORPORATION)
ONE LIBERTY PLACE - 46TH FLOOR
PHILADELPHIA PA 19103

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OFFICE OF PETITIONS

In re Application of	:	
Tang et al.	:	
Application No. 10/972,697	:	ON PETITION
Filed: 25 October, 2004	:	
Atty Docket No. MSFT-	:	
4585/300117.04	:	

This is a decision on the petition filed under 37 CFR 1.182 on 22 November, 2004, requesting that the terminal disclaimer filed on 25 October, 2004, be withdrawn.

The petition is dismissed.

The examiner has determined that the terminal disclaimer should not be withdrawn because Application No. 10/185,049 claims the obvious variation of the current application.

As the examiner has determined that withdrawal of the terminal disclaimer is not appropriate, the petition will be dismissed.

As this petition was considered on the merits, a petition fee of $130.00[1] is due, and will be assessed to counsel's deposit account, No. 23-3050, as authorized in the present petition.

The application file is being referred to Technology Center 2800 for further processing.

Telephone inquires should be directed to the undersigned at 571.272.3231.

Douglas Wood
Senior Petitions Attorney
Office of Petitions

[1] $130.00 was the fee amount required on 22 November, 2004, for a petition under 37 CFR 1.182.

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PHILADELPHIA PA 19103

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OFFICE OF PETITIONS

In re Application of	:	
Tang et al.	:	
Application No. 10/972,697	:	ON PETITION
Filed: 25 October, 2004	:	
Atty Docket No. MSFT-	:	
4585/300117.04	:	

This is a decision on the renewed petition filed on 1 December, 2005 which requests under 37 C.F.R. §1.182 that a previously filed terminal disclaimer be withdrawn. The petition fee has been received.

The petition is granted.

Petitioners assert that the Terminal Disclaimer filed on 25 October, 2004, contains an error in that it was not signed by an attorney of record. Petitioners have filed a substitute Terminal Disclaimer with the present petition.

As the examiner has concurred, the request can be favorably considered.

As the petition fee was previously received, no additional fee is due. The $130.00 submitted with the present renewed petition will be credited to counsel's deposit account, No. 23-3050, as authorized in the petition.

This application is being referred to Technology Center Art Unit 2863 for further processing consistent with this decision.

Telephone inquiries relative 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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PATENT LAW OFFICE OF DAVID G. BECK
P. O. BOX 1146
MILL VALLEY CA 94942

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OFFICE OF PETITIONS

In re Application of :
TESSIEN, Ross A. :
Application No. 10/972,705 : DECISION ON PETITION
Filed: October 25, 2004 : TO WITHDRAW
Attorney Docket No. **IMP005CPC** : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 20, 2007.

The request is **NOT APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request "assignee Impulse Devices, Inc. knowingly and freely assents to termination" does not meet any of the conditions set forth in 37 CFR 10.40.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being

submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number). The request to withdraw as attorney filed on March 20, 2007 does not include one of the above two options.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **ROSS TESSIEN**
C/O IMPULSE DEVICES, INC.
13366 GRASS VALLEY AVENUE, UNIT H
GRASS VALLEY, CA 95945

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P. O. BOX 1146
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OFFICE OF PETITIONS

In re Application of :
TESSIEN, Ross A. :
Application No. 10/972,705 : DECISION ON PETITION
Filed: October 25, 2004 : TO WITHDRAW
Attorney Docket No. **IMP005CPC** : FROM RECORD
:

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 9, 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 reason set forth in the request "discharged by assignee Impulse Devices, Inc." does not meet any of the conditions set forth in 37 CFR 10.40.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain

of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number). The request to withdraw as attorney filed on March 20, 2007 does not include one of the above two options.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **ROSS TESSIEN**
C/O IMPULSE DEVICES, INC.
13366 GRASS VALLEY AVENUE, UNIT H
GRASS VALLEY, CA 95945

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P.O. BOX 1146
MILL VALLEY, CA 94942

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MAY 23 2008

In re Application of	:	
TESSIEN, Ross A.	:	
Application No. 10/972,705	:	DECISION ON PETITION
Filed: October 25, 2004	:	TO WITHDRAW
Attorney Docket No. **12259-1**	:	FROM RECORD
	:	

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 28, 2008.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to **PATENT LAW OFFICE OF DAVID G. BECK** has been revoked by the assignee of the patent application on April 2, 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: **MAYNARD COOPER & GALE, PC**
1901 SIXTH AVENUE NORTH
2400 REGIONS/HARBERT PLAZA
BIRMINGHAM, AL 35203-2618

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TOWNSEND AND TOWNSEND AND CREW, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

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In re Application of	:	
Vikas Sanathana Murthy, et al.	:	
Application No. 10/972,712	:	DECISION ON PETITION
Filed: October 26, 2004	:	TO WITHDRAW
Attorney Docket No. 026970-006330US	:	FROM RECORD
	:	

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 9, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 S. Morris 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 assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed August 10, 2009 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Terri Johnson at 571-272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Verisign ICX Corporation**
487 East Middlefield Road
Mountain View, CA 94043

cc: **ALSTON & BIRD LLP**
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000

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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
10/972,712	10/26/2004	Vikas Sanathana Murthy	026970-006330US

CONFIRMATION NO. 9604

POWER OF ATTORNEY NOTICE

20350
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

OC000000039591647

Date Mailed: 01/11/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/09/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tsjohnson/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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11800 SUNRISE VALLEY DRIVE
SUITE 1000
RESTON VA 20191

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In re Application of	:	
BARKLEY et al.	:	
Application No. 10/972,726	:	DECISION ON PETITION
Filed: October 25, 2004	:	TO WITHDRAW
Attorney Docket No. 2870-007CIP	:	FROM RECORD
	:	

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 16, 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 Jon L. Roberts 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.

All future correspondence will be directed to the first named inventor Robb Barkley at the address indicated below.

Telephone inquiries concerning this decision should be directed to Monica Graves at 571-272-7253.

David Bucci
Petitions Examiner
Office of Petitions

cc: Robb Barkley
4684 Bishop Lake Road
Marietta, GA 30062

cc: Paul Arena
i2 Telecom International, Inc.
1200 Abernathy Road, Suite 1800
Atlanta, GA 30328

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GIFFORD, KRASS, SPRINKLE, ANDERSON & CITKOWSKI, P.C
PO BOX 7021
TROY, MI 48007-7021

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In re Application of	:	
John Hilfinger	:	
Application No. 10/972,729	:	ON PETITION
Filed: October 25, 2004	:	
Attorney Docket No. TSR-10402/38	:	
	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 1, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on March 22, 2008 for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action mailed September 21, 2007. It is noted that a Request for Continued Examination (RCE) was filed on March 20, 2008. However, the RCE was held improper by a Notice mailed March 26, 2008, since it did not include the submission required by 37 CFR 1.114. This decision precedes the mailing of a Notice of Abandonment. On April 1, 2008 the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the submission required by 37 CFR 1.114 in the form of an amendment; (2) the petition fee of $770; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 1623 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
ATLANTA GA 30309

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OFFICE OF PETITIONS

In re Application of	:	
Thors et al.	:	
Application No. 10/972,734	:	DECISION GRANTING PETITION
Filed: October 25, 2004	:	
Attorney Docket No. 46315/293649A	:	

This is a decision on the petition filed March 4, 2005, requesting that the above-identified application be accorded a filing date of October 25, 2004.

On October 25, 2004, applicant deposited the above-identified application. On January 12, 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 specification did not include at least one claim and that the filing date would be the date of receipt of the omitted item. Additionally, the Notice required an executed oath or declaration and an abstract.

In response, on March 4, 2005, applicant filed the present petition, the petition fee, and a copy of applicant's postcard receipt acknowledging receipt of twenty-five pages of specification on October 25, 2004. Additionally, applicant submitted a copy of two pages of claims and one page of abstract as originally filed, an executed declaration and a surcharge for its late filing.

The record indicates that the Office received twenty-two pages of specification on October 25, 2004; however, the two pages of claims and one page of abstract, deposited on October 25, 2004, have not been located among the application papers. Nevertheless, the evidence is convincing that the application papers deposited on October 25, 2004, included two pages of claims and one page of abstract, which were subsequently misplaced in the United States Patent and Trademark Office.

Therefore, the application, including the two pages of claims and one page of abstract, was complete on filing and will be granted a filing date of October 25, 2004.

Accordingly, the petition is granted.

The Notice of January 12, 2005, incorrectly stated that the specification was deposited without any claims or an abstract. Accordingly, the $400.00 petition fee is unnecessary and will be credited to Deposit Account No. 11-0855.

The Office of Initial Patent Examination is directed to **accord the above-identified application a filing date of October 25, 2004**, using the twenty-two pages of specification submitted on that date, and the copy of the two pages of claims and one page of abstract submitted on March 4, 2005. Additionally, the Office of Initial Patent Examination should mail a corrected filing receipt indicating a file date of October 25, 2004, for the above-identified application.

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON, WI 53701-1497

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OFFICE OF PETITIONS

In re Application of	:	
Khaja Mohi-ud Din et al	:	
Application No. 10/972,736	:	DECISION ON PETITION
Filed: October 25, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 048239-0101	:	37 CFR 1.102(d)
	:	

This is a decision on the petition under 37 CFR 1.102(d), filed May 8, 2006, to make the above-identified application special based on prospective manufacture as set forth in M.P.E.P. § 708.02, Section I.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(d) and MPEP § 708.02, Section I: Manufacture, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the Office alleging:

> (A) The possession by the prospective manufacturer of sufficient presently available capital (stating approximately the amount) and facilities (stating briefly the nature thereof) to manufacture the invention in quantity or that sufficient capital and facilities will be made available if a patent is granted;
>
> If the prospective manufacturer is an individual, there must be a corroborating statement from some responsible party, as for example, an officer of a bank, showing that said individual has the required available capital to manufacture;
>
> (B) That the prospective manufacturer will not manufacture, or will not increase present manufacture, unless certain that the patent will be granted;
>
> (C) That the prospective manufacturer obligates himself, herself or itself, to manufacture the invention, in the United States or its possessions, in quantity

immediately upon the allowance of claims or issuance of a patent which will protect the investment of capital and facilities; and

(D) That the applicant or assignee has made or caused to be made a careful and thorough search of the prior art, or has a good knowledge of the pertinent prior art.

Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The instant petition fails to meet the requirements set forth above for special status because it lack items (A); therefore, the petition is dismissed.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to Irvin Dingle at 571-272-3210.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 1722 for action in its regular turn.

David Bucci
Petitions Examiner
Office of Petitions

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SHAY GLENN LLP
2755 CAMPUS DRIVE
SUITE 210
SAN MATEO, CA 94403

Mail Date: 04/21/2010

Applicant	: Xiaoguang Ma	: DECISION ON REQUEST FOR
Patent Number	: 7586828	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/972,759	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/25/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1287** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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DLA PIPER US LLP
4365 EXECUTIVE DRIVE
SUITE 1100
SAN DIEGO, CA 92121-2133

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In re Application of	:	
ROSENFELD, David et al.	:	
Application No. 10972,767	:	DECISION ON PETITION
Filed: October 25, 2004	:	TO WITHDRAW
Attorney Docket No. **MMI1120-4**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 10, 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 Lisa Haile on behalf of all attorneys of record who are associated with customer No. 28213. 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 April 24, 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: **DAVID ROSENFELD**
3431 DAVID WAY
SACRAMENTO, CA 95820

cc: **EDWIN C. QUATTLEBAUM, PH.D**
METAMORPHIX, INC.
8000 VIRGINIA MANOR ROAD
SUITE 140
BELTVILLE, MD 20705

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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, D.C. 20005

In Re Application:	:	
Jun Tsuiki	:	
Appl No. 10/972,771	:	WITHDRAW FROM ISSUE
Filed: October 24, 2004	:	FEE NOT PAID
Attorney Docket No.: 1080.1145	:	

For: **STORAGE DEVICE**

The purpose of this communication is to inform you that the above identified application is being withdrawn from issue pursuant to 37 CFR 1.313(a).

The above-identified application is withdrawn from issue before payment of the issue fee to determine patentability.

Patent and Trademark Office records reveal that the issue fee has not been paid. If the issue fee has been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a specified Deposit Account.

The application is being forwarded to the examiner for action.

Jack Harvey
Director, Technology Center 2100
Computer Architecture, Software
And Electronic Commerce

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GOODWIN PROCTER LLP
PATENT ADMINISTRATOR
53 STATE STREET
EXCHANGE PLACE
BOSTON, MA 02109-2881

Mail Date: 04/20/2010

Applicant	: John Austin	: DECISION ON REQUEST FOR
Patent Number	: 7585463	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/972,792	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/25/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1009** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OFFICE OF PETITIONS

In re Application of :
Anthony P. Eaton and David Messersmith :
Application No. 10/972,795 :
Filed: October 25, 2004 :
Attorney Docket No. 34123US (KDK) :
Title: LNG SYSTEM EMPLOYING :
STACKED VERTICAL HEAT :
EXCHANGERS TO PROVIDE LIQUID :
REFLUX STREAM :

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 August 15, 2005.

On October 25, 2004, the application was deposited. No oath or declaration was included on filing. On January 14, 2005, 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. This Notice set a two-month period for reply.

With the present petition, Petitioner has submitted the petition fee[2], the associated surcharge, a statement of facts, and a declaration which has been signed by Messrs. Eaton and Messersmith.

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.

2 Petitioner has included $130, when the amount due is $200. The additional $70 has been charged to Petitioner's Deposit Account.

Petitioner has further included a five-month extension of time to make timely this response (it is noted that August 14, 2005 fell on a Sunday).

Petitioner has indicated that Ed E. Bailey refuses to sign the declaration, however Ed E. Bailey is not listed as an inventor for this application – Mr. Bailey does not appear as an inventor on the declaration. The declaration lists two inventors for this application, and Mr. Bailey is not one of them. Petitioner will note that pursuant to 37 C.F.R. §1.48(f)(1), inventorship is set by the first submission of an executed declaration.

It appears as though Mr. Bailey should have been listed on the declaration. Petitioner should consider submitting a renewed petition, along with petitions under 37 C.F.R. §§1.48(a) to add Mr. Bailey and 1.183 to waive 1.48(a)(2). Petitioner will also need to submit a new declaration, as the declaration submitted with this petition does not comply with 37 C.F.R. §1.63(a)(2), in that the non-signing joint inventor is not listed as an inventor on the declaration. As set forth in MPEP 409.03(a):

> A) All the available joint inventors must (1) make oath or declaration on their own behalf as required by 37 CFR 1.63 or 1.175 (see MPEP § 602, § 605.01, and § 1414) and (2) make oath or declaration on behalf of the nonsigning joint inventor as required by 37 CFR 1.64. <u>An oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the available joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated</u>.

(Emphasis added).

As such, the petition must be **DISMISSED**.

Any reply 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 reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. §1.47(a)," and should include an acceptable declaration. This is not a final agency action within the meaning of 5 U.S.C 704. The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski. Any renewed petition may be submitted by mail[3], hand-delivery[4], or facsimile[5]. 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

3 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
4 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
5 (571) 273-8300- please note this is a central facsimile number.

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OFFICE OF PETITIONS

In re Application of	:	
Anthony P. Eaton, David	:	DECISION ON PETITION
Messersmith, and Ed E. Bailey	:	PURSUANT TO
Application No. 10/972,795	:	37 C.F.R. § 1.48, AS WELL
Filed: October 25, 2004	:	AS NOTING JOINDER AND
Attorney Docket No. 34123US	:	DISMISSING RENEWED PETITION
(KDK)	:	UNDER 37 C.F.R. § 1.47(A) AS
Title: LNG SYSTEM EMPLOYING	:	MOOT
STACKED VERTICAL HEAT	:	
EXCHANGERS TO PROVIDE LIQUID	:	
REFLUX STREAM	:	

This is in response to the renewed petition under 37 C.F.R. § 1.47(a)[1], filed November 4, 2005, along with the concurrently filed petition pursuant to 37 C.F.R. § 1.48.

1A grantable petition under 37 C.F.R. §1.47(a) requires:

(1) the petition fee of $200;
(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 C.F.R. § 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 C.F.R. § 1.63.

The Office regrets the period of delay in issuing this decision.

On October 25, 2004, the application was deposited. No oath or declaration was included on filing. On January 14, 2005, 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. This Notice set a two-month period for reply.

An original petition pursuant to 37 C.F.R. § 1.47(a) was filed on August 15, 2005, and was dismissed via the mailing of a decision on September 16, 2005.

The petition pursuant to 37 C.F.R. § 1.48:

With the present petition, Petitioner has submitted a request to correct the inventorship that sets forth the desired inventorship change, a statement from the person being added as an inventor that the error in inventorship occurred without deceptive intention on his part, a declaration by the actual inventors, the processing fee, and the written consent of the Assignee.

As such, the petition pursuant to 37 C.F.R. § 1.48 is **GRANTED**.

The renewed petition pursuant to 37 C.F.R. § 1.47(a):

With this renewed petition, Petitioner has included a declaration that has been executed by the previously non-signing joint inventor.

As such, this renewed petition is **DISMISSED AS MOOT**.

In view of the joinder of the joint inventor, further consideration under 37 C.F.R. § 1.47(a) is not necessary and the petition is considered moot. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 C.F.R. § 1.47(a).

The Office of Patent Publication will be notified of this decision.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[2]. All other inquiries concerning the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

---

2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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Maccord Mason PLLC
300 N. Greene Street, Suite 1600
P.O. Box 2974
Greensboro, NC 27402

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In re Application of	:	
Thomas A. Arrendale, III et al.	:	
Application No. 10/972,819	:	DECISION ON PETITION
Filed: October 25, 2004	:	TO WITHDRAW
Attorney Docket No. 7341-02A	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 21, 2005.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Howard A. MacCord, Jr. on behalf of all attorneys of record who are associated with Customer No. 04678.

All attorneys/agents associated with the Customer Number 04678 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 Thomas J. Arrendale, III at the address indicated below.

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 of the entire interest at the first copied address below until otherwise properly notified by the applicant.

There is no outstanding Office action at this time.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

David Bucci
Petitions Examiner
Office of Petitions

cc: Thomas J. Arrendale, III
P.O. Box 558
Baldwin, GA 30511

cc: Greg O'Bradovich Esq.
Myers & Kaplan Intellectual Property Law, LLC
1899 Powers Ferry Road, Suite 310
Atlanta, GA 30339

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/972,819	10/25/2004	Thomas A. Arrendale III	7341-02A

CONFIRMATION NO. 1168

OC000000019744279

OC000000019744279

04678
MACCORD MASON PLLC
300 N. GREENE STREET, SUITE 1600
P. O. BOX 2974
GREENSBORO, NC 27402

Date Mailed: 07/25/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/21/2005.

- 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.

Terri S. Williams

TERRI S WILLIAMS
OP (571) 272-2991

FORMER ATTORNEY/AGENT COPY

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In re Application of	:	
Roche et al.	:	
Application No. 10/972,837	:	LETTER REGARDING
Filed: October 25, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. 2082	:	

This letter is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705," filed March 24, 2009. Applicants request that the initial determination of patent term adjustment under 35 USC 154(b) be reduced by eight (8) days from 343 days to 335 days. The request is treated as a request pursuant to applicant's duty of good faith and candor to the Office.

