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OFFICE OF PETITIONS

THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA, GA 30339-5994

In re Application of.	:	
Brink et al.	:	
Application No. 10/984,358	:	NOTICE
Filed: November 8, 2004	:	
Attorney Docket No. 252326-1280	:	

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

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

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

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

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.

Inquiries related to this communication should be directed to the undersigned at (571) 272-6059.

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: THADDEUS GABARA
TYREAN LLC
62 BURLINGTON ROAD
ATTN: PATENT PROSECUTION SERVICES
MURRAY HILL, NJ 07974

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AMIN, TUROCY & CALVIN, LLP
127 Public Square
57th Floor, Key Tower
CLEVELAND OH 44114

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OFFICE OF PETITIONS

In re Application of
Eugene C. Chellis, et. al.
Application No. 10/984,387
Filed: November 9, 2004
Attorney Docket No. MS150715.02/MSFTP181USA

DECISION ON PETITION

This is a decision on the petitions under the unintentional provisions of 37 CFR 1.137(b), filed November 21, 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 9, 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 10, 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.

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.

In addition to receiving a Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37CFR 1.137(b), the United States Patent and Trademark Office received a payment of $1,110 for a three month extension of time on November 21, 2008.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,110 extension of time fee was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to the petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

This application is being referred to Technology Center AU 2165 for appropriate action by the Examiner in the normal course of business on the reply received.

Brian W. Brown
Petitions Examiner
Office of Petitions

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SAWYER LAW GROUP LLP
2465 E. BAYSHORE ROAD, SUITE NO. 406
PALO ALTO CA 94303

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OFFICE OF PETITIONS

In re Application of
Ryan C. Catherman et al.
Application No. 10/984,400
Filed: November 8, 2004
Attorney Docket No:
RPS920040116US13223P

ON PETITION

This is a decision on the petition filed March 10, 2009 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed August 8, 2008. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned November 10, 2008. The instant petition and this decision precede the mailing of the Notice of Abandonment.

This matter is being referred to Technology Center 2431 for appropriate action on the amendment filed March 10, 2009.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

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Lenovo (United States) Inc.
c/o Sawyer Law Group, P.C.
P.O. Box 51418
Palo Alto, CA 94303

Mail Date: 04/20/2010

Applicant	: Ryan C. Catherman	: DECISION ON REQUEST FOR
Patent Number	: 7600134	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/984,400	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **725** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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GENENCOR INTERNATIONAL, INC.
ATTENTION: LEGAL DEPARTMENT
925 PAGE MILL ROAD
PALO ALTO, CA 94304

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OFFICE OF PETITIONS

In re Application of Day et al. :
Application No. 10/984,410 :
Filing Date: November 8, 2004 :
Attorney Docket No. GC825-2 :

Decision on Petition

This is a decision on the petition filed January 23, 2008, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **dismissed.**

Facts:

A Notice of Allowance and a Notice of Allowability were mailed August 14, 2007. Both Notices set a period for reply of three months.

The Notice of Allowability required the submission of corrected drawings.

Petitioner believed the requirement for corrected drawings was erroneous.

On November 14, 2007, petitioner filed a reply to the Notice of Allowance. The reply did not include corrected drawings or make any reference to the Notice of Allowability.

The application became abandoned November 15, 2007, as a result of petitioner's failure to reply to the Notice of Allowability.

A Notice of Abandonment was mailed December 11, 2007.

Patent Agent Quertermous states, on a date after the Notice of Abandonment was mailed, examiner Bradley stated the Notice of Allowability's requirement for corrected drawings was the result of the examiner inadvertently checking box 5 on the Notice of Allowability.

Discussion:

In general, a petition to withdraw the holding must demonstrate a Notice or Office action was not received or that a proper reply was timely filed. In this case, the Notice of Allowability was

received and petitioner does not contend petitioner timely filed any reply to the Notice of Allowability.

Petitioner requests withdrawal of the holding of abandonment based on the Notice of Allowability being incorrect.

35 U.S.C. 133 requires that if an action is mailed, and if an applicant fails to respond to such action within 6 months or within any shorter time period set by the Office, the application goes abandoned as a matter of law. An Office action in the form of a Notice of Allowability was mailed August 14, 2007. The Notice provided applicants with three months to file a response. Applicant did not file a response to the Notice of Allowability within 3 months. Therefore, as a matter of law, the application is abandoned.

Abandonment is not based on the correctness, in whole or in part, of an Office action. For example, if an applicant fails to respond to a restriction requirement later determined to be untenable as drafted, the application is abandoned. If an Office action is mailed rejecting claims based on anticipation over a reference that was facially not available as prior art against the application, an applicant must still respond to the Office action in order to avoid abandonment.

Petitioner failed to respond to the Notice of Allowability. Such response could have taken the form of a written traversal stating the facts in the instant petition regarding the original drawings. Petitioner could have directly contacted the examiner and taken steps to have the examiner withdraw the requirement in writing prior to the expiration of the time period for response.

For the reasons above, the holding of abandonment will not be withdrawn.

Petitioner submitted $130 with the instant petition. However, a fee is unnecessary for petitions to withdraw the holding of abandonment. Petitioner may either request a refund of the $130 fee or request the $130 be applied towards any future fees, such a petition fee, due in the future.

Petitioner may wish to consider filing a petition to revive under 37 CFR 1.137(a). A grantable petition pursuant to 37 CFR 1.137(a) must be accompanied by the required reply (already submitted in the form of an assertion drawings are unnecessary) and a showing that the delay in responding to the Notice of Allowability was unavoidable (the current showing of record is sufficient).

A petition under 37 CFR 1.137(a) must also include a petition fee of $510 ($380 if $130 fee applied towards petition fee).

A copy of a PDF "fillable" version of a 37 CFR 1.137(a) form can be found at: "http://www.uspto.gov/web/forms/sb0064_fill.pdf".

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are NOT permitted.

Unless filed by EFS Web, any 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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925 PAGE MILL ROAD
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In re Application of Day et al. :
Application No. 10/984,410 : Decision on Petition
Filing Date: November 8, 2004 :
Attorney Docket No. GC825-2 :

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

The petition is **granted.**

Facts:

A Notice of Allowance and a Notice of Allowability were mailed August 14, 2007. Both Notices set a period for reply of three months.

The Notice of Allowability required the submission of corrected drawings.

Petitioner believed the requirement for corrected drawings was erroneous.

On November 14, 2007, petitioner filed a reply to the Notice of Allowance. The reply did not include corrected drawings or make any reference to the Notice of Allowability.

The application became abandoned November 15, 2007, as a result of petitioner's failure to reply to the Notice of Allowability.

A Notice of Abandonment was mailed December 11, 2007.

Patent Agent Quertermous states, on a date after the Notice of Abandonment was mailed, examiner Bradley stated the Notice of Allowability's requirement for corrected drawings was the result of the examiner inadvertently checking box 5 on the Notice of Allowability.

A petition under 37 CFR 1.181 was filed January 23, 2008. A decision dismissing the petition was mailed May 28, 2008.

The May 28, 2008 decision stated, with emphasis added,

> Petitioner may wish to consider filing a petition to revive under 37 CFR 1.137(a). A grantable petition pursuant to 37 CFR 1.137(a) must be accompanied by the required reply (*already submitted in the form of an assertion drawings are unnecessary*) and a showing that the delay in responding to the Notice of Allowability was unavoidable (the current showing of record is sufficient).

On July 22, 2008, the examiner issued an Interview Summary of a January 22, 2008 telephonic conversation with petitioner. The Interview Summary states,

> The requirement for corrected drawings indicated on the Notice of Allowance mailed 8/14/07 was checked in error by the Examiner. Corrected drawings are not required for allowance. The application is in condition for allowance.

On July 24, 2008, the examiner issued an Interview Summary of a July 17, 2008 telephonic conversation with petitioner. The Interview Summary states,

> A Notice of Allowance and Examiners Amendment was mailed on 8/14/2007. Box number 5 on the Notice of Allowance requiring submission of corrected drawings was checked. The issue with the drawings pertained to amino acid sequences in the figures which lack a sequence identifier. The issue was resolved by an amendment to the brief description of the drawings in the Examiner's Amendment. Therefore, corrected drawings are no longer required. The box was checked in error by the examiner.

Discussion:

The instant petition seeks revival of the application. Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(a). Therefore, the petition is granted.