The request for review of patent term adjustment is **GRANTED to the extent indicated.**

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) at the time of the mailing of the Notice of Allowance is 320 days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On March 10, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 USC 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 343 days.[1] The instant request for review of patent term adjustment was timely filed.[2]

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[1] 405 days of Office delay were reduced by 62 days of applicant delay for a patent term adjustment of 343 days.

[2] PALM Records indicate that the issue fee was paid on May 18, 2009.

Applicants state that the PTA calculation appears to be longer than appropriate. Specifically, applicants assert that the patent term adjustment should be reduced by eight (8) days for the filing, on December 2, 2008, of a response to a notice of non-compliant appeal brief mailed on October 24, 2008, which is one (1) month and eight (8) days after the mailing of the notice mailed on October 24, 2008.

Applicants should note that the filing of a defective appeal brief is not an omission for purposes of patent term adjustment because an appeal brief is not considered a reply in accordance with 37 CFR 1.704. Accordingly, entry of a period of reduction of 8 days of applicant delay is not warranted.

However, it is further noted that 37 CFR 1.703(a)(4) states that the period of adjustment includes the number of days, if any, in the period beginning on the day after the date that is four months after the date an appeal brief in compliance with § 41.37 of this title was filed and ending on the date of mailing of any of an examiner's answer under § 41.39 of this title, an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first.

On October 24, 2008, a Notification of Non-Compliant Appeal Brief (37 CFR 41.37) was mailed, stating that the Appeal Brief filed on October 15, 2008 was defective because it did not comply with 37 CFR 41.37(c)(1)(iii). On December 2, 2008, a corrected Appeal Brief in compliance with 37 CFR 41.37 was filed. Accordingly, the date that an appeal brief in compliance with § 41.37 was filed was December 2, 2008. As the notice of allowance mailed on March 10, 2009 was mailed within four (4) months of the date the appeal brief in compliance with § 41.37 was filed, the entry of a period of Office delay of 23 days for mailing of a notice of allowance four (4) months and 23 days after the filing of an appeal brief in compliance with § 41.37 is not warranted and will be removed.

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is three hundred twenty (320) days (382 (405 - 23) days of PTO delay, reduced by 62 days of Applicant delay).

As this letter was submitted as an advisement to the Office of an error in Applicant's favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The $200.00 fee is being

refunded. The Office thanks Applicants for their good faith and candor in bringing this matter to the attention of the Office.

The Office of Data Management has been advised of this decision. The application is thereby forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.

Nancy Johnson

Anthony Knight
Supervisor
Office of Petitions

Encl: Revised PALM Calculation

Day : Saturday
Date: 9/12/2009

PALM INTRANET

Time: 09:21:59

PTA Calculations for Application: 10/972837			
Application Filing Date:	10/25/2004	PTO Delay (PTO):	405
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	62
Post-Issue Petitions:	0	Total PTA (days):	320
PTO Delay Adjustment:	-23		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
73	09/12/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		23	
66	03/10/2009	MAIL NOTICE OF ALLOWANCE	23		51
65	03/09/2009	ISSUE REVISION COMPLETED			
64	03/04/2009	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
63	03/04/2009	DOCUMENT VERIFICATION			
62	03/04/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
61	03/02/2009	NOTICE OF ALLOWABILITY			
58	12/29/2008	APPEAL BRIEF REVIEW COMPLETE			
57	12/29/2008	DATE FORWARDED TO EXAMINER			
56	12/02/2008	APPEAL BRIEF FILED			
55	12/02/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
54	10/24/2008	NOTICE -- DEFECTIVE APPEAL BRIEF			
53	10/23/2008	APPEAL BRIEF REVIEW COMPLETE			
52	10/23/2008	DATE FORWARDED TO EXAMINER			
51.1	10/15/2008	DEFECTIVE / INCOMPLETE APPEAL BRIEF FILED			
51	10/15/2008	APPEAL BRIEF FILED			
50	10/06/2008	CASE DOCKETED TO EXAMINER IN GAU			
49	09/17/2008	MAIL APPEALS CONF. PROCEED TO BPAI			
48	09/15/2008	PRE-APPEALS CONFERENCE DECISION - PROCEED TO BPAI			
47	07/28/2008	REQUEST FOR PRE-APPEAL CONFERENCE FILED			
46	07/28/2008	NOTICE OF APPEAL FILED		31	40
		REQUEST FOR EXTENSION OF TIME - GRANTED			

45	07/28/2008				
44	06/17/2008	MAIL ADVISORY ACTION (PTOL - 303)			
43	06/13/2008	ADVISORY ACTION (PTOL-303)			
42	05/29/2008	DATE FORWARDED TO EXAMINER			
41	05/27/2008	AMENDMENT AFTER FINAL REJECTION			
40	03/27/2008	MAIL FINAL REJECTION (PTOL - 326)			
39	03/25/2008	FINAL REJECTION			
38	01/29/2008	DATE FORWARDED TO EXAMINER			
37	01/10/2008	RESPONSE AFTER NON-FINAL ACTION			
36	10/10/2007	MAIL NON-FINAL REJECTION			
35	10/09/2007	NON-FINAL REJECTION			
34	09/13/2007	DATE FORWARDED TO EXAMINER			
33	09/10/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
32	09/13/2007	DATE FORWARDED TO EXAMINER			
31	09/10/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)		31	24
30	09/13/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
29	09/10/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
28	07/20/2007	MAIL ADVISORY ACTION (PTOL - 303)			
27	07/19/2007	ADVISORY ACTION (PTOL-303)			
26	07/16/2007	DATE FORWARDED TO EXAMINER			
25	07/10/2007	AMENDMENT AFTER FINAL REJECTION			
24	05/10/2007	MAIL FINAL REJECTION (PTOL - 326)			
23	05/09/2007	FINAL REJECTION			
22	04/12/2007	DATE FORWARDED TO EXAMINER			
21	04/11/2007	RESPONSE AFTER NON-FINAL ACTION			
20	04/02/2007	CASE DOCKETED TO EXAMINER IN GAU			
19	02/01/2007	CASE DOCKETED TO EXAMINER IN GAU			
18	01/11/2007	MAIL NON-FINAL REJECTION	382		-1
17	01/08/2007	NON-FINAL REJECTION			
16	10/25/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
15	09/19/2006	CASE DOCKETED TO EXAMINER IN GAU			
14	09/19/2006	CASE DOCKETED TO EXAMINER IN GAU			
13	08/19/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
12	08/19/2005	CASE DOCKETED TO EXAMINER IN GAU			

11.7	10/25/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	10/25/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	10/25/2004	PRELIMINARY AMENDMENT			
9	01/14/2005	APPLICATION RETURN FROM OIPE			
8	01/14/2005	APPLICATION RETURN TO OIPE			
7	01/14/2005	APPLICATION DISPATCHED FROM OIPE			
6	01/14/2005	APPLICATION IS NOW COMPLETE			
5	10/25/2004	PGPUBS NONPUB REQUEST			
4	01/05/2005	CLEARED BY OIPE CSR			
3	01/05/2005	CASE CLASSIFIED BY OIPE			
2	01/04/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	10/25/2004	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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OVERLAND PARK, KS 66251-2100

Mail Date: 04/21/2010

Applicant	: Elizabeth C. Roche	: DECISION ON REQUEST FOR
Patent Number	: 7603421	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/972,837	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/25/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **345** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OFFICE OF PETITIONS

In re Application of	:	
Joseph L. Pfaff	:	
Application No. 10/972,853	:	ON PETITION
Filed: October 25, 2004	:	
Attorney Docket No. 470223.00026	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 25, 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 May 8, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on August 9, 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 issue fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This matter is being referred to the Publishing Division for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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94080

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OFFICE OF PETITIONS

In re Application of

Salimi-Moosavi, et al.

Application No. 10/972,859

Filed: October 25, 2004

Attorney Docket No. 137.01US

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 20, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to file and Appeal Brief after the filing of a Notice of Appeal was filed on October 19, 2006. The application became abandoned on December 20, 2006. A Notice of Abandonment was mailed June 19, 2007.

The Request for Continued Examination and amendment filed June 19, 2007, is noted.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being

mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

The application file is being forwarded to Technology Center 1600, GAU 1644 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc:
Narinder S. Banait
Fenwick & West LLP
801 California Street
Mountain View, CA 94040

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MICHAEL I. KROLL
171 STILLWELL LANE
SYOSSET, NY 11791

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JAN 24 2006

OFFICE OF PETITIONS

In re Application of
Brett M. Christoffel
Application No. 10/972,927
Filed: October 25, 2004
Attorney Docket No. BC-1-GW

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed October 31, 2005.

The petition is GRANTED.

The application became abandoned for failure to pay the issue fee on or before August 18, 2005. A Notice of Abandonment was mailed on October 25, 2005. Receipt is acknowledged of the requisite issue/publication fee on October 31, 2005.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Although the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement will be construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The application is being referred to Publishing Division.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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123 SOUTH BROAD STREET
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PHILADELPHIS PA 19109

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FEB 24 2009

OFFICE OF PETITIONS

In re Application of	:	
Herbert J. Nevyhas et al	:	
Application No. 10/972,940	:	DECISION ON PETITION
Filed: October 25, 2004	:	
Attorney Docket No. 61229.00002	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 23, 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 replacement drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance/Notice of Allowability mailed September 8, 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 the Office of Data Management to be processed into a patent and for review of the drawings submitted on January 23, 2009.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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BAKER BOTTS
PATENT DEPARTMENT
98 SAN JACINTO BLVD., SUITE 1500
AUSTIN TX 78701-4039

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JAN 10 2006

OFFICE OF PETITIONS

In re Patent No. 6,946,983	:
Issue Date: September 20, 2005	:
Application No. 10/972,947	: DECISION DISMISSING PETITION
Filed: October 25, 2004	: UNDER 37 CFR 3.81(b)
Attorney Docket No. 068758.0275	:

This is a decision on the petition, filed August 30, 2005,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 **INFINEON TECHNOLOGIES AG, Munich Germany** and that an incorrect assignee's name was unintentionally included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee.

37 CFR 3.81(b), effective June 25, 2004, reads:

> ***After payment of the issue fee:*** Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

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). As petitioner has failed to comply with the provisions of 37 CFR 3.81(a), the request cannot be granted.

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[1] *See* Official Gazette of June 22, 2004

A review of Office database assignment records reflects that an assignment to **INFINEON TECHNOLOGIES AG** 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 **INFINEON TECHNOLOGIES AG** was the assignee of record at the time of issuance of the instant application into a patent. *Note also* 35 U.S.C. § 152.

In view of the above, **the Certificates of Correction Branch is instructed to issue a certificate of correction upon submission by petitioner of a request for a certificate of correction (and fee) which sets forth INFINEON TECHNOLOGIES AG, 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, as this decision operates as an instruction to the Certificates of Correction Branch to issue the requested certificate of correction.

Inquiries concerning this decision should be directed to Karen Creasy at (571) 272-3208.

After the submission by petitioner of the request for a certificate of correction to correct the assignee data on the front page of the Letters Patent, any questions pertinent thereto should be directed to the Certificates of Correction Branch at (703) 305-8309.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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PATENT DEPARTMENT
98 SAN JACINTO BLVD., SUITE 1500
AUSTIN TX 78701-4039

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OFFICE OF PETITIONS

In re Patent No. 6,946,983 :
Issue Date: September 20, 2005 :
Application No. 10/972,947 : ON PETITION
Filed: October 25, 2004 :
Attorney Docket No. 068758.0275 :

This is a decision on the petition filed April 20, 2006, 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is granted.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3208. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

The file is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

[1]See Official Gazette of June 22, 2004

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Paper No.

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P.O. BOX 10395
CHICAGO IL 60610

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APR 16 2007

OFFICE OF PETITIONS

In re Patent No. 7,190,289 :
Kobayashi et al. :
Issue Date: March 13, 2007 :
Application No. 10/972,952 :
Filed: October 26, 2004 :
Attorney Docket No. 9683/258 :

LETTER REGARDING
PATENT TERM ADJUSTMENT

This is in response to the "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT," filed March 23, 2007. Patentees disclose that there is an error in the revised patent term adjustment of one (1) day indicated on the front of the patent.

The request for review of the patent term adjustment is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of zero (0) days.

On March 13, 2007, the application matured into U.S. Patent No. 7,190,289, with a revised patent term adjustment of 1 day. On March 23, 2007, patentees filed the instant request. Patentees state no basis for their disclosure that there is an error in the patent term adjustment.

Nonetheless, a review of the application history confirms an error. At least an additional period of reduction of 80 days should have been entered. 37 C.F.R. §1.704(c)(7) provides that a period of reduction is entered for:

> Submission of a reply having an omission (§1.135(c)), in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed.

In this instance, a second response after the filing of a Request for Continued Examination on April 13, 2006 was received on July 13, 2006 (the first supplemental response was filed on April 24, 2006 and a reduction of 11 days was entered in association with the supplemental response). By Notice mailed June 21, 2006, applicants were advised that the amendment filed April 13, 2006 was non-compliant. The response correcting this omission was filed on July 13, 2006. Thus, the period of reduction is 80 days counting the number of days in the period beginning on April 25, 2006, the day after the second response[1] was filed, and ending on July 13, 2006, the date that the reply correcting the omission in the response filed April 13, 2006 was corrected.

In view thereof, the patent should have issued with a revised patent term adjustment of zero (0) days.

As this letter was submitted as an advisement to the Office of an error in Patentees' favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks patentees for their good faith and candor in bringing this to the attention of the Office.

The 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 zero (0) 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

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[1] In view of this period overlapping with the period of reduction of 11 days for the filing of a supplemental response on April 24, 2006, the number of days in the period of reduction associated with the correction filed on July 13, 2006 is counted beginning on April 25, 2006.

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,190,289 B2

DATED : March 13, 2007

INVENTOR(S) : Kobayashi 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 cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (1) days

Delete the phrase "by 1" and insert – by 0 days--

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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 07/08/2010

Applicant	: Michael J. Hanrahan	: DECISION ON REQUEST FOR
Patent Number	: 7644135	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/972,956	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/25/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1472** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Paper No. None

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P.O. Box 50784
Dallas TX 75201

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OFFICE OF PETITIONS

In re Application of
Neena L. Summers et al.
Application No. 10/972,962
Filed: October 25, 2004
Attorney Docket No. 43392-P012USC1
Title: NOVEL ERYTHROPOIETIN RECEPTOR AGONISTS

DECISION ON PETITION
UNDER 37 C.F.R. §1.182

This is a decision on the petition filed October 19, 2005.

On October 25, 2004, the above-identified application was deposited. On August 19, 2005, applicant was mailed a "Notice to Comply with Requirements for Patent Applications containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures - Filing Date Granted" (notice), requiring a copy of the sequence listing in computer readable form (CRF) and a statement that the content of the sequence listing information recorded in CRF is identical to that written sequence listing. The notice set a two-month period for reply.

In response, on October 19, 2005, applicants filed the present petition. The petition is further accompanied by a copy of the CRF, along with a copy of applicants' postcard receipt acknowledging receipt of "Gene Sequence - Computer Readable" in the United States Patent and Trademark Office (Office) on October 25, 2004. Applicants request that the CRF be accorded a filing date of October 25, 2004.

Upon review of the electronic file, the above-mentioned CRF has not been located among the application papers. However, the evidence is convincing that the application papers deposited on

October 25, 2004 included the CRF, and the CRF was subsequently misplaced in the Office.

Therefore, the application, including the CRF, was complete on filing and entitled to a filing date of October 25, 2004 as part of the original disclosure.

Accordingly, the petition under 37 C.F.R. §1.182 is **GRANTED**.

The notice mailed August 19, 2005 was sent in error, and is hereby **VACATED**. Therefore, no petition fee is necessary, and the petition fee will be refunded to Petitioner's Deposit Account.

OIPE will be advised to process the application with a filing date of October 25, 2004, using the original application papers filed on that date, as well as the Computer Readable Form submitted on October 19, 2005, and for noting in Office records that the Computer Readable Form was present on filing.

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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SIDLEY AUSTIN LLP
717 NORTH HARWOOD
SUITE 3400
DALLAS, TX 75201

Mail Date: 04/20/2010

Applicant	: Takuji Hatano	: DECISION ON REQUEST FOR
Patent Number	: 7586827	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/972,970	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/25/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1141** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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SIDLEY AUSTIN LLP
717 NORTH HARWOOD
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DALLAS, TX 75201

Mail Date: 05/17/2010

Applicant : Takuji Hatano
Patent Number : 7586827
Issue Date : 09/08/2009
Application No : 10/972,970
Filed : 10/25/2004

: 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 **1210** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

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OFFICE OF PETITIONS

In re Application of :
Richard W. Korzeniowski :
Application No. 10/972,975 :
Filed: October 25, 2004 :
Attorney Docket No. 014208.1680 (72-04-056)

ON PETITION

This is a decision on the petition, filed November 14, 2007 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 16, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2612 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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NUTTER MCCLENNEN & FISH LLP
SEAPORT WEST
155 SEAPORT BOULEVARD
BOSTON, MA 02210-2604

Mail Date: 04/23/2010

Applicant	: Alec Ginggen	: DECISION ON REQUEST FOR
Patent Number	: 7637897	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/972,980	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/25/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **115** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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BROMBERG & SUNSTEIN LLP
125 SUMMER STREET
BOSTON MA 02110-1618

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OCT 26 2007

OFFICE OF PETITIONS

In re Application of	:
Gray et al.	:
Application No. 10/972982	: DECISION ON PETITION
Filed: 10/25/2004	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 1062/E24	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed on 12 September, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-

filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3683 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/972,982	10/25/2004	3683	1120	1062/E24	12	4

CONFIRMATION NO. 8305

CORRECTED FILING RECEIPT

OC000000026472432

2101
BROMBERG & SUNSTEIN LLP
125 SUMMER STREET
BOSTON, MA 02110-1618

Applicant(s)

Larry Gray, Merrimack, NH;
Robert Bryant, Manchester, NH;

Assignment For Published Patent Application

DEKA Products Limited Partnership, Manchester, NH

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a DIV of 10/320,178 12/16/2002 PAT 6,808,369
which is a DIV of 09/612,005 07/10/2000 PAT 6,503,062

Foreign Applications

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 US10/972,982

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Method and device for regulating fluid pump pressures

Preliminary Class

303

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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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MAR 1 0 2005

OFFICE OF PETITIONS

In re Application of	:	
Gow et al.	:	
Application No. 10/972,986	:	DECISION GRANTING
Filed: October 25, 2004	:	STATUS UNDER
FOR: METHODS AND	:	37 CFR 1.47(a)
COMPOSITIONS COMPRISING ILEX	:	

This is in response to a Petition Under 37 CFR 1.47(a) to Find an Inventor Uncooperative, filed January 3, 2005. The petition is properly treated as a petition to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor.

The petition is **granted**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

Petitioner has shown that the non-signing inventor, Rodger M. Marentis, refuses to join in the application.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being returned to the Office of Initial Patent Examination for continued processing.