The May 28, 2008 decision stated,

> Petitioner submitted $130 with the instant petition. However, a fee is unnecessary for petitions to withdraw the holding of abandonment. Petitioner may either request a refund of the $130 fee or request the $130 be applied towards any future fees, such a petition fee, due in the future.

The Office charged $510 to petitioner's deposit account when the instant petition was filed. Therefore, the Office has credited the prior $130 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

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MARC E. HANKIN, ESQ.
11414 THURSTON CIRCLE
LOS ANGELES, CA 90049

Mail Date: 04/20/2010

Applicant	: Randall C. Dahl	: DECISION ON REQUEST FOR
Patent Number	: 7647923	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/984,415	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **830** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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RAYNARLDO K. WHITTY
BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

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OFFICE OF PETITIONS

In re Application of :
SCHAEFFER :
Application No. 10/984,416 :
Filed: November 8, 2004 :
Attorney Docket No. 12730-25 :

DECISION
ON PETITION

This is a decision on the petition filed October 31, 2005 under 37 CFR 1.181[1](no fee) for withdrawal of the holding of abandonment.

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

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed December 13, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 14, 2005. The petitioner states that the Notice was not received.

As MPEP 711.03(c).I.A 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.

At present, the petition has included a copy of the file jacket (Exhibit 3) and 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 (Exhibit 4). Page 2 of the petition also states that "electronic and paper docket records from Brinks, Hofer, Gilson and Lione, Applicant's attorneys, are attached hereto as Exhibits 1 and 2." However, Exhibit 1 of the petition is a copy of the transmittal sheet for the application, and Exhibit 2 is a copy of an Express Mail label. Thus while a copy of the file jacket (Exhibit 3) has been located in the file, no copy of the docket record where the non-received Notice would have been entered had it been received and docketed was included with the petition.

[1] Petitioner captions the petition under 37 CFR 1.137(b), but the substance of the petition requests the holding of abandonment be withdrawn in above-identified application, which is properly petitioned under 37 CFR 1.181.

Additionally, the Power of Attorney By Assignee and Correspondence Address Indication filed on October 31, 2005 is not in compliance with 37 CFR 3.71 and 3.73. In particular, 37 CFR 3.73(b) requires the signed statement identifying the assignee to be accompanied by either:

(i) Documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment). For trademark matters only, the documents submitted to establish ownership may be required to be recorded pursuant to § 3.11 in the assignment records of the Office as a condition to permitting the assignee to take action in a matter pending before the Office. For patent matters only, the submission of the documentary evidence must be accompanied by a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or

(ii) A statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

A statement under 37 CFR 3.73(b) has not been made part of the record.

To summarize, a copy of the docket record where the non-received Notice would have been entered had it been received and docketed must be made part of the record prior to granting a petition to withdraw the holding of abandonment for the above-identified application. A statement in compliance with 37 CFR 3.73(b) must be made part of the record in order for the assignee to establish its ownership and thus take action in the above-identified application.

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

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

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

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

Telephone inquiries concerning this decision should be directed to Denise Pothier at (571) 272-4787.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

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CHICAGO, IL 60610

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OFFICE OF PETITIONS

In re Application of	:	
SCHAEFFER	:	DECISION
Application No. 10/984,416	:	ON PETITION
Filed: November 8, 2004	:	
Attorney Docket No. 12730-25	:	

This is a decision on a renewed petition filed February 24, 2006 under 37 CFR 1.181[1] (no fee) for withdrawal of the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**. The holding of abandonment is vacated, and this application restored to pending status.

The application purportedly became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed December 13, 2004, which set a period for reply of two (2) months. A Notice of Abandonment was mailed September 13, 2005, indicating that no reply to the Notice of December 13, 2004 had been received.

In support of the petition, petitioner includes a statement from the practitioner stating that the Notice of December 13, 2004 was not received and attesting to the fact that a search of the file jacket and docket records indicates that the Notice was not received. Additionally, a copy of the firm's docket record and file jacket has been attached and referenced in the petitioner's statement.

In response to the Notice of December 13, 2004, the petition also includes an executed declaration with its requisite late declaration surcharge of $130 and corrected drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121.

Telephone inquiries concerning this decision should be directed to Denise Pothier at (571) 272-4787.

The application matter is being forwarded to Office of Initial Patent Examination.