Telephone inquiries concerning this matter should be directed to Petitions Attorney Derek L. Woods at (571) 272-3232.

Derek L. Woods
Attorney/Advisor
Office of Petitions

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RODGER M. MARENTIS, Ph.D.
2845 ROLLING GREEN PLACE
MACUNGIE, PA 18062

COPY MAILED
MAR 10 2005
OFFICE OF PETITIONS

In re Application of :
Gow et al. :
Application No. 10/972,986 : LETTER
Filed: October 25, 2004 :
FOR: METHODS AND :
COMPOSITIONS COMPRISING ILEX :

Dear Dr. Marentis:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3232. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Petitions Attorney
Office of Petitions

cc: TROUTMAN SANDERS LLP
BANK OF AMERICA PLAZA, SUITE 5200
600 PEACHTREE STREET , NE
ATLANTA, GA 30308-2216

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SAWYER LAW GROUP, LLP
PO BOX 51418
PALO ALTO, CA 94303

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JUL 0 2 2008

OFFICE OF PETITIONS

In re Application of	:	
Mikhail Itskovich, et al.	:	
Application No. 10/972,990	:	DECISION ON PETITION
Filed: October 25, 2004	:	TO WITHDRAW
Attorney Docket No. 3205P	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 3, 2008.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Sawyer Law Group, LLP has been revoked by the assignee of the patent application on June 11, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272- 1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: SCHWEGMAN, LUNDBERG & WOESSNER / ATMEL
PO BOX 2938
MINNEAPOLIS, MN 55402

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SCHWEGMAN, LUNDBERG & WOESSNER / ATMEL
P.O. BOX 2938
MINNEAPOLIS, MN 55402

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In re Application of	:	
Itskovich et al.	:	
Application No. 10/972,990	:	DECISION ON PETITION
Filed: October 25, 2004	:	
Attorney Docket No. 2800.765US1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 2, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before April 10, 2008, as required by the Notice of Allowance and Fee(s) Due mailed January 10, 2008. Accordingly, the application became abandoned on April 11, 2008. A Notice of Abandonment was mailed May 5, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,440 and the publication fee of $300, (2) the petition fee of $1,540, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to, Alicia Kelley at (571)272-6059.

This application is being referred to the Office of Data Management for processing into a patent.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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ATTENTION OF ALTON HORNSBY, III
MERCHANT & GOULD P.C.
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

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FEB 28 2006

OFFICE OF PETITIONS

In re Application of	:	
Moore et al.	:	DECISION ON PETITION
Application No. 10/972,992	:	UNDER 37 CFR 1.78(a)(3)
Filed: 25 October, 2004	:	
Atty Docket No. 60027.0213USC	:	

This is a decision on the petition, filed on 31 March, 2005, styled under 37 CFR 1.78(a), which is treated as a petition under 37 CFR 1.78(a)(3), to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(s), unless previously submitted;
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1) above.

A reference to add the above-noted, prior-filed application on page one following the first sentence of the specification has been included in a concurrently filed amendment. However, the

amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. Petitioners' attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment to the specification present on the filing date of the application. For applications filed prior to 21 September, 2004, the incorporation by reference statement may also appear in a transmittal letter present on the filing date of the application. *See* MPEP 201.06(c) and 608.04(b).

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment[1] deleting the incorporation by reference statement, along with a renewed petition under 37 CFR 1.78(a)(3), is required.

---

[1] Note 37 CFR 1.121.

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 related to this decision should be directed to Senior Petitions Attorney Douglas I. Wood at 571-272-3231.

Frances Hicks

Frances M. Hicks
Lead Paralegal
Office of Petitions

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JAN 31 2005

In re Application of	:	
TAYLOR.	:	
Serial Number: 10/973,022	:	PETITION UNDER
Filed: October 25, 2004	:	M.P.E.P. 708.02
For: FUILD DISPENSING DEVICE AND METHODS	:	

This is in response to the petition filed October 25, 2004, requesting that the above-identified application be granted Special Status under Section 708.02 I of the MPEP and 37 CFR 1.102 (**fee required**).

The request for Special Status, considered under Section 708.02 I, has not been granted because a copy of each reference deemed most closely related to the subject matter encompassed by the claims has not been provided.

The petition is **DENIED.**

Richard Crispino, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

Justin S. Rerko & Associates, LLC
19836 Ellsworth Dr.
Strongsville, OH 44149

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APR 25 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

BAKER & MCKENZIE
PATENT DEPARTMENT
2001 ROSS AVENUE
SUITE 2300
DALLAS TX 75201

In re Application of :
BOYD, SANDRA L., et al. :
Application No. 10/973,025 : DECISION ON PETITION
Filed: October 25, 2004 : TO MAKE SPECIAL
For: **SYSTEMS AND PROCESSES FOR SCHEDULING AND CONDUCTING AUDIO/VIDEO COMMUNICATIONS** :

This is a decision on the petition filed February 16, 2005 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

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BAKER & MCKENZIE LLP
PATENT DEPARTMENT
2001 ROSS AVENUE
SUITE 2300
DALLAS, TX 75201

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MAR 14 2007

OFFICE OF PETITIONS

In re Application of	:	
Sandra L. Boyd, et al.	:	
Application No. 10/973,025	:	DECISION ON PETITION
Filed: October 25, 2004	:	
Attorney Docket No. 24009800.1	:	

This is a decision on the petition under 37 CFR 1.182, filed August 21, 2006, to change the order of the names of the inventors.

The petition is **GRANTED**.

Office records have been corrected to reflect the change in the order of the named inventors. A corrected Filing Receipt, which sets forth the desired order of the named inventors, accompanies this decision on petition.

As authorized, the $400 fee for the petition under 37 CFR 1.182 has been assessed to petitioner's deposit account.

This application is being referred to Technology Center AU 2614 for further prosecution.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/973,025	10/25/2004	2614	809	24009800.1	66	3

CONFIRMATION NO. 1423
CORRECTED FILING RECEIPT
OC000000022887675
OC000000022887675

23562
BAKER & MCKENZIE LLP
PATENT DEPARTMENT
2001 ROSS AVENUE
SUITE 2300
DALLAS, TX 75201

Date Mailed: 03/14/2007

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

John D. Profanchik, Plano, TX;
Alan L. Whitebread, Lubbock, TX;
Sandra L. Boyd, New Braunfels, TX;

Power of Attorney: The patent practitioners associated with Customer Number **23562**.

Domestic Priority data as claimed by applicant

Foreign Applications

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
US10/973,025

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Systems and processes for scheduling and conducting audio/video communications

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 Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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OFFICE OF PETITIONS

PATENT LAW OFFICE OF DAVID G. BECK
P. O. BOX 1146
MILL VALLEY CA 94942

In re Application of	:	
TESSIEN, Ross	:	
Application No. 10/973,048	:	DECISION ON PETITION
Filed: October 25, 2004	:	TO WITHDRAW
Attorney Docket No. **IMP005CPCP3**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 20, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by David Beck. David Beck has been withdrawn as the attorney of record. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Ross Tessien at the address indicated below.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **ROSS TESSIEN**
C/O IMPULSE DEVICES, INC.
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GRASS VALLEY, CA 95945

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BOURQUE & ASSOCIATES, P.A.
835 HANOVER STREET
SUITE 303
MANCHESTER NH 03104

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FEB 25 2005

OFFICE OF PETITIONS

In re Application of	:	
Collins et al.	:	
Application No. 10/973,082	:	DECISION DISMISSING
Filed: 7 February, 2005	:	PETITION
Attorney Docket No. ARC-001XX	:	

This is a decision in reference to the petition under 37 CFR 1.53(e) filed on 7 February, 2005, which is treated as a petition requesting that the above identified application be accorded a filing date of 25 October, 2004, with a complete specification, including at least one claim, as a part of the original disclosure.

The petition is **dismissed**.

The application was deposited on 25 October, 2004, without a specification, including at least one claim. On 3 December, 2004, Initial Patent Examination Division mailed a Notice of Incomplete Nonprovisional Application, stating, *inter alia*, that the application was missing the specification, and that the filing date would be the date a complete specification, including at least one (1) claim, in compliance with 35 U.S.C. § 112, was received. A two (2)-month period for reply was set. On 7 February, 2005, applicants filed the specification, including six (6) claims and one (1) page of abstract.

The present petition was also filed on 7 February, 2005. Petitioners assert that a complete application, including the specification, was filed by Express Mail on 25 October, 2005. Petitioners have also included declarations by registered patent attorney Daniel J. Borque and by paralegal Natalie Nazihi stating that a complete application, including the specification, was placed in the envelope prior to filing the application papers received in the USPTO on 25 October, 2004.

The arguments have been considered, but are not persuasive. The U.S. Patent and Trademark Office (Office) file is the official

record of the papers originally filed in this application. A review of the papers originally filed reveals that no pages of specification were filed on 25 October, 2004. An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence.

The Office file is the official record of the papers originally filed in this application. Where the records of the Office (*e.g.,* the file of the application) contain any document(s) or fee(s) corresponding to the contents of the correspondence at issue, the Office will rely upon its official record of the contents of such correspondence in the absence of convincing evidence (e.g. a postcard receipt under MPEP 503 containing specific itemization of the document(s) or fee(s) purported to have been filed with the correspondence at issue) that the Office received and misplaced any document(s) or fee(s) that is not among the official records of the Office.

If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, *e.g.,* the number of pages of specification (including written description, claims and abstract) number of claims, number of sheets of drawings, number of pages of oath/declaration. The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard.[1]

The argument and evidence presented are not persuasive. Petitioners' declaration was made over three (3) months after the events in question and recites declarants' recall of the preparation and filing of the application with the USPTO. The application does not appear to be unusual and it is not understood why the filing of this particular application would stand out in such detail in declarants' memory, particularly in view of the fact that declarants' prepared and mailed similar papers to the PTO on a routine, daily basis.

It is noted that had petitioner utilized an itemized return postcard in accordance with Section 503 of the Manual of Patent Examining Procedure (MPEP), petitioner could have avoided the predicament that has now occurred. 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 of

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[1] MPEP 503.

the items listed thereon on the date stamped thereon by the USPTO. Where the records of the Office (e.g. the file of the application) contain any document(s) or fee(s) corresponding to the contents of the correspondence at issue, the Office will rely upon its official record of the contents of such correspondence in the absence of convincing evidence (e.g. a postcard receipt under MPEP 503 containing specific itemization of the document(s) or fee(s) purported to have been filed with the correspondence at issue) that the Office received and misplaced any document(s) or fee(s) that is not among the official records of the Office. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard (e.g. the number of pages of specification (including written description, claims and abstract) number of claims, number of sheets of drawings, number of pages of oath/declaration. The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard.[2] The showing of record, however, is that petitioners did not file an itemized postcard receipt with the application papers deposited on 25 October, 2004.

If petitioners did, in fact, file an itemized postcard with the original application papers, and said postcard was stamped by the USPTO with the date the application was received in the Office, a copy of said postcard should be filed with a renewed petition.

Additionally, petitioners should note that the Express Mail mailing label is not persuasive evidence of the receipt of the specification on 25 October, 2004, because the other application papers filed by Express Mail were received on 25 October, 2004. Where there is a dispute as to the *contents* of correspondence submitted to the Office an applicant may not rely upon the provisions of 37 CFR 1.10(e) to establish what documents and or fees were filed in the Office with such correspondence. A petition under 37 CFR 1.10 is therefore inappropriate in the present case.[3] A petition under 37 CFR 1.10(e) is only appropriate where the correspondence was sent by Express Mail but nothing was received by the Office.

As petitioners have presented no persuasive evidence that a specification, including at least one claim, was filed on 25 October, 2004, the petition will be dismissed.

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[2] MPEP 503.

As this petition was not necessitated by an error on the part of the Office, the petition fee of $400.00 will be charged to counsel's deposit account, No. 02-3285, as authorized in the present petition.

Any request for reconsideration should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely. This time period may not be extended.[4] If no response is received within TWO (2) MONTHS, the application will be referred to the Office of Initial Patent Examination for processing and examination with a filing date of 7 February, 2005, the date that a specification, including at least one claim, was received in the Office, using the application papers deposited on 25 October, 2004, and the specification filed on 7 February, 2005.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[4] 37 CFR 1.181(f).

UNITED STATES PATENT AND TRADEMARK OFFICE

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BORQUE & ASSOCIATES, P.A.
835 HANOVER STREET
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OFFICE OF PETITIONS

In re Application of	:	
Collins et al.	:	
Application No. 10/973,082	:	ON PETITION
Filed: 25 October, 2004	:	
Atty Docket No. ARC-001XX	:	

This is a decision on the renewed petition, filed on 25 July, 2005, which is treated as a petition requesting that the above-identified application be accorded a filing date of 25 October, 2004.

The Office apologizes for the delay in responding to the present petition and regrets any inconvenience to petitioners.

The petition is granted.

On 25 October, 2004, the application was filed.

On 3 December, 2004, Initial Patent Examination Division mailed a Notice of Incomplete Nonprovisional Application, stating that, *inter alia*, the application was missing the specification, and that the filing date would be the date of receipt of the missing specification in accordance with 35 U.S.C. § 112 and drawings in accordance with 35 U.S.C. § 113. A two (2)-month period for reply was set. On 7 February, 2005, applicants filed a petition, along with a specification, including six (6) claims and one (1) page of abstract. The petition was dismissed on 25 February, 2005.

In response, on 25 July, 2005, the present renewed petition was filed. Petitioners assert that the itemized postcard receipt was

recently received by petitioners, and have included a copy thereof with the present renewed petition.

Petitioners argue that the 15 pages of specification, including three (3) pages of claims, one (1) page containing an abstract, and four (4) drawing sheets were filed with the other application papers on 25 October, 2004, but were subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' postcard receipt was supplied with the present petition. The postcard receipt shows an Office date stamp of 25 October, 2004, listing the application number, and identifies the application by the inventors' names, invention title, and attorney docket number, and acknowledges receipt of, *inter alia*, "12 pgs. of Specification; pgs. 13-15 of claims 1-6; pgs. 16 of Abstract and 4 sheets of Figs." Petitioners request that the application, including the 15 pages of specification and four (4) sheets of drawings, be accorded a filing date of 25 October, 2004.

Upon review of the record, no pages of specification or sheets of drawings deposited on 25 October, 2004, have been located among the application papers. However, the evidence is convincing that the application papers deposited on 25 October, 2004, included 15 pages of specification, including the claims and one (1) page of abstract, and four (4) sheets of drawings, which were subsequently misplaced in the USPTO. Therefore, the application, including the 15 pages of specification and four (4) sheets of drawings, was complete on filing and entitled to a filing date of 25 October, 2004.[1]

In view of the above, the petition is granted. The petition fee will be credited to counsel's deposit account.

The Notice mailed on 3 December, 2004, is vacated to the extent that it states that the application was incomplete.

The application will be processed with the copy of 14 pages of specification, one (1) page of abstract, and one (1) sheet of drawings supplied on 2 February, 2005, as a part of the original disclosure.

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[1] A review of the official file reveals that 14 pages of specification, including the claims, plus Page 15 containing the abstract, were supplied on 7 February, 2005. As such, it is obvious that the specification and claims consisted of 14 rather than 15 pages. However, since the individual at the USPTO who compared petitioners' postcard to the items received found that the specification as filed contained at least 15 pages, the evidence is persuasive that 14 pages of specification, including claims, plus Page 15 containing the abstract, were among the application papers received on 25 October, 2004, but were subsequently misplaced in the U.S. Patent and Trademark Office.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 25 October, 2004, using the application papers filed on that date, and the copy of 15 pages of specification and abstract and four (4) sheets of drawings supplied with the initial petition.

Telephone inquiries 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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BOURQUE & ASSOCIATES
INTELLECTUAL PROPERTY ATTORNEYS, P.A.
835 HANOVER STREET, SUITE 301
MANCHESTER, NH 03104

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AUG 25 2008

In re Application of	:	
COLLINS, et al.	:	
Application No. 10/973,082	:	DECISION ON PETITION
Filed: October 25, 2004	:	TO WITHDRAW
Attorney Docket No. ARC-001XX	:	FROM RECORD
	:	

This is a decision on the renewed request to withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 30, 2008.

The request is APPROVED.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Daniel Bourque 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 as it is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

CC: KENNETH M. COLLINS
41 WINTER ROAD
WEARE, NH 03281

CC: MAINE & ASMUS
100 MAIN STREET, SUITE 2
NASHUA, NH 03061

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NEUROPACE, INC.
1375 SHOREBIRD WAY
MOUNTAIN VIEW, CA 94043

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OFFICE OF PETITIONS

In re Application of :
Benjamin D. Pless :
Application No. 10/973,091 : ON PETITION
Filed: October 25, 2004 :
Attorney Docket No. N02-04 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 16, 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 Non-provisional Application mailed January 13, 2005. A Notice of abandonment was mailed on September 22, 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, the basic filing fee of $790, the late filing surcharge of $130, and $800 in claim fees; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Office also acknowledges receipt of $2,160 for a five (5) months extension of time filed on May 16, 2006. However, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $2,160 extension of time submitted with the petition was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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. A courtesy copy of this decision is being mailed to petitioner.

Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

This 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

cc: Mika Mayer
Morrison & Foerster, LLP
755 Page Mill Road
Palo Alto, CA 94304-1018

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TAROLLI, SUNDHEIM, COVELL & TUMMINO L.L.P.
526 SUPERIOR AVENUE, SUITE 1111
CLEVEVLAND OH 44114

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MAR 3 1 2005

OFFICE OF PETITIONS

In re Application of	:
Haight	: DECISION REFUSING STATUS
Application No. 10/973,118	: UNDER 37 CFR 1.47(b)
Filed: October 26, 2004	:
Atty. Dkt. No.: TRW(M)5858	:
For: CONNECTOR WITH MULTIPLE	:
DIAMETER CANISTER	:

This decision is in response to the petition under 37 CFR 1.47(b) filed October 26, 2004.

The petition under 37 CFR 1.47(b) is **DISMISSED**.

Petitioners are given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," and should only address the deficiencies noted herein. The reply under 37 CFR 1.47(b) may include an oath or declaration executed by the non-signing inventors. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application and petition under 37 CFR 1.47(b) were filed October 26, 2004 without an executed oath or declaration and names Denzil Haight as sole inventor.

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee;(4) a statement of the last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) a showing that such action is required to preserve the rights of the parties or to prevent irreparable damages.

The petition fails to satisfy items (1), (2), (5), and (6) set forth above.

At to item (1), petitioner has failed to establish that the non-signing inventor received a complete copy of the application papers (specification, including claims, drawings, and oath or declaration) and thereafter refused to execute an oath or declaration.

Petitioner alleges that the application papers went presented to the non-signing inventor and that inventor thereafter refused to execute the declaration. The petition and supporting documents, however, indicate that the application papers were forwarded to a third party with instruction that they be presented to the inventor. The petition and supporting documents also reference an oral refusal from the inventor.