Frances Hicks
Petitions Examiner
Office of Petitions

[1] Petitioner captions the petition under 37 CFR 1.137(b), but the substance of the petition request the holding of abandonment be withdrawn in the above-identified application, which is properly petitioned under 37 CFR 1.181.

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BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

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OFFICE OF PETITIONS

In re Application of	:	
SCHAEFFER et al.	:	DECISION
Application No. 10/984,417	:	ON PETITION
Filed: November 8, 2004	:	
Attorney Docket No. 12730-28	:	

This is a decision on the petition filed October 31, 2005 under 37 CFR 1.181[1](no fee) for withdrawal of the holding of abandonment.

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

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed December 13, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 14, 2005. A Notice of Abandonment was mailed on September 13, 2005. On October 31, 2005, petitioner requested the holding of abandonment be withdrawn since the Notice was not received. On December 6, 2005, a Withdrawal of Previously Sent Notice (Withdrawal) was mailed to petitioner, stating that the Notice of Abandonment mailed on September 13, 2005 was sent in error and withdrawn. The Withdrawal, however, provides no reason or basis for the Notice of Abandonment being withdrawn.

As MPEP 711.03(c).I.A 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.

At present, the petition has included a copy of the file jacket (Exhibit 3) and 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 (Exhibit 4). Page 2 of the petition also states that "electronic and paper docket records from Brinks, Hofer, Gilson and Lione, Applicant's attorneys, are attached

[1] Petitioner captions the petition under 37 CFR 1.137(b), but the substance of the petition requests the holding of abandonment be withdrawn in above-identified application, which is properly petitioned under 37 CFR 1.181.

hereto as Exhibits 1 and 2." However, Exhibit 1 of the petition is a copy of the transmittal sheet for the application, and Exhibit 2 is a copy of an "Express Mail" mailing label. Thus while a copy of the file jacket (Exhibit 3) has been located in the file, no copy of the docket record where the non-received Notice would have been entered had it been received and docketed was included with the petition.

Additionally, the Power of Attorney By Assignee and Correspondence Address Indication filed on October 31, 2005 is not in compliance with 37 CFR 3.71 and 3.73. In particular, 37 CFR 3.73(b) requires the signed statement identifying the assignee to be accompanied by either:

> (i) Documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment). For trademark matters only, the documents submitted to establish ownership may be required to be recorded pursuant to § 3.11 in the assignment records of the Office as a condition to permitting the assignee to take action in a matter pending before the Office. For patent matters only, the submission of the documentary evidence must be accompanied by a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or
>
> (ii) A statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

A statement under 37 CFR 3.73(b) has not been made part of the record.

Since no oath or declaration was timely filed after the Notice mailed December 13, 2004 and the record does not support the withdrawal of the holding of abandonment under 37 CFR 1.181, the Withdrawal lacks foundation for withdrawing the Notice of Abandonment mailed on September 13, 2005 and was mailed in error. Accordingly, the Withdrawal of Previously Sent Notice mailed December 6, 2005 is *vacated*, and the application will return to its abandoned status.

To summarize, a copy of the docket record where the non-received Notice would have been entered had it been received and docketed must be made part of the record prior to granting a petition to withdraw the holding of abandonment for the above-identified application. A statement in compliance with 37 CFR 3.73(b) must be made part of the record in order for the assignee to establish its ownership and thus take action in the above-identified application.

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

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

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

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

Telephone inquiries concerning this decision should be directed to Denise Pothier at (571) 272-4787.

Frances Hicks

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

JANET A. PIOLI
BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

COPY MAILED

MAR 3 1 2006

OFFICE OF PETITIONS

In re Application of	:	DECISION
SCHAEFFER et al.	:	ON PETITION
Application No. 10/984,417	:	
Filed: November 8, 2004	:	
Attorney Docket No. 12730-28	:	

This is a decision on a renewed petition filed March 23, 2006 under 37 CFR 1.181[1] (no fee) for withdrawal of the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**. The holding of abandonment is vacated, and this application restored to pending status.

The application purportedly became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed December 13, 2004, which set a period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 14, 2005. A Notice of Abandonment was mailed September 13, 2005. On December 6, 2005, a Withdrawal of Previously Sent Notice (Withdrawal) was mailed to petitioner, stating the Notice mailed on September 13, 2005 was sent in error and withdrawn. Since the Withdrawal lacks foundation for withdrawing the Notice mailed September 13, 2005 and was mailed in error, the decision of March 8, 2005 vacated the Withdrawal and returned the application to its abandoned status.

In support of the petition, petitioner includes a statement from the practitioner stating that the Notice of December 13, 2004 was not received and attesting to the fact that a search of the file jacket and docket records indicates that the Notice was not received. Additionally, a copy of the firm's docket record and file jacket has been attached and referenced in the petitioner's statement.

In response to the Notice of December 13, 2004, the petition also includes an executed declaration with its requisite late declaration surcharge of $130 and corrected drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121.

Telephone inquiries concerning this decision should be directed to Denise Pothier at (571) 272-4787.

The application matter is being forwarded to Office of Initial Patent Examination.

Frances Hicks
Petitions Examiner
Office of Petitions

[1] Petitioner captions the petition under 37 CFR 1.137(b), but the substance of the petition request the holding of abandonment be withdrawn in the above-identified application, which is properly petitioned under 37 CFR 1.181.

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

FREDERICK W. GIBB, III
Gibb & Rahman, LLC
2568-A RIVA ROAD
SUITE 304
ANNAPOLIS MD 21401

COPY MAILED

MAR 0 5 2008

OFFICE OF PETITIONS

In re Application of	:	
Cooney, et al.	:	
Application No. 10/984,439	:	DECISION ON PETITION
Filed: 11/09/2004	:	
Attorney Docket No. BUR920010153US2	:	

This is a decision on the petition under 37 CFR 1.181 (no fee), filed February 14, 2008, 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 7, 2007, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed September 7, 2007. On February 12, 2008, the Office mailed a Notice of Abandonment.

Petitioners assert that they did not receive the Notice of Allowance and Fee(s) Due.

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

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

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

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

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

This application is being referred to the Technology Center AU 2814 technical support staff for re-mailing the Notice of Allowability and the Notice of Allowance and Fee(s) Due of September 7, 2007. The period for paying the issue and publication fees 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.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : January 29 2008

TO SPE OF : ART UNIT 2873

SUBJECT : Request for Certificate of Correction for Appl. No. 10/984492 patent no.7221520

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

TIMOTHY THOMPSON
PRIMARY EXAMINER

/Ricky Mack/
SPE

2873
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

COPY MAILED

MAR 24 2009

OFFICE OF PETITIONS

INVISTA NORTH AMERICA S.A.R.L.
THREE LITTLE FALLS CENTRE/1052
2801 CENTERVILLE ROAD
WILMINGTON DE 19808

In re Application of	:	
Harrison, et al.	:	
Application No. 10/984,506	:	ON PETITION
Filed: November 8, 2004	:	
Attorney Docket No. PT0083USNA	:	

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

The petition is **GRANTED**.

The application became abandoned June 25, 2008 for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of March 24, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed October 3, 2008.

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

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

This application is being referred to Technology Center AU 1796 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

/ALESIA M. BROWN/

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

FERNANDEZ & ASSOCIATES LLP
1047 EL CAMINO REAL
SUITE 201
MENLO PARK CA 94025

COPY MAILED

APR 15 2005

OFFICE OF PETITIONS

In re Application of Chhibber, et al. Application No.: 10/984,517 Filed: November 8, 2004 Attorney Docket No.: TWIN-P010 For: METHOD AND APPARATUS FOR ILLUMINATING A SUBSTRATE DURING INSPECTION	: : : : : : :	DECISION NOTING JOINDER OF INVENTOR & PETITION UNDER 37 CFR 1.47(A) DISMISSED AS MOOT

This is a decision on the petition under 37 CFR 1.47(a), filed March 18, 2005 and supplemented on March 22, 2005.

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

The application was filed on November 8, 2004. On January 26, 2005, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application that required petitioners to submit an execute declaration and a surcharge for its late filing. Petitioners filed a petition under 37 CFR 1.47(a) and required fee and a partially executed oath/declaration on March 18, 2005.

On March 22, 2005, petitioners filed a declaration in compliance with 37 CFR 1.63 that was executed by the previously non-signing inventor, Rajeshwar Chhibber.

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).

Regarding finances, the $200.00 Rule 47(a) petition fee will be credited to deposit account no. 50-0482.