Petitioners are reminded that before a refusal to sign an oath or declaration can be alleged, it must be demonstrated that bona fide effort has been made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor or the legal representative of each non-signing inventor. A copy of the application papers must be presented to the inventor at the inventor's last known address. Proof of the pertinent events should be made by someone having first hand knowledge of the events in the form of an affidavit or declaration. In particular, the declaration or affidavit must set forth the manner in which the application papers were presented to the non-signing inventor. Statements based on hearsay, will not normally be accepted. Petitioner may elect to include copies of dated cover letters and, if available, copies of mailing receipts as evidence that the non-signing inventor was presented with a copy of the application papers, or, having been presented with the application papers, refused to sign the oath or declaration. If, after having been presented with the application papers, an oral refusal is made by a non-signing inventor, this fact along with the time and place of the refusal must be stated in an affidavit or declaration signed by the person to whom the refusal was made. Any written refusal to execute the oath or declaration by an inventor should likewise be submitted. Petitioner's attention is directed to MPEP 409.03(d) for further information on the presumptive evidence required for accordance of status under 37 CFR 1.47.

As to item (2), an acceptable oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 has not been presented. Any renewed petition should be accompanied by a proper oath or declaration wherein the name, address, residence, and citizenship of the inventor is set forth. The declaration should be executed by a corporate officer, such as the president, vice

president, secretary, or treasurer of the assignee on behalf of and as agent for the non-signing inventor. The corporate officer's title or position must be identified in the declaration. If an officer is unavailable to execute the declaration, the declaration may be signed on behalf of the corporation by one whose proof of signing authority has been submitted to the Office, such as the corporation's attorney. The signature block of the non-signing inventor should remain unexecuted. Petitioner's attention is directed to MPEP 409.03(b) for further guidance.

Any renewed petition must be accompanied by: (1) a properly executed oath or declaration; and (2) the required surcharge (currently $130.00 for a large entity) for late submission of the declaration.

As to item (5), petitioner has failed to sufficiently establish a proprietary interest in the instant application. While the instant petition is accompanied by a copy of an application for employment, the application does not detail a proprietary agreement regarding intellectual property rights insofar as the instant application for patent is concerned. Petitioners must make out a prima facie case (1) that the invention has been assigned to him or her or (2) that the inventor has agreed in writing to assign the invention to him or her or (3) otherwise demonstrate a proprietary interest in the subject matter of the application. *See*, MPEP 409.03(f).

As to item (6), petitioner has failed to present a showing that action under 37 CFR 1.47 is required to preserve the rights of the parties or to prevent irreparable damages. Irreparable damage may be established by a showing in the form of a statement that a filing date is necessary to preserve the rights of the party or to prevent irreparable damage.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 872-9306

By hand: U.S. U.S. Patent and Trademark Office
Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulaney Street
Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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32ND FLOOR
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OCT 0 6 2005

OFFICE OF PETITIONS

In re Application of	:	
Raymond Seegers, et al.	:	
Application No. 10/973,125	:	ON PETITION
Filed: October 26, 2004	:	
Attorney Docket No. 02-1137	:	

This is a decision on the petition under 37 CFR 1.137(b), filed by September 9, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

The application was filed on October 26, 2004, including an Application Data Sheet containing the names, *inter alia*, of all the inventors. On December 9, 2004, a Notice to File Missing Parts was mailed, requiring an executed oath or declaration under 37 CFR 1.63 and the surcharge under 37 CFR 1.16(e). Since no response was filed, a Notice of Abandonment was mailed on August 23, 2005. On September 9, 2005 the present petition was filed.

A grantable petition under 37 CFR 1.137(b)1 must be accompanied by: (1) the required reply,2 unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The petition does not include item (1), the required reply.

It is noted that the petition included a declaration and the requisite surcharge. However, the declaration is not in compliance with 37 CFR 1.63 and 1.64. While the declaration filed September 9, 2005 identifies each inventor by full name and is executed by each of the named

1 As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

2 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.

inventors, the declaration does not identify the country of citizenship and mailing address of each inventor. Nor is the mailing address provided on the ADS submitted on filing. Consequently, it is concluded that the declaration filed September 9, 2005 is not acceptable.

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)," and included the required reply.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop PETITION
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300**.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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CHICAGO IL 60606

In re Application of	:	
Raymond Seegers, et al.	:	
Application No. 10/973,125	:	ON PETITION
Filed: October 26, 2004	:	
Attorney Docket No. 02-1137	:	
	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed November 4, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely respond to a Notice to File Missing Parts mailed December 9 2004, requiring an executed oath or declaration under 37 CFR 1.63 and the surcharge under 37 CFR 1.16(e). A Notice of Abandonment was mailed August 23, 2005. On September 9, 2005, a petition to revive was filed; however, the petition was dismissed in a decision mailed October 6, 2005. In response, on November 4, 2005 the present petition was filed. The petition is found to comply with the requirements of 37 CFR 1.137(b).

The application is being returned to the Office of Initial Patent Examination (OIPE) for further processing using the declaration filed November 4, 2005.

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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THE TRIAD, SUITE 200
2200 RENAISSANCE BLVD.
GULPH MILLS, PA 19406

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OFFICE OF PETITIONS

In re Application of :
Tina Nataniel, et al. :
Application No. 10/973,128 : ON PETITION
Filed: October 25, 2004 :
Attorney Docket No. M 6914 HIA :

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on January 19, 2005, 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 because it lacks the required petition fee pursuant to 37 CFR 1.17(m).

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.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop PETITION
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(703) 872-9306.**

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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GULPH MILLS, PA 19406

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JUL 0 8 2005

OFFICE OF PETITIONS

In re Application of :
Tina Nataniel, et al. :
Application No. 10/973,128 :
Filed: October 25, 2004 :
Attorney Docket No. M 6914 HIA :

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the renewed petition, filed April 18, 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 November 24, 2004. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. §122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The 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 October 13, 2005 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Sherry D. Brinkley at (571) 272-3204.

This application is being referred to Technology Center Art Unit 1711 for prosecution in due course.

Sherry D. Brinkley

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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

Ross F. Hunt, Jr.
Stites & Harbison PLLC
1199 N. Fairfax Street
Alexandria, VA 22314

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OCT 22 2008

In re Application of	:	
Thomas Groetzinger	:	
Application No. 10/973,142	:	DECISION ON PETITION
Filed: October 26, 2004	:	
Attorney Docket No. ANWAL.058AUS	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 19, 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 August 31, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed May 31, 2007. Accordingly, the date of abandonment of this application is September 1, 2007.

Since this application became abandoned for failure to timely pay the issue fee. 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. *See* MPEP 711.03(c)(III)(A)(1). Therefore, the filing of a continuing application under 37 CFR 1.53(b) is not a proper reply under 37 CFR 1.137(a)(1) or (b)(1). In view of the authorization contained in the Request for Continued Examination (RCE) Transmittal filed concurrently with the instant petition to charge any additional fees due, the $ 720.00 issue fee, $300.00 publication fee, and the $405.00 RCE fee will be charged to petitioner's deposit account. The issue fee is not refundable and may not be applied towards payment of the issue fee in the continuing application (in the event it is allowed).

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 the publication fee of $300.00, A Request for Continued Examination (RCE), the fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $770.00; and (3) a proper statement of unintentional delay.

Petitioner has stated in his petition that the RCE filed on May 7, 2007, should not have been entered. However, it indeed had been entered and considered by the Examiner which placed the case in condition for allowance. Therefore, the fee in the amount of $395.00 that was paid on May 7, 2007, can not be applied towards the RCE filed with this petition. Accordingly, as stated previously in this decision the fee for the new RCE will be charged to petitioner deposit account.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to Technology Center AU 3754 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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Alexandria, VA 22314

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OCT 22 2008

In re Application of	:	
Thomas Groetzinger	:	
Application No. 10/973,142	:	DECISION ON PETITION
Filed: October 26, 2004	:	
Attorney Docket No. ANWAL.058AUS	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 19, 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 August 31, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed May 31, 2007. Accordingly, the date of abandonment of this application is September 1, 2007.

Since this application became abandoned for failure to timely pay the issue fee. 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. *See* MPEP 711.03(c)(III)(A)(1). Therefore, the filing of a continuing application under 37 CFR 1.53(b) is not a proper reply under 37 CFR 1.137(a)(1) or (b)(1). In view of the authorization contained in the Request for Continued Examination (RCE) Transmittal filed concurrently with the instant petition to charge any additional fees due, the $ 720.00 issue fee, $300.00 publication fee, and the $405.00 RCE fee will be charged to petitioner's deposit account. The issue fee is not refundable and may not be applied towards payment of the issue fee in the continuing application (in the event it is allowed).

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 the publication fee of $300.00, A Request for Continued Examination (RCE), the fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $770.00; and (3) a proper statement of unintentional delay.

Petitioner has stated in his petition that the RCE filed on May 7, 2007, should not have been entered. However, it indeed had been entered and considered by the Examiner which placed the case in condition for allowance. Therefore, the fee in the amount of $395.00 that was paid on May 7, 2007, can not be applied towards the RCE filed with this petition. Accordingly, as stated previously in this decision the fee for the new RCE will be charged to petitioner deposit account.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to Technology Center AU 3754 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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THE TRIAD, SUITE 200
2200 RENAISSANCE BLVD.
GULPH MILLS PA 19406

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APR 1 8 2005

OFFICE OF PETITIONS

In re Application of	:	
Netaniel et al.	:	
Application No. 10/973,145	:	LETTER DISMISSING PETITION
Filed: 25 October, 2004	:	
Atty Docket No. M 6913 HIA	:	
	:	

This is a decision on the petition, filed on 19 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 24 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 28 July, 2005, is enclosed herewith.

Although the petition states that a fee transmittal sheet is attached, no fee transmittal is located among the papers received with the present petition on 19 January, 2005. Nevertheless, the fee transmittal sheet filed with the original application papers and signed by attorney Stephen D. Harper authorizes the office to charge any additional fees. Therefore, the petition fee will be charged to counsel's deposit account, No. 01-1250, in accordance therewith.

The application is being referred to Technology Center Art Unit 1711 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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SUNNYVALE CA 94085-4040

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MAR 2 5 2008

OFFICE OF PETITIONS

In re Application of	:	
RAVI, et al.	:	
Application No. 10/973,161	:	DECISION GRANTING PETITION
Filed: October 25, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **42390.P15482D**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 20, 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 February 27, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries relating to this decision should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 2813 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the information disclosure statement previously filed on February 28, 2008.

Monica A. Graves
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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P.O. BOX 10395
CHICAGO IL 60610

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SEP 26 2008

OFFICE OF PETITIONS

In re Patent No. 7,349,057	:	
Yoon et al.	:	DECISION ON REQUEST
Issue Date: March 25, 2008	:	FOR RECONSIDERATION OF
Application No. 10/973,168	:	PATENT TERM ADJUSTMENT
Filed: October 26, 2004	:	
Atty Docket No. 12972-4167	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT" filed May 27, 2008. Patentees request that the Patent Term Adjustment for the above-identified patent be set at 432 days.

The request for reconsideration of the patent term adjustment indicated in the patent is **DISMISSED**.

Patentees are given **TWO (2) MONTHS** from the mailing date of this decision to respond. No extensions of time will be granted under § 1.136.

On March 25, 2008, the above-identified application matured into U.S. Patent No. 7,349,057. The instant request for reconsideration was timely filed on May 27, 2008. The patent issued with a revised Patent Term Adjustment of 281 days.

Patentees request that the Office delay should be increased from 284 days to 435 days. Patentees further request that the revised Patent Term Adjustment be corrected from 281 days to 432 days. Specifically, patentees assert that a period of adjustment of 115 days should be entered for the Office taking in excess of three (3) years to issue the patent. Patentees do

not dispute the number of days of patent term reduction under 37 CFR 1.704(b) or adjustment under to 37 CFR 1.702(a)(1).

The instant patent issued 3 years and 151 days after its filing date. However, 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. Further, in considering the overlap, 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). See 35 U.S.C. 154(b)(1)(B); 35 U.S.C. 154(b)(2)(A); and 37 CFR 1.703(f).

In this instance, the period of delay of 151 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 284 days attributable to grounds specified in § 1.702(a)(1). Thus, no additional period of adjustment beyond 284 days was entered. Accordingly, the period of 284 days for Office delay is correct.

In view thereof, the patent term adjustment of **281 days** (284 days of Office delay - 3 days of applicant delay) indicated in the patent is correct.

The Office will charge the Deposit Account for the $200.00 fee set forth in 37 CFR 1.18(e) as authorized.

Telephone inquiries specific to this matter should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

Kery A. Fries

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration

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710 MEDTRONIC PARKWAY NE
MINNEAPOLIS, MN 55432-9924

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In re Application of
Michael D. Behm
Application No. 10/973,187
Filed: October 26, 2004
Attorney Docket No. P-8384.05

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 5, 2010, 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. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, 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.

This application became abandoned for failure to timely pay the issue and publication fees on or before January 4, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed October 1, 2009. Accordingly, the date of abandonment of this application is January 5, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1510 and the publication fee of $300, (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning this application should be directed to the Office of Data Management at their hotline 571-272-4200.

This application is being referred to the Office of Data Management for processing into a patent.

April M. Wise

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MS BLDG. E P.O. BOX 7599
LOVELAND CO 80537

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MAR 19 2009

OFFICE OF PETITIONS

In re Application of
Lance Tatman
Application No. 10/973,203
Filed: October 26, 2004
Attorney Docket Number: 10041324-1

ON PETITION

This is a decision on the petition filed February 13, 2009, under 37 CFR 1.182, which is being treated under 37 CFR 1.181 to issue a refund of fees paid.

The petition under 37 CFR 1.181 is **DISMISSED**.

In response to a Final Office Action, an amendment was filed. In response thereof, An Advisory Action was mailed which advised that the amendment filed did not place the application in condition for allowance. With a one month extension of time, a Notice of Appeal was filed December 15, 2008. Petitioner contends that the Advisory Action did not indicate whether or not the amendment would be entered and therefore based on an assumption that the amendment was entered, the Notice of Appeal was filed.

Within two months from the filing of the Notice of Appeal and on even date with the instant request, petitioner has filed an RCE. Petitioner argues however that the filing of the RCE is to obtain consideration of the Amendment, and thus requests therefore that the Notice of Appeal fee be refunded.

Petitioner is advised that the determinative language in the Advisory Action is "fails to place application in condition for allowance". Petitioner therefore was on notice that the amendment was not entered.

The Notice of Appeal filed December 15, 2008 was necessary to save the application from abandonment and therefore, the Notice of Appeal fee cannot be refunded. The petition fee in the amount of $400 has been charged to deposit account no. 50-1078.

In view thereof, this matter is being referred back to Technology Center 3662 for further examination.

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

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39400 WOODWARD AVENUE
BLOOMFIELD HILLS MI 48304-5151

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FEB 2 2 2005

OFFICE OF PETITIONS

In re Application of	:	
Steven E. Howe et al.	:	
Application No. 10/973,205	:	DECISION GRANTING PETITION
Filed: October 26, 2004	:	
Attorney Docket No 71035-009	:	

This is a decision on the petition filed February 1, 2005, in response to the "Notice of Omitted Items" mailed December 6, 2004, which is treated under 37 CFR 1.182.

The instant application was filed October 26, 2004 and a filing date was accorded. However, the Notice indicated that Figure 4 described in the specification appeared to have been omitted.

Petitioner asserts that Figure 4 was among the papers filed on October 26, 2004, and submits, *inter alia*, a "legible" postcard receipt in evidence thereof. The postcard receipt, identifies the application and acknowledges, inter alia, that the application included five (5) sheets of drawings and bears a United States Patent and Trademark Office date-stamp of October 26, 2004. However, only four (4) sheets of drawing figures is of record and while the postcard did not specifically itemize the number of Figures, it is obvious that Figure 4 was on sheet 4 of 5. Additionally, the postcard receipt lacks any notation of non-receipt of any item listed. In view thereof, the petition is **GRANTED.**

It should be noted though that the check said to have accompanied the petition was not found to be included and thus, the deposit account was debited. However, given the basis for granting the petition the petition fee, identified as a surcharge, in the amount of $130.00 will be credited back to deposit account 08-2789.

This application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing, using the application papers received in the Office on October 26, 2004 and Figure 4 submitted on petition February 1, 2005.

Telephone inquiries regarding 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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& BIANCO P.L.
551 N.W. 77TH STREET
SUITE 111, BOCA RATON, FL 33487

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SEP 26 2007

OFFICE OF PETITIONS

In re Patent No. 7,098,862	:	
Issue Date: August 26, 2006	:	
Application No. 10/973,230	:	ON PETITION
Filed: October 26, 2004	:	
Attorney Docket No. 1740-P0003	:	

This is a decision on the petition filed January 30, 2007[1], which is being treated as a request under 37 CFR 3.81(b)[2] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Petitioner states that the correct assignee's name is Florenio Pinili Regalia, an individual and that the incorrect assignee's name was included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent.

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

---

[1] While a copy of the petition was provided on April 23, 2007, the original petition has been located and associated with the file.

[2] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

> 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.

Office assignment records reflect that Florenio Pinili Regalia, an individual is the assignee of record. Petitioner has provided a certificate of correction under § 1.323 and the fee required by § 1.20(a); however, the processing fee set forth in § 1.17(i) has not been paid. The $130 processing fee is being charged to counsel's deposit account as authorized. Accordingly, the request complies with the provisions of 37 CFR 3.81(b).

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.

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.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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P.O. BOX 31051
ROCHESTER, NY 14603-1051

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OFFICE OF PETITIONS

In re Application of	:	
Apel et al	:	
Application No. 10/973,233	:	ON PETITION
Filed: October 26, 2004	:	
Attorney Docket No. 20959/2330	:	

This is a decision on the petition under 37 C.F.R. § 1.182, filed September 18, 2006, to change the name of an inventor.

The petition is **GRANTED.**

The name will be changed from Christian VAN'T HOEN to Christian RITZBERGER.

This matter is being directed to the Publishing Division for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206. All other inquiries should be directed to the Publishing Division.

Liana Walsh
Petitions Examiner
Office of Petitions

Enclosure: 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
10/973,233	10/26/2004	1755	1216	20959/2330 (P 66242)	3	27	1

CONFIRMATION NO. 3071
CORRECTED FILING RECEIPT
OC000000021653030
OC000000021653030

Joseph M. Noto
Nixon Peabody LLP
Clinton Square
P.O. Box 31051
Rochester, NY 14603-1051

Date Mailed: 12/18/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Elke Apel, Buchs, SWITZERLAND;
Wolfram Holand, Schaan, LIECHTENSTEIN;
Christian Ritzberger, Feldkirch, AUSTRIA;
Urs Bolle, Feldkirch, AUSTRIA;
Volker M. Rheinberger, Vaduz, LIECHTENSTEIN;

Power of Attorney:

Michael Goldman--30727
Joseph Noto--32163
Gunnar Leinberg--35584
Candice Clement--39946
Edwin Merkel--40087
Alice Choi--45758
Andrew Gonsalves--48145
Noreen Connolly--48987
David Cutitta--52790
Tate Tischner--56048

Domestic Priority data as claimed by applicant

Foreign Applications

GERMANY 10 2004 013 455.3 03/18/2004

If Required, Foreign Filing License Granted: 02/15/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/973,233

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

APATITE GLASS CERAMIC BASED ON SILICEOUS OXYAPATITES

Preliminary Class

501

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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Jon P. Christensen
Welsh & Katz, Ltd.
22nd Floor
120 South Riverside Plaza
Chicago IL 60606

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JUN 14 2005

OFFICE OF PETITIONS

In re Application of	:	
Freeman et al.	:	
Application No. 10/973,235	:	DECISION GRANTING PETITION
Filed: October 26, 2004	:	
Attorney Docket No. 1693-93227	:	

This is a decision on the petition filed May 19, 2005, requesting that the above-identified application be accorded a filing date of October 26, 2004, with Figures 31 and 32 as part of the original disclosure.

On October 26, 2004, applicants filed the above-identified application. On May 12, 2005, the Office mailed a Notice of Omitted Item(s) in a Nonprovisional Application, stating that the application had been accorded a filing date of October 26, 2004, and advising applicants that Figures 31 and 32 appeared to have been omitted.

In response, on May 19, 2005, applicants filed the present petition and a copy of applicants' postcard receipt acknowledging receipt of "Twenty-seven (27) sheets of Formal Drawings." Additionally, applicants submitted Figures 31 and 32.

Upon review of the record, Figures 31 and 32 deposited on October 26, 2004, have not been located among the application papers. However, the evidence is convincing that the application papers deposited on October 26, 2004, included Figures 31 and 32, which were subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application, including Figures 31 and 32, was complete on filing and will be granted a filing date of October 26, 2004.

Accordingly, the petition is granted.

The Notice of Omitted Items mailed on May 12, 2005, was sent in error and is hereby vacated. Accordingly, the $400.00 petition fee is unnecessary and will be refunded to Deposit Account No. 23-0920.

The Office of Initial Patent Examination is directed to **accord the above-identified application a filing date of October 26, 2004**, using the application papers submitted on that date, and Figures 31 and 32 submitted on October 26, 2004.

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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GREENBLUM & BERNSTEIN
1950 ROLAND CLARKE PLACE
RESTON, VA 20191

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FEB 04 2005

OFFICE OF PETITIONS

In re Application of	:	
Philipp Gittler	:	
Application No. 10/973,266	:	NOTICE
Filed: October 27, 2004	:	
Attorney Docket No. P25453	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This matter is being referred to Technology Center AU 3676.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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REED SMITH, LLP
Suite 1400
3110 Fairview Park Drive
Falls Church, VA 22042

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JAN 0 5 2009

OFFICE OF PETITIONS

ON PETITION

In re Application of	:
Kenichi Mizugaki, et. al.	:
Application No. 10/973,289	:
Filed: October 27, 2004	:
Attorney Docket No. GOTO.0016	:

This is a decision on the petition under 37 CFR 1.137(b), filed on February 15, 2008 and supplemented on April 8, 2008, to revive the above-identified application.

The application became abandoned for failure to timely respond to the Notice of Allowance and Fee(s) Due mailed October 9, 2007.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $1,440 for payment of the issue fee and $300 for payment of the publication fee; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to the Office of Data Management to be processed into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Juan Carlos A. Marquez
c/o Stites & Harbison PLLC
1199 North Fairfax Street
Suite 900
Alexandria, VA 22314-1437

Mail Date: 04/21/2010

Applicant	: Kenichi Mizugaki	: DECISION ON REQUEST FOR
Patent Number	: 7627329	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/973,289	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/27/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **734** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Juan Carlos A. Marquez
c/o Stites & Harbison PLLC
1199 North Fairfax Street
Suite 900
Alexandria, VA 22314-1437

Mail Date: 05/18/2010

Applicant : Kenichi Mizugaki
Patent Number : 7627329
Issue Date : 12/01/2009
Application No : 10/973,289
Filed : 10/27/2004

: 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 **811** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070209

DATE : February 9, 2007

TO SPE OF : ART UNIT 2881

SUBJECT : Request for Certificate of Correction on Patent No.: 7,084,399

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

SPE: Robert H. Kim **Art Unit** 2881

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WAGNER, MURABITO & HAO LLP
Two North Market Street
Third Floor
San Jose, CA 95113

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OCT 2 4 2006

Technology Center 2100

In re application of	:	
Bell et al.	:	
Serial No. 10/973,335	:	DECISION ON PETITION
Filed: October 25, 2004	:	TO MAKE SPECIAL
For: METHOD AND SYSTEM FOR	:	UNDER MPEP § 708.02 II
MANAGING AN INTERACTIVE VIDEO	:	(Infringement)
DISPLAY SYSTEM		

This is a decision on the petition, having an OIPE filing date of August 25, 2006, 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 25, 2004 and not **on or after August 25, 2006**. In addition, the instant application contains greater than twenty total claims.

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 II 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.

Brian L. Johnson
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(571) 272-3595

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Bruce H. Troxell
Troxell Law Office PLLC
5205 Leesburg Pike, Suite 1404
Falls Church, VA 22041

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APR 26 2007

OFFICE OF PETITIONS

In re Application of:
TSENG
Application No.: 10/973,386
Filed: October 27, 2004
Atty's Docket No.: 3167-228

DECISION ON PETITION UNDER 37 CFR 1.137(b)

This is a decision on the petition for revival of the above-entitled application under 37 CFR 1.137(b), filed October 03, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice Of Allowance mailed April 13, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned at midnight on July 13, 2006.

On October 03, 2006, applicant filed the petition for revival under 37 CFR 1.137(b) considered herein. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that it includes: (1) the petition fee; (2) the required statement of unintentional delay; and (3) the required reply in the form of payment of the issue and publication fees. Accordingly, the issue and publication fee payments are accepted as having been unintentionally delayed.

The application is being referred to the Office Of Publications.

Telephone inquiries concerning this decision should be directed to the undersigned.

Derek A. Putonen
Attorney Advisor
(571) 272-3294

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4813-B EISENHOWER AVENUE
ALEXANDRIA, VA 22304

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OFFICE OF PETITIONS

In re Application of
Mount, Clack, Greenfield, and Gardenswartz
Application No. 10/973,456
Filed: October 27, 2004
Attorney Docket No. PIP154GARDU-US
For: INCENTIVES BASED UPON ACTIVE KEY SNIFFING

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a) filed April 18, 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 27, 2004, without a proper oath or declaration. Accordingly, a "Notice to File Missing Parts of Nonprovisional Application" was mailed on January 10, 2005, requiring an executed oath or declaration and a surcharge for the late filing of the oath or declaration. The instant petition was filed on April 18, 2005, along with a request for an extension of time within the second 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 inventor. Further to this points, 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 inventor Gardenswartz has refused to join the prosecution of the application, it is not clear whether inventor Garndenswartz was provided a complete copy of the application papers or whether he refused to accept the same. In order for inventor Gardenswartz refusal to have merit relative to the instant petition, it must be clear that he was provided with a copy of the application papers or an effort was made to provide him with the same and he 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: (703) 872-9306
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned (571) 272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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International Engine Intellectual Property Co.
4201 Winfield Road
P.O. Box 1488
Warrenville, IL 60555

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OFFICE OF PETITIONS

In re Application of:
SCHUEREN
Application No.: 10/973,487
Filed: October 26, 2004
Atty's Docket No.: D5487

DECISION ON PETITION

UNDER 37 CFR 1.181

This is a decision on the petition to withdraw holding of abandonment under 37 CFR 1.181 filed September 27, 2006.

The petition is **GRANTED**.

On September 20, 2006, applicant was mailed a communication indicating that the above-identified application had become abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice Of Allowance mailed May 17, 2006, which set a statutory period for reply of three (3) months.

On September 27, 2006, applicant filed the present petition considered herein. A review of the application file and present papers shows that applicant provided a timely response on June 21, 2006. The response was submitted using form PTO 85B. In the filing applicant inadvertently omitted the deposit account information; however, applicant had previously authorized the deduction of all necessary fees to deposit account number 14-0603. Pursuant to MPEP section 1306 and 37 CFR 1.311(b), the attempted payment of June 21, 2006 using the PTO 85B form is considered an intent to pay the issue fee. Since applicant previously authorized the charging of fees to deposit account number 14-0603, it is proper to accept the payment as timely filed and grant applicant's petition to withdraw the holding of abandonment. The Notification of Abandonment mailed September 20, 2006 is hereby **VACATED**.

There is no need to consider applicant's conditional petition to revive under 37 CFR 1.137(b) and the $1500.00 petition fee will be credited to deposit account number 14-0603.

The application is being referred to the Office Of Publications.

Telephone inquiries concerning this decision should be directed to the undersigned.

Derek A. Putonen
Attorney Advisor
(571) 272-3294

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OFFICE OF PETITIONS

Woodcock, Washburn, LLP
Cira Centre, 12th Floor
2929 Arch Street
Philadelphia, PA 19104-2891

In re Application of	:	
Brett D. Gidge et al.	:	
Application No. 10/973,493	:	DECISION ON PETITION
Filed: October 26, 2004	:	TO WITHDRAW
Attorney Docket No. CRNT-0229	:	FROM RECORD
	:	

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 27, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW May-05

WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE - 46TH FLOOR
PHILADELPHIA PA 19103

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MAY 1 3 2005

OFFICE OF PETITIONS

In re Application of	:	
Gosalia et al.	:	DECISION ON PETITION
Application No. 10/973,494	:	
Filed: 26 October, 2004	:	
Atty Docket No. MSFT-4584	:	

This is a decision on the petition filed on 22 November, 2004, which requests under 37 C.F.R. §1.182 that a previously filed terminal disclaimer be withdrawn.

The petition is granted.

Petitioner asserts that the terminal disclaimer filed on 26 October, 2004, should be withdrawn because it was filed by an attorney who was not of record. As the examiner has concurred, the requested relief can be favorably considered.

The petition fee of $400.00 will be charged to counsel's deposit account, No. 23-3050, as authorized in the present petition.

Receipt of the terminal disclaimer filed with the present petition is acknowledged.

This application is being referred to Technology Center Art Unit 2194 for correction of PALM and file records consistent with this decision.

Telephone inquiries relative to this decision should be directed to the undersigned at (571) 272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
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WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE - 46TH FLOOR
PHILADELPHIA PA 19103

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MAY 1 3 2005

OFFICE OF PETITIONS

In re Application of	:	
Bernstein et al.	:	DECISION ON PETITION
Application No. 10/973,495	:	
Filed: 26 October, 2004	:	
Atty Docket No. MSFT-4583	:	

This is a decision on the petition filed on 22 November, 2004, which requests under 37 C.F.R. §1.182 that a previously filed terminal disclaimer be withdrawn.

The petition is granted.

Petitioner asserts that the terminal disclaimer filed 26 October, 2004, should be withdrawn because it was filed by an attorney who was not of record. As the examiner has concurred, the requested relief can be favorably considered.

The petition fee of $400.00 will be charged to counsel's deposit account, No. 23-3050, as authorized in the present petition.

Receipt of the terminal disclaimer filed with the present petition is acknowledged.

This application is being referred to Technology Center Art Unit 2171 for correction of PALM and file records consistent with this decision.

Telephone inquiries relative to this decision should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WOODCOCK WASHBURN LLP (MICROSOFT CORPORATION)
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

COPY MAILED

FEB 07 2008

OFFICE OF PETITIONS

In re Application of	:	
Philip A. Bernstein et al.	:	
Application No. 10/973,495	:	DECISION ON PETITION
Filed: October 26, 2004	:	
Attorney Docket No. MSFT-4583	:	

This is a decision on the petition, filed August 29, 2007, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely pay the issue and publication fees on or before June 22, 2007, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed March 22, 2007.

Petitioner asserts that the Notice dated March 22, 2007 was not received.

A review of the written record indicates no irregularity in the mailing of the Notice Of Allowance and Fee(s) Due , and, in the absence of any irregularity, there is a strong presumption that the Notice was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. In this regard, the showing required to establish the failure to receive the Notice must consist of the following:

1. a statement from practitioner stating that the Notice was not received by the practitioner;
2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Notice was not received; and
3. a copy of the docket record where the non-received Notice would have been entered and docketed had it been received must be attached to and referenced in the practitioners' 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.

Telephone inquiries concerning this decision should be directed to Carl Friedman at (571) 272-6842.

This application is being referred to the Technology Center AU 2163 technical support staff for **re-mailing** the Notice of Allowability and the Notice of Allowance and Fee(s) Due of .
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.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Gideon Pilarsky	: DECISION ON REQUEST FOR
Patent Number	: 7667037	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/973,498	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/25/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **708** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Akerman Senterfitt
P.O. Box 3188
West Palm Beach, FL 33402-3188

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JUL 24 2006

OFFICE OF PETITIONS

In re Application of	:	
Mick PEREZ-CRUET, et al.	:	
Application No. 10/973,501	:	DECISION ON PETITION
Filed: October 26, 2004	:	TO WITHDRAW
Attorney Docket No. 7856-6	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 12, 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 Gregory A. Nelson 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.

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 signing inventor having a complete mailing address at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Monica Graves at 571-272-7253.

for David Bucci
Petitions Examiner
Office of Petitions

cc: Mick Perez-Cruet
1070 Timberlake Drive
Bloomfield, MI 48302

cc: US Spine, LLC
3600 Fau Boulevard, Suite 101
Boca Raton, FL 33431

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
10/973,501	10/26/2004	Mick J. Perez-Cruet	7856-3

CONFIRMATION NO. 2081

OC000000019655666

30448
AKERMAN SENTERFITT
P.O. BOX 3188
WEST PALM BEACH, FL 33402-3188

Date Mailed: 07/18/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/12/2005.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WOODARD, EMHARDT, MORIARTY, MCNETT & HENRY LLP
111 MONUMENT CIRCLE, SUITE 3700
INDIANAPOLIS, IN 46204-5137

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OCT 1 5 2008

OFFICE OF PETITIONS

In re Application of
Mark T. Wieczorek, et al.
Application No. 10/973,523
Filed: October 26, 2004
Attorney Docket No. 8017-472

ON PETITION

This is a decision in response to the petition, filed June 26, 2008, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed June 4, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on September 5, 2007. A Notice of Abandonment was mailed on December 10, 2007. On June 26, 2008, the present petition was filed.

The petition is not signed by a registered attorney or agent of record. However, in accordance with 37 CFR 1.34(a), the signature of Brian C. Kunzler appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. While a courtesy copy of this decision is being mailed Mr. Kunzler, all future correspondence will be directed solely to the address of record.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay[1].

The application is being referred to Technology Center AU 1797 for appropriate action by the Examiner in the normal course of business on the reply received June 26, 2008.

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: BRIAN C. KUNZLER
8 EAST BROADWAY
SUITE 600
SALT LAKE CITY, UT 84111

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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www.uspto.gov

Akerman Senterfitt
P.O. Box 3188
West Palm Beach, FL 33402-3188

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OFFICE OF PETITIONS

In re Application of	:	
Mark FALAHEE, et al.	:	
Application No. 10/973,524	:	DECISION ON PETITION
Filed: October 26, 2004	:	TO WITHDRAW
Attorney Docket No. 7856-6	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 12, 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 Gregory A. Nelson 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.

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 signing inventor having a complete mailing address at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Monica Graves at 571-272-7253.

for David Bucci
Petitions Examiner
Office of Petitions

cc: Leonel Dominguez
713 Trotwood Trace Court
Jacksonville, FL 32259

cc: US Spine, LLC
3600 Fau Boulevard, Suite 101
Boca Raton, FL 33431

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
10/973,524	10/26/2004	Mark H. Falahee	7856-6

CONFIRMATION NO. 2441

OC000000019656882

30448
AKERMAN SENTERFITT
P.O. BOX 3188
WEST PALM BEACH, FL 33402-3188

Date Mailed: 07/18/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/12/2005.

- 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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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S)	:	Naveen Chopra, et al.
FOR	:	**TONER COMPOSITIONS FOR DRY-POWDER ELECTROPHORETIC DISPLAYS**
PATENT NO.	:	US 7,499,209 B2
ISSUED	:	March 3, 2009
EXAMINER	:	Timothy J. Thompson
ART UNIT	:	2873
CONFIRMATION NO.	:	2442
ATTORNEY DOCKET NO.	:	A3626-US-NP (XERZ 2 00773)

REQUEST FOR CERTIFICATE OF CORRECTION OF PATENT FOR APPLICANTS' MISTAKE TO CORRECT THE NAME OF THE ASSIGNEE (37 C.F.R. § 1.323 and 37 C.F.R. § 3.81(b))

ATTENTION: OFFICE OF PETITIONS
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicants hereby request that a Certificate of Correction be issued to correct the name of the Assignee. The Assignment to **Palo Alto Research Center Incorporated** was submitted for recordation as set forth in 37 C.F.R. § 3.11 on July 12, 2005, well before issuance of the patent on March 3, 2009. The Assignment was recorded in the U.S. Patent and Trademark Office on July 12, 2005 at Reel/Frame 016516/0479.

04/09/2009 JVONG1 00000035 060308 7499209
02 FC:1464 130.00 DA

04/09/2009 JVONG1 00000035 060308 7499209
01 FC:1811 100.00 DA

It is noted that an error appears in this patent of a minor nature or character, as more fully described below. It occurred in good faith. Correction thereof does not involve such changes in the patent as would constitute new matter or would require re-examination. A Certificate of Correction in the name of the Assignee is requested.

An error occurred on the Fee(s) Transmittal form, where Applicants attorney inadvertently entered the name and residence of the Assignee as "Xerox Corporation, Norwalk, CT".

Submitted hereto, in duplicate, is PTO/SB/44, with at least one copy being suitable for printing.

The exact page and line (or Field) in the printed patent where the error occurs is:

First Page

(73) Assignee: Xerox Corporation *[should be Palo Alto Research Center Incorporated],*
Norwalk, CT (US) *[should be Palo Alto, CT (US)]*

Please send the Certificate to:

Richard M. Klein, Esq.
Fay Sharpe LLP
1228 Euclid Ave, 5th Floor
Cleveland, Ohio 44115

The Commissioner is hereby authorized to charge the fee in the amount of $130.00 to cover the processing fee required by 37 C.F.R. § 1.17(i) and the fee of $100.00 as set forth in 37 C.F.R. § 1.20(a) to cover the Request for Certificate of Correction Under 37 C.F.R. § 1.323 to Deposit Account No. 06-0308. Please charge any additional fees required by this paper or credit any overpayment to Deposit Account No. 06-0308.