After the mailing of this decision, the application will be forwarded to Technology Center 2877 for examination in due course.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAY 2 8 2009

OFFICE OF PETITIONS

Fernandez & Associates, LLP
1047 El Camino Real
Suite 201
Menlo Park, CA 94025

In re Application of	:	
Rajeshwar Chhibber et al.	:	
Application No. 10/984,517	:	DECISION ON PETITION
Filed: November 8, 2004	:	TO WITHDRAW
Attorney Docket No. TWIN-P010	:	FROM RECORD
	:	

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 1, 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 Dennis Fernandez and all attorneys/agents of record has been revoked by the assignee of the patent application on December 13, 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: DLA Piper, LLP (US)
2000 University Avenue
East Palo Alto, CA 94303-2248

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090520

DATE : May 20, 2009

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction on Patent No.: 7465798

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:

/Janet L Andres/
Supervisory Patent Examiner.Art Unit 1625

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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FERNANDEZ & ASSOCIATES LLP
1047 EL CAMINO REAL
SUITE 201
MENLO PARK CA 94025

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APR 15 2005

OFFICE OF PETITIONS

In re Application of Chhibber, et al. Application No.: 10/984,568 Filed: November 8, 2004 Attorney Docket No.: TWIN-P009 For: METHOD AND APPARATUS FOR HANDLING A SUBSTRATE	: : : : : : :	DECISION NOTING JOINDER OF INVENTOR & PETITION UNDER 37 CFR 1.47(A) DISMISSED AS MOOT

This is a decision on the petition under 37 CFR 1.47(a), filed March 18, 2005 and supplemented on March 22, 2005.

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

The application was filed on November 8, 2004. On December 21, 2004, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application that required petitioners to submit an execute declaration and a surcharge for its late filing. Petitioners filed a petition under 37 CFR 1.47(a) and required fee, a partially executed oath/declaration, and request for a 1 month extension of time and required fee on March 18, 2005.

On March 22, 2005, petitioners filed a declaration in compliance with 37 CFR 1.63 that was executed by the previously non-signing inventor, Rajeshwar Chhibber.

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).

Regarding finances, the $200.00 Rule 47(a) petition fee will be credited to deposit account no. 50-0482.

After the mailing of this decision, the application will be forwarded to Technology Center 3652 for examination in due course.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Fernandez & Associates, LLP
1047 El Camino Real
Suite 201
Menlo Park, CA 94025

COPY MAILED

MAY 28 2009

OFFICE OF PETITIONS

In re Application of	:	
Rajeshwar Chhibber et al.	:	
Application No. 10/984,568	:	DECISION ON PETITION
Filed: November 8, 2004	:	TO WITHDRAW
Attorney Docket No. TWIN-P009	:	FROM RECORD
	:	

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 1, 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 Dennis Fernandez and all attorneys/agents of record has been revoked by the assignee of the patent application on December 13, 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: DLA Piper, LLP (US)
2000 University Avenue
East Palo Alto, CA 94303-2248

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

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

Mail Date: 04/20/2010

Applicant	: Norbert Schaefer	: DECISION ON REQUEST FOR
Patent Number	: 7690067	: RECALCULATION of PATENT
Issue Date	: 04/06/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/984,570	: OF WYETH
Filed	: 11/09/2004	:
		:

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

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

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

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

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

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

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

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

or

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

RICHARD A. FAGIN
P.O. BOX 1247
RICHMOND, TX 77406-1247

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SEP 25 2006

OFFICE OF PETITIONS

In re Application of	:	
Norris O. Hayes et al	:	
Application No. 10/984,575	:	DECISION ON PETITION
Filed: November 9, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. HIL-04-04	:	37 CFR 1.102(d)
	:	

This is a decision on the petition under 37 CFR §1.102(d), filed August 7, 2006, to make the above-identified application special based on actual infringement as set forth in M.P.E.P. § 708.02, Section II.

The petition is **GRANTED.**

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

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

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

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

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

The application is being forwarded to the Technology Center Art Unit 3635 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

SCAN! **Please forward case and paper to address shown below.**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/22/08

TO SPE OF : ART UNIT 3748 Thomas Denion (Spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/984592 Patent No.: 6997150

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.

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

Comments: Corrections entered except the corrections regarding Figure 6 since Figure 6 of the patent (6,997,150) already cites the requested correction.