PAGE 2/5 * RCVD AT 4/9/2009 8:49:37 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/34 * DNIS:2738300 * CSID:2163639001 * DURATION (mm-ss):01-18

Respectfully submitted,

FAY SHARPE LLP

April 9, 2009
Date

Richard M. Klein, Reg. No. 33,000
1228 Euclid, Fifth Floor
Cleveland, OH 44115
216-363-9000

CERTIFICATE OF MAILING OR TRANSMISSION	
I hereby certify that this correspondence (and any item referred to herein as being attached or enclosed) is (are) being ☒ transmitted to the USPTO via facsimile (571-273-8300) on the date indicated below.	
	Signature:
Date: April 9, 2009	Name: Bryon J. Justice

N:\XERZ\200860\US\KMF0009905V001.docx

PAGE 3/5 * RCVD AT 4/9/2009 8:49:37 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/34 * DNIS:2738300 * CSID:2163639001 * DURATION (mm-ss):01-18

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

Page 1 of 1

PATENT NO. : 7,499,209 B2

APPLICATION NO.: 10/973,544

ISSUE DATE : March 3, 2009

INVENTOR(S) : Naveen Chopra, 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:

(73) Assignee: Palo Alto Research Center Incorporated, Palo Alto, CA (US)

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Fay Sharpe LLP
1228 Euclid Avenue, 5th Floor
Cleveland, OH 44115

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.

PTO/SB/44 (09-07)
Approved for use through 08/31/2010. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

Page 1 of 1

PATENT NO. : 7,499,209 B2

APPLICATION NO.: 10/973,544

ISSUE DATE : March 3, 2009

INVENTOR(S) : Naveen Chopra, 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:

(73) Assignee: Palo Alto Research Center Incorporated, Palo Alto, CA (US)

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Fay Sharpe LLP
1228 Euclid Avenue, 5th Floor
Cleveland, OH 44115

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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WELSH & KATZ, LTD
120 S RIVERSIDE PLAZA
22ND FLOOR
CHICAGO, IL 60606

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JAN 0 7 2008

OFFICE OF PETITIONS

In re Application of	:	
CHAO, Ching-Ian et al.	:	
Application No. 10/973,558	:	DECISION ON PETITION
Filed: October 26, 2004	:	TO WITHDRAW
Attorney Docket No. **TAIW 867**	:	FROM RECORD
	:	

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 19, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to WELSH & KATZ, LTD has been revoked by the assignee of the patent application on December 03, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **RABIN & Berdo, PC**
1101 14TH STREET, NW
SUITE 500
WASHINGTON DC 20005

PTO/SB/83 (01-06)
Approved for use through 12/31/2008. OMB 0651-0035
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	10/973,558
Filing Date	10/26/2004
First Named Inventor	Chao
Art Unit	2879
Examiner Name	Bumsuk Won
Attorney Docket Number	2455/93170

To: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Please withdraw me as attorney or agent for the above identified patent application, and

☐ all the attorneys/agents of record.

☐ the attorneys/agents (with registration numbers) listed on the attached paper(s), or

☒ the attorneys/agents associated with Customer Number 24628

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practitioners associated with a customer number.

The reasons for this request are: The owner of this appliction, our client, asked us to take no further action in this matter. We will not be paid for future work.

CORRESPONDENCE ADDRESS

1. ☐ The correspondence address is NOT affected by this withdrawal.
2. ☒ Change the correspondence address and direct all future correspondence to:

☐ The address associated with Customer Number:

OR

☒ Firm *or* Individual Name	Taiwan Advance Patent & Trademark Office				
Address	4F. No.410, Sec5, Chunghsiao E. Rd.				
City	Taipei City	State	Taiwan	Zip	
Country	R.O.C.				
Telephone	+886-2-2723-8589 ext.158			Email	advance@aipo.com.tw
Signature					
Name	Jeffrey W. Salmon		Registration No.	37,435	
Date	November 12, 2007		Telephone No.	(312) 655-1500	

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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IFW

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Group Art Unit : 2879
Examiner : Bumsuk Won

In Re Patent Application of:

First Named Inventor	:	Chao, Ching-Ian et al.	)
Serial No.	:	10/973,558	)
Filed	:	October 26, 2004	) **REVOCATION OF POWER OF ATTORNEY AND APPOINTMENT OF NEW ATTORNEYS**
For	:	FULL-COLOR ORGANIC ELECTROLUMINESCENCE DISPLAY	)
New Attorney Ref.	:	**TAIW 867**	) December 3, 2007

BOX AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

"REVOCATION OF POWER OF ATTORNEY AND APPOINTMENT OF NEW ATTORNEYS" is submitted herewith. Therefore, please note the new correspondence address shown below.

Respectfully submitted,

Steven M. Rabin (Reg. No. 29,102)
RABIN & BERDO, P.C.
(Customer No. 23995)
Washington, DC 20005
Telephone: (202)371-8976

SMR:QZ:scz

OIPE
DEC 0 3 2007
PATENT & TRADEMARK OFFICE

093US4982/P08930024US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s)	:	Ching-Ian Chao et al.		
Serial No.	:	10/973,558	Group Art Unit:	2879
Filed	:	Oct. 26, 2004	Examiner:	WON, BUMSUK
For	:	FULL-COLOR ORGANIC ELECTROLUMINESCENCE DISPLAY PANEL		

STATEMENT UNDER 37 CFR 3.73(b) AND REVOCATION OF POWER OF ATTORNEY AND APPOINTMENT OF NEW ATTORNEYS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The undersigned hereby states under the provisions of 37 CFR 3.73(b) that **INDUSTRIAL TECHNOLOGY RESEARCH INSTITUTE** is the assignee of the entire right, title and interest in the patent application listed above by virtue of an assignment recorded in the Patent and Trademark Office, either the reel and frame of which is inserted here in parentheses (reel **015934**, frame **0248**) or a copy of which is attached hereto.

As the assignee of the entire right, title and interest in the application above-listed and confirmed above under the provisions of 37 CFR 3.73(b), I hereby revoke all powers of attorney heretofore given by the applicant(s) and appoint the Practitioners at the law firm RABIN & BERDO, PC, including Steven M. Rabin (Reg. No. 29,102), Robert H. Berdo, Jr. (Reg. No. 38,075), Phillip G. Avruch (Reg. No. 46, 076), Allen Wood (Reg. No. 28,134) and Nicholas S. Bromer (Reg. No. 33,478), to prosecute the above-identified application and to transact all business in the Patent and Trademark Office connected therewith. All telephone calls should be directed to (202)371-8976.

Please send all correspondence to:

23995
23995
Patent Trademark Office

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

Diane Chen
Signature

November 19, 2007
Date

Diane CHEN
Print or type name

Director
Title

Patent Assignment Abstract of Title

Total Assignments: 1

Application #: 10973558 **Filing Dt:** 10/26/2004 **Patent #:** NONE **Issue Dt:**

PCT #: NONE **Publication #:** US20060033422 **Pub Dt:** 02/16/2006

Inventors: Ching-Ian Chao, Chun-Te Lu

Title: Full-color organic electroluminescence display

Assignment: 1

Reel/Frame:	**Received:**	**Recorded:**	**Mailed:**	**Pages:**
015934 / 0248	11/02/2004	10/26/2004	04/23/2005	3

Conveyance: ASSIGNMENT OF ASSIGNORS INTEREST (SEE DOCUMENT FOR DETAILS).

Assignors: CHAO, CHING-IAN **Exec Dt:** 10/15/2004

LU, CHUN-TE **Exec Dt:** 10/15/2004

Assignees: INDUSTRIAL TECHNOLOGY RESEARCH INSTITUTE
NO. 195, SEC. 4, CHUNG-HSING RD., CHU-TUNG
HSINCHU, TAIWAN R.O.C.

WORLDLED CO., LTD.
7F-2, NO. 168, SEC. 2, MEI TSUN ROAD
TAI-CHUNG, TAIWAN R.O.C.

Correspondent: ERIC D. COHEN
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Search Results as of: 12/14/2007 02:03 PM

If you have any comments or questions concerning the data displayed, contact PRD / Assignments at 571-272-3350.
Web interface last modified: February 22, 2007 v.2.0

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650 DUNDEE ROAD
NORTHBROOK IL 60062

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SEP 2 6 2008

OFFICE OF PETITIONS

In re Application of

ROMLEY, Michael G.
Application No. 10/973,587
Filed: October 26, 2004
Attorney Docket No. **6072-001**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 12, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by David Rosenbaum on behalf of all attorneys of record who are associated. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the inventor Michael Romley at the address indicated below. There is an outstanding Office action mailed April 15, 2008 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **MICHAEL G. ROMLEY**
7102 NORTH 18TH STREET
PHOENIX AZ 85020

UNITED STATES PATENT AND TRADEMARK OFFICE

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AUSTIN TX 78759

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SEP 14 2007
OFFICE OF PETITIONS

In re Application of
Yoshito Honda et al.
Application No. 10/973,600
Filed: October 26, 2004
Attorney Docket No.: JP920030232US1

ON PETITION

This is a decision on the petition filed August 23, 2007 to withdraw the holding of abandonment, under 37 CFR 1.181.

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. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181," or, as explained in more detail below, "...under 37 CFR 1.137(a)" or (b). This is not a final agency decision.

An amendment and two month extension of time were filed March 9, 2007 in response to a Final Office Action mailed November 1, 2006. In response thereof, an Advisory Action mailed May 8, 2007 noted that the response filed March 9, 2007 did not place the application in condition for allowance. Thus, since the extendable period for reply had lapsed, the application became abandoned and a Notice of Abandonment was mailed July 27, 2007.

Petitioner argues that the Final Office Action was mailed to the wrong address and was not forwarded to the petitioners in time for a timely response and thus, the holding of abandonment should be withdrawn. Petitioner's arguments have been considered but they are not persuasive.

Petitioners are advised that the application is not abandoned because the response was not timely filed as the extension of time provided for a timely response. Rather, the application is abandoned because petitioners failed to file a proper reply as noted in the Advisory Action mailed May 8, 2007.

This application properly became abandoned April 3, 2007 for failure to file a complete and

proper response to the Final Office Action. Therefore, the Notice of Abandonment mailed July 27, 2007 was appropriate.

In view thereof, the holding of abandonment will not 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

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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)).

statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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DILLON & YUDELL, LLP
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SUITE 2110
AUSTIN TX 78759

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OFFICE OF PETITIONS

In re Application of
Yoshito Honda et al.
Application No. 10/973,600
Filed: October 26, 2004
Attorney Docket No.: JP920030232US1

ON PETITION

This is a decision on the petition, filed January 4, 2008 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **DISMISSED**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(b) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 CFR 1.137." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

An amendment and two month extension of time were filed March 9, 2007 in response to a Final Office Action mailed November 1, 2006. In response thereof, an Advisory Action mailed May 8, 2007 noted that the response filed March 9, 2007 did not place the application in condition for allowance. Thus, since the extendable period for reply had lapsed, the application became abandoned and a Notice of Abandonment was mailed July 27, 2007.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by:

(1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof;

(2) the petition fee required by 37 CFR 1.17(l);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) in a design application, a utility application filed before June 8, 1995, or a plant application filed before June 8, 1995.

The petition does not satisfy requirement (1) above.

The application became abandoned for failure to file a response within the meaning of 37 CFR 1.113 to the final rejection of November 1, 2006, within the time period for response. The only proper reply to a final Office action is an amendment placing the application in *prima facie* condition for allowance, a Notice of Appeal accompanied by the requisite fee, a Request for Continued Examination (RCE) accompanied by a proper submission, or a continuing application. Since the amendment submitted January 4, 2008 has been referred to the examiner, who has indicated that the amendment does not prima facie place the application in condition for allowance, the response required for a renewed petition must be a Notice of Appeal and requisite fee, or the filing of a continuing application under the terms set forth in 1031 O.G. 11.

Petitioner must submit a proper reply to the final Office action mailed on November 1, 2006, with any renewed petition. **Petitioner should note that submission of any renewed petition without the required reply will be construed as intentional delay.**

Please refer to the Advisory Action mailed May 8, 2007 as the amendment filed with the instant petition is not accepted for the same reasons the previous amendment was not entered.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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AUSTIN TX 78759

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Yoshito Honda et al.
Application No. 10/973,600
Filed: October 26, 2004
Attorney Docket No.: JP920030232US1

This is a decision on the renewed petition, filed February 20, 2008 under 37 CFR 1.137(b)[1], to revive the above-identified application.

The petition is **GRANTED**.

An amendment and two month extension of time were filed March 9, 2007 in response to a Final Office Action mailed November 1, 2006. In response thereof, an Advisory Action mailed May 8, 2007 noted that the response filed March 9, 2007 did not place the application in condition for allowance. Thus, since the extendable period for reply had lapsed, the application became abandoned and a Notice of Abandonment was mailed July 27, 2007. A petition to revive was filed January 2, 2008 and dismissed in a decision mailed February 12, 2008 because the petition did not satisfy requirement (1) under 37 CFR 1.137(b).

Comes now petitioner with the instant renewed petition and a Request for Continued Examination (RCE) as the response to the final rejection and an amendment as the submission required under 37 CFR 1.114.

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[1]A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by:

(1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof;

(2) the petition fee required by 37 CFR 1.17(l);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) in a design application, a utility application filed before June 8, 1995, or a plant application filed before June 8, 1995.

Since the petition fee was paid with the original petition filed January 2, 2008, the petition fee in the amount of $1540 charged to deposit account no. 50-3669 will be credited back. Additionally, the fee for the RCE in the amount of $810 has been charged to deposit account no. 50-3669.

All other requirements having been met, this application is being forwarded to Technology Center 2854 for processing of the RCE.

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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ALEXANDRIA, VA 22313-1450
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Paper No. None

Steven D. Boyd
Arkema Inc.
2000 Market Street
Philadelphia PA 19103

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MAR 13 2007

OFFICE OF PETITIONS

In re Application of	:	
Glenn T. Carroll et al.	:	
Application No. 10/973,610	:	DECISION ON PETITION
Filed: October 26, 2004	:	UNDER 37 C.F.R. 1.78(A)(6)
Attorney Docket No. IR 3701 NP	:	
Title: PREPARATION OF	:	
SUBSTITUTED ALKANESULFONATES	:	
FROM 2-HYDROXYALKANESULFONATES	:	

This is a decision on the petition under 37 C.F.R. §1.78(a)(6), filed December 4, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

A petition under 37 C.F.R. §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 C.F.R. §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 C.F.R. §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 C.F.R. §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.

MPEP §201.11 sets forth, in pertinent part:

> When a later-filed application is claiming the benefit of a prior-filed provisional application under 35 U.S.C. 119(e), the nonprovisional application must be filed not later than 12 months after the date on which the provisional application was filed (emphasis added). If the day that is 12 months after the filing date of a provisional application falls on a Saturday, Sunday, or Federal holiday within the District of Columbia, the nonprovisional application may be filed on the next succeeding business day. See 35 U.S.C. 21(b), 37 CFR 1.7(b), and MPEP § 201.04(b) and § 505.
>
> Public Law 106-113 amended 35 U.S.C. 119(e)(2) to eliminate the copendency requirement for a nonprovisional application claiming benefit of a provisional application. 35 U.S.C. 119(e)(2) as amended by Public Law 106-113 is effective as of November 29, 1999 and applies to any provisional applications filed on or after June 8, 1995 but has no effect on any patent which is the subject of litigation in an action commenced before November 29, 1999. Although a nonprovisional application claiming the benefit of a provisional application is not required to be copending with the provisional application, abandonment of a provisional application for failure to pay the basic filing fee would indicate that the nonprovisional application could not claim the benefit of the provisional application because the basic filing fee was not paid within the time period set forth in 37 CFR 1.53(g) as required by 37 CFR 1.78(a)(4).
>
> Applicant may claim the benefit of a provisional application by claiming the benefit of an intermediate copending nonprovisional application (emphasis added). The later-filed application must claim the benefit of the intermediate nonprovisional application under 35 U.S.C. 120, 121, or 365(c); the intermediate application must be filed not later than 12 months after the filing date of the provisional application; and both the later-filed application and the intermediate application must claim the benefit of the provisional application under 35 U.S.C. 119(e).

The present nonprovisional application (the later-filed application) which claims the benefit of the prior-filed provisional application was not filed within twelve months of the filing date of the prior-filed provisional application. Application No. 60/503,263, for which the benefit is sought, was filed on September 16, 2003, and went abandoned on the twelve-month anniversary of this date (September 16, 2004), pursuant to 35 U.S.C. §111(b)(5). The present application was not filed until October 26, 2004, which is subsequent to the abandonment of the provisional application, to which priority is claimed.

Hence, Petitioner cannot claim priority to provisional application number 60/503,263, and it does not appear that an intermediate application exists.

Any reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. §1.78(a)(3)." This is not a final agency action within the meaning of 5 U.S.C §704. The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[1], hand-delivery[2], or facsimile[3].

Petitioner's representative will note that an ADS filed with the application is not required to be signed unless the ADS includes a nonpublication request. 37 C.F.R. §1.33(b) requires that amendments and other papers, except for written assertions pursuant to 37 C.F.R. §1.27(c)(2)(ii), filed in the application must be signed by an appropriate party. Therefore, an ADS or a supplemental ADS filed after the filing of an application must be signed in accordance with 37 C.F.R. §1.33(b).

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Nance Johnson for

Ira Lazarus
Supervisory Petitions Examiner
Office of Petitions
United States Patent and Trademark Office

---

1 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
2 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
3 (571) 273-8300- please note this is a central facsimile number.

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PATRICK W. RASCHE
ARMSTRONG TEASDALE LLP
ONE METROPOLITAN SQUARE, SUITE 2600
ST. LOUIS, MO 63102-2740

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OFFICE OF PETITIONS

In re Application of :
Graneto :
Application No. 10/973,627 : DECISION ON PETITION
Filed: October 26, 2004 :
Docket No.: 16659/11 :

This is a decision on the petition under 37 CFR 1.181, filed August 21, 2006, to withdraw the holding of abandonment.

The petition is **GRANTED**.

The application was held abandoned for failure to timely submit a properly reply to the Office communication mailed March 24, 2005. The Office communication set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed October 13, 2006.

Petitioner asserts non-receipt of the Office communication.

In the absence of any irregularity in the mailing of the Office communication, there is a strong presumption that the Office communication was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office communication was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. *See*, MPEP 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

The arguments and supporting documentation presented have been carefully considered and support the conclusion that the non-final Office was not received.

In view thereof the Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The application file is being forwarded to Technology Center 3600 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at 571-272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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Sheldon & Mak
225 S. Lake Avenue, 9th Floor
Pasadena, CA 91101

MAILED

JUL 05 2005

Director's Office
Group 3700

In re application of
Joseph Kaellis

Serial Number: 10/973629
Filed: October 25, 2004

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 CFR. 1.102(c)

For: **HEAT EXCHANGER**

This is a decision on the petition filed on October 25, 2004, under 37 CFR. 1.102(c) to make special the above identified application because of the age/health of the applicant. Since the requirements of the M.P.E.P Section 708.02 IV have been met, the petition will be GRANTED.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only is Petitioner makes a prompt bona-fide effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the Examiner to accomplish this purpose.

Summary: Decision on Petition **GRANTED**.

Richard A. Bertsch
Director
Technology Center 3700
(571) 272-3750

rt: 7/1/05

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AT&T CORP.
ROOM 2A207
ONE AT&T WAY
BEDMINSTER NJ 07921

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JAN 14 2009

OFFICE OF PETITIONS

In re Application of
Paul Bette, et al.
Application No. 10/973,632
Filed: October 26, 2004
Attorney Docket No. 2000-0587CON

ON PETITION

This is a decision in response to the petition, filed September 29, 2008, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 14, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on June 15, 2007. A Notice of Abandonment was mailed on October 3, 2007. On September 29, 2008, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment, including a terminal disclaimer and fee; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

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.

The application is being referred to Technology Center AU 2113 for appropriate action in the normal course of business on the reply received September 29, 2008.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: GARY H. MONKA
CANAVAN & MONKA, LLC
62 GROVE STREET
SOMERVILLE, NJ 08876

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OFFICE OF PETITIONS

AT& T LEGAL DEPARTMENT - Monka
ATTN: PATENT DOCKETING
ROOM 2A - 207
ONE AT & T WAY
BEDMINSTER, NJ 07921

In re Application of
Paul Bette, et al.
Application No. 10/973,632
Filed: October 26, 2004
Attorney Docket No. 2000-0587CON

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed May 12, 2009.

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before April 27, 2009. On May 12, 2009, the present petition was filed. A Notice of Abandonment was subsequently mailed on May 18, 2009.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $1,510 issue; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Data Management to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: GARY H. MONKA
LAW OFFICE OF GARY H. MONKA, PC
78 DAVIS AVENUE
STATEN ISLAND, NY 10310

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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MCKELLAR IP LAW, PLLC
784 SOUTH POSEYVILLE ROAD
MIDLAND MI 48640

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DEC 3 1 2008

OFFICE OF PETITIONS

In re Application of	:	
John Charles Huizenga	:	
Application No. 10/973,636	:	DECISION ON PETITION
Filed: October 26, 2004	:	
Attorney Docket No. MSH-324	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 5, 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 February 13, 2008, 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 April 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; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to Technology Center AU 3617 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

cc: Timothy S. Stevens
5108 Foxpoint Circle
Midland, MI 48642

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CISLO & THOMAS LLP
1333 2ND STREET
SUITE #500
SANTA MONICA CA 90401-4110

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APR 0 3 2008

OFFICE OF PETITIONS

In re Application of :
ALEXIS, BRIAN :
Application No. 10/973,639 :
Filed: October 25, 2004 :
Attorney Docket No. **04-14017** :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 13, 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 Daniel Cisio on behalf of all attorneys of record who are associated with customer No. 25189. All attorneys/agents associated with the Customer Number 25189 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 Brian Alexis at the address indicated below.

There is an outstanding Office action mailed March 13, 2008 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **BRIAN ALEXIS, C/O HIRO KAWAGUCHI**
KAZ INTERNATION INC.
3848 CARSON STREET, SUITE 106
TORRANCE, CA 90503

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Chase Tower
Suite 3250
111 Monument Circle
Indianapolis, IN 46204-5109

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OFFICE OF PETITIONS

In re Patent of Bogner	:	
Patent No. 7,095,346	:	Decision on Petition Under
Issue Date: August 22, 2006	:	37 CFR 1.78 and
Application No. 10/973,656	:	Request for Certificate of Correction
Filing Date: October 26, 2004	:	
Attorney Docket No. 1890-0130	:	

This is a decision on the petition under 37 CFR 1.78 filed November 24, 2006, seeking to add a claim for priority to the instant patent by way of a certificate of correction.

The petition is **dismissed**.

Facts:

German Patent Application No. 102 55 354.8 was filed November 27, 2002.

International Application No. PCT/EP2003/011468 was filed October 16, 2003. The International Application claimed priority based on German Application No. 102 55 354.8.

Application No. 10/973,656 was filed October 26, 2004. The application claimed priority based on the German Application but not the International application.

The instant patent issued with a priority claim based on the German application. The instant patent does not contain any claim for priority based on the International Application.

Petitioner requests the Office allow the addition of a priority claim based on the International Application by way of certificate of correction. The certificate of correction filed by petitioner states,

> In the Foreign Application Priority Data, insert the following:
>
> Oct. 16 2003 (PCT) PCT/EP2003/011468

Petitioner states the petition satisfies the requirement of 37 CFR 1.78.

Discussion:

When an International PCT application designates both the United States and at least one other office, an application may claim priority based on the International PCT application under either 35 U.S.C. 119(a)-(d) and 35 U.S.C. 365(a) or 35 U.S.C. 120 and 35 U.S.C. 365(c).

The language in the Certificate of Correction appears to indicate petitioner is claiming priority under 35 U.S.C. 119(a)-(d) and 35 U.S.C. 365(a). However, the claim for priority claim fails to satisfy the requirements of 35 U.S.C. 119(a)-(d) and 35 U.S.C. 365(a) for two main reasons. First, the United States application was filed more than twelve months after the International Application. Second, a certificate of correction may not be used under the circumstances to correct a foreign priority claim. MPEP 201.15 states,

> [A] claim to foreign priority benefits cannot be perfected via a certificate of correction if the requirements of 35 U.S.C. 119(a)-(d) or (f) had not been satisfied in the patented application, or its parent, prior to issuance and the requirements of 37 CFR 1.55(a) are not met. In this latter circumstance, the claim to foreign priority benefits can be perfected only by way of a reissue application in accordance with the rationale set forth in *Brenner v. State of Israel*, 158 USPQ 584.

The claim for priority claim also fails to satisfy the requirements of 35 U.S.C. 120 and 35 U.S.C. 365(c). As discussed in MPEP 1418.03(II), a certificate of correction can be used to amend a "patent to make reference to a prior copending application, or to correct an incorrect reference to the prior copending application." For benefit claims under 35 U.S.C. 120, 121 or 365(c), the reference **must** include the relationship (i.e., continuation, divisional, or continuation-in-part) of the applications. In this case, the certificate of correction is not amending the first sentence of the specification and is not adding language containing a proper reference to the International application.

Any request for reconsideration should include a certificate of correction amending the first sentence of the specification and language containing a proper reference to the International application.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.78(a)(3)." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By 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

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Chase Tower
Suite 3250
111 Monument Circle
Indianapolis, IN 46204-5109

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OFFICE OF PETITIONS

In re Patent of Bogner	:	
Patent No. 7,095,346	:	Decision on Petition Under
Issue Date: August 22, 2006	:	37 CFR 1.78 and
Application No. 10/973,656	:	Request for Certificate of Correction
Filing Date: October 26, 2004	:	
Attorney Docket No. 1890-0130	:	

This is a decision on the petition, filed August 2, 2007, under 37 CFR 1.78(a)(3), seeking to add a claim for priority under 35 U.S.C: §§ 120 and 365(c) to prior-filed International Application No. PCT/EP2003/011468 filed October 16, 2003, by way of a certificate of correction.

The petition is **granted**.

Facts:

German Patent Application No. 102 55 354.8 was filed November 27, 2002. International Application No. PCT/EP2003/011468 was filed October 16, 2003. The International Application claimed priority based on German Application No. 102 55 354.8.

Application No. 10/973,656 was filed October 26, 2004. The application claimed priority based on the German Application but not the International application.

The instant patent issued with a priority claim based on the German application. The instant patent does not contain any claim for priority based on the International Application.

Petitioner requests the Office allow the addition of a priority claim based on the International Application by way of certificate of correction.

The certificate of correction filed by petitioner states amends the first sentence of the specification to state,

> This application is a continuation of PCT/EP2003/011468 filed October 16, 2003, which claims priority to German patent application number DE 102 55 354.8, filed November 27, 2002.

Discussion:

The instant application was filed October 26, 2004. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed nonprovisional application after issuance of the application into a patent. *See* MPEP 1481.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

As the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

A corrected Filing Receipt, which includes the priority claim to the above-noted, prior-filed nonprovisional application, accompanies this decision on petition.

Petitioner is advised that the granting of this petition and the mailing of a corrected Filing Receipt should not be viewed as an indication that a determination has been made that this application is entitled to claim benefit of the prior-filed application. A determination that applicant is entitled to claim benefit of the prior-filed application will be made by the Examiner prior to the mailing of a certificate of correction.

Any inquiries concerning this decision may be directed to Steven Brantley at (571) 272-3203.

This application is being referred to the Certificates of Correction Branch for processing the request for a certificate of correction in accordance with this decision on the petition under 37 CFR 1.78(a)(3).

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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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
10/973,656	10/26/2004	2819	1220	1890-0130	18	2

CONFIRMATION NO. 2328

CORRECTED FILING RECEIPT

Maginot, Moore & Beck LLP
Chase Tower
Suite 3250
111 Monument Circle
Indianapolis, IN 46204-5109

OC000000026858750

Date Mailed: 11/27/2007

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Peter Bogner, Villach, AUSTRIA;

Assignment For Published Patent Application

Infineon Technologies AG, Munchen, GERMANY

Power of Attorney:

David Quick--31993
Stanton Braden--32556
Michael Beck--32722
David Lockman--34214
Paul Maginot--34984
Marie-Claire Maple--37588
Harold Moore--37892
Erik Berger--42315
James Wood--43285
Russell Fowler II--43615

Domestic Priority data as claimed by applicant

This application is a CON of PCT/EP2003/011468 10/16/2003

Foreign Applications

GERMANY 102 55 354.8 11/27/2002

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 **US 10/973,656**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

A/D CONVERTER WITH MINIMIZED TRANSFER ERROR

Preliminary Class

341

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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Paper No. None

FITCH EVEN TABIN AND FLANNERY
120 SOUTH LA SALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

In re Application of
Jeffrey L. Trudeau, Brian Patrick Janowski, and Maria Norman
Application No. 10/973,659
Filed: October 26, 2004
Attorney Docket No. 82385
Title: APPARATUS AND METHOD FOR ANCHORING A SURGICAL ROD

COPY MAILED

DECISION ON PETITION

SEP 06 2005

OFFICE OF PETITIONS

This is a decision on the petition under 37 C.F.R. §1.182, filed May 19, 2005, to change the order of the names of the inventors.

The petition is **GRANTED**.

The petition fee of $400 has been received and the order of the names of the inventors has been changed as follows:

Jeffrey L. Trudeau
Brian Patrick Janowski
Maria Norman

A filing receipt reflecting this change is enclosed.

It is noted that Petitioner has also included a declaration which cannot be accepted, as it fails to comply with 37 CFR §1.63. The declaration submitted with the instant petition contains non-initialed and non-dated changes by inventor Janowski[1].

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

Encl. Corrected Filing Receipt

1 See 37 C.F.R. §1.52(c)(1) and MPEP 605.04(a).

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HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

Mail Date: 04/21/2010

Applicant	: Timothy G. Nye	: DECISION ON REQUEST FOR
Patent Number	: 7613687	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/973,660	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/26/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **232** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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ATLANTA, GA 30339-5994

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SEP 03 2008

OFFICE OF PETITIONS

In re Application of	:	
Hsu et al.	:	
Application No. 10/973,685	:	DECISION ON PETITION
Filed: October 26, 2004	:	
Attorney Docket No. 250318-1130	:	

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 **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 18, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination 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 filed. Accordingly, the date of abandonment of this application is December 19, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $770.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

This application is being referred to Technology Center AU 2162 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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JJGJr: 04-06

Paper No: __

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P.O. BOX 7037
ATLANTA GA 30357-0037

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MAY 30 2006

OFFICE OF PETITIONS

In re Application of
Pylkki, et al. :
Application No. 10/973,688 : ON PETITION
Filed: 26 October, 2004 :
Attorney Docket No.: A202 1442.1 :

This is a decision on the petition filed (with fee) on 3 March, 2006, to expunge a document from the file and considered under 37 C.F.R. §1.59.[1]

The petition under 37 C.F.R. §1.59 is **DISMISSED**.

The instant application was filed on 26 October, 2004, and thereafter Petitioner filed a series of

---

[1] The regulations at 37 C.F.R. §1.58 provide:

§1.59 Expungement of information or copy of papers in application file.

(a)(1)Information in an application will not be expunged and returned, except as provided in paragraph (b)of this section. See §1.618 for return of unauthorized and improper papers in interferences.

(2)Information forming part of the original disclosure (*i.e.*,written specification including the claims, drawings, and any preliminary amendment specifically incorporated into an executed oath or declaration under §§1.63 and 1.175)will not be expunged from the application file.

(b)An applicant may request that the Office expunge and return information, other than what is excluded by paragraph (a)(2)of this section, by filing a petition under this paragraph. Any petition to expunge and return information from an application must include the fee set forth in § 1.17((h)and establish to the satisfaction of the Commissioner that the return of the information is appropriate.

(c)Upon request by an applicant and payment of the fee specified in §1.19(b),the Office will furnish copies of an application, unless the application has been disposed of (see §1.53(e),(f)and (g)). The Office cannot provide or certify copies of an application that has been disposed of.

[48 FR 2710, Jan.20, 1983, effective Feb. 27, 1983; 49 FR 554, Jan.4, 1984, effective Apr.1, 1984; 49 FR 48416, Dec. 12, 1984, effective Feb. 11, 1985; 50 FR 23123, May 31, 1985, effective Feb.11, 1985; revised, 60 FR 20195, Apr. 25, 1995, effective June 8, 1995; revised, 62 FR 53131, Oct.10, 1997, effective Dec. 1, 1997; para. (b) revised, 65 FR 54604, Sept. 8, 2000, effective Nov.7, 2000]

Information Disclosure Statements (generally filed on Form PTO/SB/08A/B, in lieu of PTO Form 1449A) (IDS), with the most recent having been deposited by Petitioner with the Office on 16 February, 2006.

Petitioner wishes to remove the copy reference identified as 314 on sheet 22 of 23 of the Supplemental IDS deposited of record on 16 February, 2006.

However, what Petitioner seeks constitutes the alteration of part of a document, which is not an action subject of 37 C.F.R. §1.59.

Petitioner may alternatively submit a substitute of the PTO/SB/08A/B to be substituted and considered by the Examiner in the place of the document deposited on 16 February, 2006.

For this purpose, Petitioner is given one (1) month, which period is *not* extendable under the provisions of 37 C.F.R. §1.136, and in no case less than 30 days within which to file this replacement document, which the Examiner may substitute for the IDS containing the improvident reference and then consider in due course.

The instant application is released to Technology Center 3600 to await for one (1) month, and in no case less than 30 days, from the mail date of this decision for the Petitioner to submit the filing described above before further processing in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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GAINESVILLE FL 32614-2950

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AUG 0 3 2005

OFFICE OF PETITIONS

In re Application of
Tanya Kaye Murphy et al.
Application No. 10/975,701
Filed: October 28, 2004
Attorney Docket No. UF-392X

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition filed July 18, 2005 (certificate of mail date) under 37 CFR 1.47(a).

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 28, 2004, naming Tanya Kaye Murphy, Nathan Andrew Shapira and Mary Catherine Lessig as joint inventors but without a signed declaration. Accordingly, on February 16, 2004, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration.

In response, an oath or declaration executed by all joint inventors except Mary Catherine Lessig, a 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 Lessig refuses to sign the oath or declaration and thus by her 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 present petition lacks item (4).

With respect to item (4), the last known address of inventor Lessig has not been provided as required by 37 CFR 1.47. Petitioners must provide a statement of the last known address of the nonsigning inventor. That address should be the last known address at which the inventors customarily receive mail. Ordinarily, the last known address will be the last known residence of the nonsigning inventor.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Office of Petitions

Telephone inquiries 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
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RESTON VA 20191

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JUN 26 2008

OFFICE OF PETITIONS

ON PETITION

In re Application of
James D. Episale et al.
Application No. 10/973,702
Filed: October 25, 2004
Attorney Docket No: **END920040149US1**

This is a decision on the petition filed May 22, 2008, under 37 CFR 1.59(b) to expunge information unintentionally submitted in the application.

Petitioners argue that a facsimile faxed on April 28, 2008 outlining a proposed agenda and amendment for an Examiner Interview was not meant for the official record as it was only meant to be sent to the Examiner as a draft.

Based on a review of the file and the documents entitled "DRAFT-NOT TO BE MADE OF RECORD" and pursuant to MPEP § 724.05(IV) it is determined that the information contained therein is not important to a reasonable Examiner in deciding on patentability. It is agreed therefore that justice would be served by an expungement of those documents entitled "miscellaneous incoming letter".

However, the present application as filed has been scanned and is maintained in the Office in an Image File Wrapper (IFW). The instant request is not for national security reasons, thus, the pages will not be removed from the IFW. Instead, the Office has "hidden" the documents entitled "miscellaneous incoming letter" as immaterial to the instant application and confidential. See *Reminder of the Proper Procedure for Filing Confidential Information Pursuant to MPEP 724.02(signed April 23, 2004)*, 1282 OG 107 (May 18, 2004).

Accordingly, the petition is **GRANTED**.

Telephone inquiries specific 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

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PO BOX 45120
SALT LAKE CITY UT 84145-0120

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MAR 26 2007

OFFICE OF PETITIONS

In re Application of
Ondricek, et al. : DECISION ON PETITION
Application No. 10/973,704 :
Filed: October 26, 2004 :
Attorney Docket No. P90C1-US :

This is a decision on the petition to revive under 37 CFR 1.137(b), filed December 28, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed July 31, 2006. This Notice set a statutory period for reply of three (3) months for issue fee transmittal. No issue fee having been received, the application became abandoned on November 1, 2006.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of the issue and publication fees.

The matter is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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WASHINGTON, DC 20007

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SEP 28 2009

OFFICE OF PETITIONS

In re Patent of Hollars et al.	:	
Patent No. 7,544,884	:	DECISION ON APPLICATION
Issue Date: June 9, 2009	:	FOR RECONSIDERATION OF
Application No. 10/973,714	:	PATENT TERM ADJUSTMENT
Filing Date: October 25, 2004	:	
Attorney Docket No. 075122-0117	:	

This is in response to the "Request for Reconsideration of Patent Term Adjustment Under 37 C.F.R. §1.705" filed June 2, 2009. Patentees request the determination of patent term adjustment indicated on the issue notification (and on the patent) be corrected from seven hundred seventy-seven (777) days to one thousand one hundred seventy (1,170) days.

The request for reconsideration of the patent term adjustment indicated on the patent is **dismissed**.

The application was filed October 25, 2004. The application matured into United States Patent No. 7,544,884 with a patent term adjustment of 777 days on June 9, 2009. The instant request for reconsideration was timely filed. The request states a terminal disclaimer has not been filed.

Patentees assert the correct patent term adjustment is 1,170 days. In essence, patentees assert the patent term adjustment of 777 days should have been increased 393 days due to delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay").

The amount of delay under 35 U.S.C. § 154(b)(1)(A) ("A Delay") is 869 days and is not in dispute.

The amount of Applicant Delay under 35 U.S.C. § 154(b)(2)(C) is 92 days and is not in dispute.

The chart submitted by patentees appears to assert the amount of B Delay is 593 days.
The application was filed October 25, 2004, and issued as a patent three years and 593 days later on June 9, 2009. Therefore, the Office agrees the amount of B Delay in this case is 593 days.[1]

[1] The instant case does not contain any time periods falling under 35 U.S.C. §§ 154(b)(1)(B)(i)-(iii).

35 U.S.C. § 154(b)(2)(A) limits Office delay to the sum of 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.

Patentees indicate the amount of B Delay is 593 days and request an increase in patent term adjustment of 393 days for B Delay. In other words, patentees appear to assert the amount of overlap between A Delay and B Delay is 200 days (593 days reduced by 393 days). The Office contends the period of overlap is 593 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 25, 2004, to the date of issuance of the patent, June 9, 2009.

The 593 days of B Delay overlap with 593 of the 869 days of A Delay.[3] Since the 593 days of B delay overlap with 593 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.

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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.

[3] The 869 days of A Delay in this case consists of 856 days incurred pursuant to 37 C.F.R. § 1.703(a)(1) and 13 days pursuant to 37 C.F.R. § 1.703(a)(2).

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). 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.[4]

In view of the previous discussion, the patent term adjustment set forth on the patent remains 777 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

[4] 145 Cong. Rec. S14,708, S14,718 (Nov. 17, 1999).

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OFFICE OF PETITIONS

FOLEY AND LARDNER LLP
SUITE 500
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WASHINGTON, DC 20007

In re Patent of Hollars	:	DECISION ON REQUEST
Patent No. 7,544,884	:	FOR RECONSIDERATION OF
Issue Date: June 9, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/973,714	:	AND NOTICE OF INTENT TO
Filing Date: October 25, 2004	:	ISSUE CERTIFICATE OF
Attorney Docket No. 075122-0117	:	CORRECTION

This is a decision on the renewed petition filed November 24, 2009, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting the patent term adjustment indicated on the patent be corrected to indicate the term of the patent is extended or adjusted by one thousand one hundred seventy (1170) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate the term of the above-identified patent is extended or adjusted by one thousand one hundred seventy (1170) days is **GRANTED**.

The Office acknowledges submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the patent is extended or adjusted by **one thousand one hundred seventy (1170)** 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.	:	7,544,884 B2
ISSUE DATE	:	June 9, 2009
INVENTOR(S)	:	Hollars

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 cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 777 days.

Delete the phrase "by 777 days" and insert - by 1170 days--

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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BLDG. 51
PITTSFIELD MA 01201-3697

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JUL 20 2007

OFFICE OF PETITIONS

In re Application of
David A. Williams, et al.
Application No. 10/973,723
Filed: October 26, 2004
Attorney Docket No. US 149970-2

ON PETITION

This is a decision in response to the petition, filed March 6, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed August 29, 2006. A Notice of Abandonment was subsequently mailed on March 20, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b). Accordingly, the petition is **GRANTED**.

Extensions of time under 37 CFR 1.136 are available only if asked for prior to or with the response. In no case, however, may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response has expired. Since, no extension of time fees are due on a petition for revival, petitioner is entitled to a refund of the $1.020 extension fees included with this petition.

Any request for refund must included a copy of this decision and be mailed to Mail Stop 16, Director of the U.S. Patent and Trademark Office, P. O. Box 1450, Alexandria, VA 22313-1450 or faxed to the Customer Service Help Desk at (571) 273-6500.

The application is being referred to Technology Center AU 1712 for consideration of the response filed March 6, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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MAR 1 2 2010

OFFICE OF PETITIONS

FITZPATRICK CELLA (CATALENT)
1290 AVENUE OF THE AMERICAS
NEW YORK NY 10104-3800

In re Application of	:	
Kenneth HEATH	:	
Application No. 10/973,739	:	DECISION ON PETITION
Filed: April 25, 2005	:	
Attorney Docket No. 03762.013600.4	:	

This is a decision on the petition, filed July 14, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely pay the issue and publication fees on or before December 08, 2008, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed September 08, 2008. Abandonment was mailed on January 07, 2009.

Petitioner asserts that the Office action dated September 08, 2008 was not received.

A review of the written record indicates an irregularity in the mailing of the Office action of September 08, 2008. In this regard, the Office received a power of attorney on October 11, 2007, prior to the mailing of the Office action of September 08, 2008. Office records were not updated to reflect this new change of address. Accordingly, as the Office action was mailed to an incorrect address, the Notice of Abandonment mailed January 07, 2009 is hereby vacated and the holding of abandonment withdrawn.

The power of attorney filed by the assignee on October 11, 2007 has been accepted and made of record.

The issue and publication fee payments submitted with the petition filed July 14, 2009 has been accepted.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

This application is being referred to the Office of Data Management for processing.

Thurman K. Page
Petitions Examiner
Office of Petitions

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MINNEAPOLIS MN 55403-2420

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JUN 0 3 2009

OFFICE OF PETITIONS

In re Application of
Gene P. Dipoto et al
Application No. 10/973,745
Filed: October 26, 2004
Attorney Docket No. 1291.1135103

DECISION ON PETITION AND REQUEST FOR REFUND

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 17, 2009, to revive the above-identified application. This is also a decision on the Request For Refund filed April 17, 2009.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The Request for Refund is **DISMISSED**.

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 received April 17, 2009, is accepted as having been unintentionally delayed.

As to the Request For Refund:

The request for refund of the petition fee is dismissed because the admission of, or refusal to admit, any amendment after a final rejection, a final action, an action closing prosecution, or any related proceedings will not operate to relieve the application or reexamination proceeding from its condition as subject to appeal or to save the application from abandonment under § 1.135, or the reexamination prosecution from termination under § 1.550(d) or §1.957(b) or limitation of further prosecution under § 1.957(c). See 37 CFR 1.116(c).

Further, MPEP 711.03 (c) states that:

[T]he petition fee is required for the filing (and not merely the grant) of a petition under 37 CFR 1.137. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6 (1982), reprinted in 1982 U.S.C.C.A.N.

770 ("[t]he fees set forth in this section are due on filing the petition"). Therefore, the Office: (A) will not refund the petition fee required by 37 CFR 1.17(1) or 1.17(m), regardless of whether the petition under 37 CFR 1.137 is dismissed or denied; and (B) will not reach the merits of any petition under 37 CFR 1.137 lacking the requisite petition fee.

In view of the above, the request for refund is dismissed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 3773 for appropriate action by the Examiner in the normal course of business on the reply received April 17, 2009.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Allston L. Jones, Esq.
PETERS,VERNY, JONES, SCHMITT & ASTON, LLP
425 Sherman Avenue, Suite 230
Palo Alto, CA 94306

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MAR 2 0 2007

OFFICE OF PETITIONS

Applicant: Benjamin Acatrinei
Appl. No.: 10/973,748
Filing Date: October 25, 2004
Title: METHOD AND SYSTEM FOR LOW-COST AND HIGH PERFORMANCE POWER FACTOR CORRECTION
Attorney Docket No.: 5013.02

This is in response to the "Petition to . . . Prevent the Inventor from Obtaining Access . . ." which was received on August 9, 2005, for the above-identified application.

The petition is before the Office of Patent Legal Administration for decision.

The petition is **DISMISSED as moot.**

DECISION

MPEP § 106 states:

The assignee of record of the entire interest in an application may intervene in the prosecution of the application, appointing an attorney or agent of his or her own choice. See 37 CFR 3.71. Such intervention, however, does not exclude the applicant from access to the application to see that it is being prosecuted properly, unless the assignee makes specific request to that effect. Any request to prevent the inventor from obtaining access to the file should be filed as a separate paper, 37 CFR 1.4(c), and should be directed to the Office of Petitions. If the request is granted, the inventor will be informed that he or she will only be permitted to inspect the application on sufficient showing why such inspection is necessary to conserve his or her rights, *In re The Kellogg Switchboard & Supply Company,* 1906 C.D. 274 (Comm'r Pat. 1906). *Of course, after the application has published pursuant to 35 U.S.C. 122(b), the application will be available to the public and any restriction on the inventor to access his or her application previously granted will no longer be in effect.*

Therefore, since the application has already published as U.S. Publication No.: US 2005/0212501 A1, on September 29, 2005, the request is deemed moot.

CONCLUSION

1. The petition is **DISMISSED as moot.**

2. Any further communication as to the merits of the case should be directed to the examiner of record.

3. Inquiries relating to this matter may be directed to Joseph F. Weiss, Jr. at (571) 272-7759.

HIRAM H. BERNSTEIN
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Munck Carter/NSC
P.O. Drawer 800889
Dallas, TX 75380

Mail Date: 04/20/2010

Applicant	: Amjad T. Obeidat	: DECISION ON REQUEST FOR
Patent Number	: 7668272	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/973,761	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/26/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1094** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE, 46TH FLOOR
1650 MARKET STREET
PHILADELPHIA, PA 19103

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APR 0 3 2006

OFFICE OF PETITIONS

In re Application of	:	
William A. Northey, John B. Brown, III,	:	
Stephen L. Clark, Joseph L. Ortega and	:	
Joseph B. Shuey	:	
Application No. 10/973,774	:	DECISION GRANTING PETITION
Filed: October 26, 2004	:	UNDER 37 CFR 1.47(a)
For: ELECTRICAL POWER CONNECTOR	:	

This is in response to the "Petition Under 37 CFR 1.47(a)," filed March 3, 2006.

The petition is **granted**.

Petitioner has shown that non-signing inventor John B. Brown, III 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 the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
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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JOHN B. BROWN, III
213 SOUTH MARKET STREET
MECHANICSBURG, PA 17055

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APR 0 3 2006

OFFICE OF PETITIONS

In re Application of
William A. Northey, John B. Brown, III, Stephen L. Clark, Joseph L. Ortega and Joseph B. Shuey
Application No. 10/973,774
Filed: October 26, 2004
For: ELECTRICAL POWER CONNECTOR

Dear JOHN B. BROWN, III:

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

WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE, 46TH FLOOR
1650 MARKET STREET
PHILADELPHIA, PA 19103

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER, EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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MAR 20 2008

In re Application of	:	
PARADIS, Norman A.	:	
Application No. 10/973,775	:	DECISION ON REQUEST FOR
Filed: October 25, 2004	:	REVOCATION OF POWER
Attorney Docket No. **019269-000600US**	:	OF ATTORNEY

This is a decision on the Request to Revoke the attorney or agent of record under 37 C.F.R. § 1.36(a), filed October 17, 2007.

The request is **NOT APPROVED**.

A power of attorney, pursuant to § 1.32(b), may be revoked at any stage in the proceeding of a case by an applicant for patent (§ 1.41(b)) or an assignee of the entire interest of the applicant under § 3.71(b). Fewer than all of the applicants (or by fewer than the assignee of the entire interest of the applicant) may only revoke the power of attorney upon a showing of sufficient cause, and payment of the petition fee set forth § 1.17(h). For the assignee to take action a proper statement under § 3.73(b) is required.

The request cannot be approved because the statement under 3.73(b) is not proper. In 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 the undersigned at 571-272- 7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **NIXON & VANDERHYE P.C**
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER, EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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MAR 20 2008

In re Application of	:	
PARADIS, Norman A.	:	
Application No. 10/973,775	:	DECISION ON PETITION
Filed: October 25, 2004	:	TO WITHDRAW
Attorney Docket No. **019269-000600US**	:	FROM RECORD

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 19, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Patrick M Boucher on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the sole named inventor Norman A. Paradis at the address indicated below.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **NORMAN A. PARADIS**
3295 PARFET STREET
WHEAT RIDGE, CO 80033

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John P. Luther, Esq.
Newman & Newman, LLP
Suite 610
505 Fifth Avenue South
Seattle, WA 98104

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OFFICE OF PETITIONS

In re Application of :
Daniel K. Amato :
Application No. 10/973,778 : ON PETITION
Filed: October 25, 2004 :
Attorney Docket No. Amato 001 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 20, 2005, to revive the above-identified application.

The petition is **DISMISSED AS MOOT** for the reasons stated below.

A "Notice to File Missing Parts of Nonprovisional Application" was mailed to applicant on December 7, 2004, which set a two-month period for reply. A reply and appropriate extension of time were received in the Office on April 7, 2005. However, the reply was incomplete. As such, a "Notice of Incomplete Reply (Nonprovisional)" was mailed to applicant on April 25, 2005, which stated that, "the period of reply remains as set forth in the Notice. You may, however, obtain EXTENSIONS OF TIME under the provisions of 37 CFR 1.136(a) accompanied by the appropriate fee (37 CFR 1.17(a))." In reply, applicant submitted the present petition along with a request for extension of time.

Since the time period set in the original Notice continued to run as of the date of the petition, the application is not regarded as abandoned and the petition is unnecessary. A review of the record also shows that applicant tendered $225 for the two-month extension of time submitted April 7, 2005 and $795 for the four-month extension of time submitted with the present petition. However, the period should be extended for five (5) months (from February 7, 2005 to July 7, 2005) to prevent abandonment of the application. The Office will accept the petition as a request for a 5-month extension of time in the amount of $1080. Accordingly, the petition fee of $750 and $330 of the extension fees will be applied towards the $1080 5-month extension of time fee. Petitioner may request a refund of the remaining balance in the amount of $690 by writing to the Office of Finance, Refund Section. A copy of this decision should accompany such a request.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

The application file is being referred to the Office of Initial Patent Examination for further processing.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions

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OCT - 6 2005

JOHN P. LUTHER, JENKENS & GILCHRIST
225 W. WASHINGTON STREET, SUITE 2600
CHICAGO IL 60606

In re Application of	:
Daniel Amato	:
Serial No.: 10/973,778	: PETITION TO MAKE SPECIAL
Filed: October 25, 2004	:
Attorney Docket No.: 68387-00002USPT	:

This is in response to the petition filed September 21, 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, I. Therefor the petition is **GRANTED**.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at 571-273-8300.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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WILMINGTON, DE 19899

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OFFICE OF PETITIONS

In re Application of	:	
WILKINSON, William T.	:	
Application No. 10/973,784	:	DECISION ON PETITION
Filed: October 26, 2004	:	TO WITHDRAW
Attorney Docket No. **WIL-122US**	:	FROM RECORD
	:	

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 26, 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 Rex A. Donnelly on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the sole named inventor William T. Wilkinson at the address indicated below.

There is an outstanding Office action mailed January 15, 2008 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: **WILLIAM T. WILKINSON**
P.O. BOX 73
SALEM, NJ 08079

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OFFICE OF PETITIONS

In re Application of	:	
WILKINSON, William T.	:	
Application No. 10/973,784	:	DECISION ON PETITION
Filed: October 26, 2004	:	TO WITHDRAW
Attorney Docket No. **WIL-122US**	:	FROM RECORD

CORRECTED DECISION

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 26, 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 Rex A. Donnelly on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the sole named inventor William T. Wilkinson at the address indicated below.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **WILLIAM T. WILKINSON**
P.O. BOX 73
SALEM, NJ 08079

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Morrison & Foerster LLP
12531 High Bluff Drive
Suite 100
San Diego, CA 92130-2040

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SEP 06 2006

OFFICE OF PETITIONS

In re Application of	:	
Baofa Yu	:	
Application No. 10/973,798	:	DECISION ON PETITION
Filed: October 25, 2004	:	TO WITHDRAW
Attorney Docket No. BAOFA.001CP1	:	FROM RECORD
	:	

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 3, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Peng Chang and the attorney(s) and/or agent(s) of record have been revoked by the applicant of the patent application on August 8, 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.

Amelia Au
Petitions Examiner
Office of Petitions

cc: Knobbe Martens Olson & Bear LLP
2040 Main Street
14th Floor
Irvine, CA 92614

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JAN 30 2007

Technology Center 2100

Steven J. Henry
WOLF, GREENFIELD & SACKS, P.C.
600 Atlantic Avenue
Boston, MA 02210-2206

In re Application of: Sachin GOEL
Application No. 10/973,802
Filed: October 25, 2004
For: SYSTEM FOR CONCURRENT OPTIMIZATION OF BUSINESS ECONOMICS AND CUSTOMER VALUE SATISFACTION

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed 28 August 2006 (Cert. of Mailing 22 August 2006), under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

In those instances where the request for this special status does not meet all the prerequisites set forth above, **applicant will be notified and the defects in the request will be stated**. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special.

The petition filed 28 August 2006 fails to adequately meet requirements (c) and (e) of the criteria set forth above.

With respect to requirement (c), the pre-examination search indicated, fails to provide a listing of 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.

With respect to requirement (e), the discussion of the references does not point out with the particularity required by 37 CFR 1.111(b) and (c) how the claimed subject matter is patentable over the references. Applicant's petition fails to provide a "detailed discussion of the references" with the requisite particularity that illuminates the salient prior art issues relative to the claimed subject matter. Petitioner's **cursory treatment** of the references (see page 5 of the petition for the only example) does not detail, with the particularity called for under section (e), the relevancy of the prior art pedagogy in order to sufficiently set forth a case distinguishing the limitations claimed to be patentable in relation to the given reference.

In the discussion of the references, Petitioner is required to point out (substantively detail) the prior art elements and associations germane to the claims to fully flesh-out the comparison between the referenced prior art and Applicant's claimed features. The petition must specifically show, for each independent claim, specific language that distinguishes over each given reference in order to specify "how the claimed subject matter is patentable over the references."

Petitioner should ensure the detailed discussion identifies those references deemed to be most closely related (as discussed in requirement (d) above).

Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

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MAR 28 2007

Technology Center 2100

Steven J. Henry
WOLF, GREENFIELD & SACKS, P.C.
600 Atlantic Avenue
Boston, MA 02210-2206

In re Application of: Sachin Goel
Application No. 10/973,802
Filed: October 25, 2004
For: SYSTEM FOR CONCURRENT OPTIMIZATION OF BUSINESS ECONOMICS AND CUSTOMER VALUE SATISFACTION

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER M.P.E.P. §708.02 (VIII)

This is a decision on the renewed petition to make special under 37 C.F.R. §102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, filed on March 14, 2007.

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
Quality Assurance Specialist
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/973,803	10/25/2004	Yong Chul Kim	060450.000018	1579

70416 7590 01/02/2008
THELEN REID BROWN RAYSMAN & STEINER LLP
2225 EAST BAYSHORE ROAD
SUITE 210
PALO ALTO, CA 94303

EXAMINER
ELVE, MARIA ALEXANDRA

ART UNIT	PAPER NUMBER
1793	

MAIL DATE	DELIVERY MODE
01/02/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTO/SB/83 (01-06)
Approved for use through 12/31/2008. OMB 0651-0035
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	10/973,803
Filing Date	10-25-2004
First Named Inventor	Yong Kim
Art Unit	1793
Examiner Name	Elve, Maria Alexandra
Attorney Docket Number	060450.000018

To: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

1-2-08
Approved
Jacqueline M. Stone, Director
Technology Center 1700

Please withdraw me as attorney or agent for the above identified patent application, and

☒ all the attorneys/agents of record.

☐ all the attorneys/agents (with registration numbers) listed on the attached paper(s), or

☐ all the attorneys/agents associated with Customer Number

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practitioners associated with a customer number.

The reasons for this request are: client has requested transfer of file.

CORRESPONDENCE ADDRESS

1. ☐ The correspondence address is NOT affected by this withdrawal.

2. ☒ Change the correspondence address and direct all future correspondence to:

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OR

☒ Firm *or* Individual Name	Saliwanchik, Lloyd & Saliwanchik		
Address	P.O. Box 142950		
City	Gainesville	State FL	ZIP 32614
Country	USA		
Telephone	352 375 8100	Email	
Signature	/Aaron Wininger, Reg. No. 45,229/		
Name	Aaron Wininger	Registration No.	45,229
Date	12/18/07	Telephone No.	

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.