THOMAS DENION
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700
SPE

3748
Art Unit

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent Number: 6,997,150

Issued: February 14, 2006

Name of Patentee: BorgWarner Inc.

Title of Invention: CTA Phaser with Proportional Oil Pressure for Actuation At Engine Condition With Low Cam Torsionals

Mail Stop Petition
Commissioner of Patents and Trademarks
P.O. Box 1450
Alexandra VA 22313-1450

recommend entry in part

REQUEST FOR CERTIFICATE OF CORRECTION OF PATENT FOR APPLICANTS MISTAKE (37 CFR 1.323)

1. It is noted that an error appears in the patent of a

[ ] clerical

[X] typographical

☐ minor

in nature or character as more fully described below and occurred in good faith and correction thereof does not involve such changes in the patent that would constitute new matter or would require re-examination, and a certificate of correction is requested.

2. Attached in duplicate is Form PTO-1050 with at least one copy being suitable for printing.

3. The exact page and line numbers where errors occur in the application file are:

Column 3, line 62: Delete the word --chambers-- and add the words "retard chambers"

Column 3, line 63: Deleted the words --(labeled "A" for "advance")--

Column 3, line 63: Add the words "advance chambers" between the words (and) and the number (17b).

Column 3, line 63-64: Delete the words --(labeled "R" for "retard")--

4. In Figure 6, please delete the letters ---EDV--- referenced by number 102 and add the letters ECU.

4. Please send the Certificate to:

Brown & Michaels PC
400 M&T Bank Bldg., 118 N. Tioga Street
Ithaca, New York 14850-4343

6. Included is a fee of $100.00 as required by 37 CFR 1.20(a) and payment by credit card.

The Commissioner is hereby authorized to charge any additional fees that may be required, or credit any overpayment to Deposit Account No. 02-0910. A duplicate of this request is attached.

Assignee: BorgWarner Inc.

/Lynda Wood, Reg.#53791/
By: Lynda M. Wood, Registration No.: 53,791
BROWN & MICHAELS, PC
400 M&T Bank Building
118 N. Tioga Street
Ithaca, NY 14850
(607) 256-2000
(607) 256-3628 (Fax)
April 14, 2008

☒ Assignment recorded on 11/24/2004 Reel 015390 Frame 0373

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.: 6,997,150

DATED: February 14, 2006

INVENTOR(S): Roger T. Simpson

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 3, line 62: Delete the word --chambers-- and add the words "retard chambers"

Column 3, line 63: Delete the words --(labeled "A" for "advance")--

Column 3, line 63: Add the words "advance chambers" between the word (and) and the number (17b)

Column 3, line 63-64: Delete the words --(labeled "R" for "retard"--

Figure 6, delete the letters --EDV-- referenced by number 102 and add the letters ECU.

MAILING ADDRESS OF SENDER: **PATENT NO. 6,997,150**

Brown & Michaels, PC
400 M&T Bank Building
118 North Tioga Street
Ithaca, New York 14850-4343

(PTO FORM 1050)

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.: 6,997,150

DATED: February 14, 2006

INVENTOR(S): Roger T. Simpson

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 3, line 62: Delete the word --chambers-- and add the words "retard chambers"

Column 3, line 63: Delete the words --(labeled "A" for "advance"--

Column 3, line 63: Add the words "advance chambers" between the word (and) and the number (17b)

Column 3, line 63-64: Delete the words --(labeled "R" for "retard")--

Figure 6, delete the letters –EDV-- reference by number 102 and add the letters ECU.

MAILING ADDRESS OF SENDER: **PATENT NO. 6,997,150**

Brown & Michaels, PC
400 M&T Bank Building
118 North Tioga Street
Ithaca, New York 14850-4343

(PTO FORM 1050)

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INTEL CORPORATION
c/o INTELLEVATE, LLC
P.O. BOX 52050
MINNEAPOLIS MN 55402

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OCT 3 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Michael D. Goodner	:	
Application No. 10/984,595	:	ON PETITION
Filed: November 8, 2004	:	
Attorney Docket No. 42P20397	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 20, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, January 4, 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 April 5, 2007. The Notice of Abandonment was mailed August 20, 2007.

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

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

The application file is being referred to Technology Center AU 2813 for appropriate action on the concurrently filed amendment.

Chris Bottorff
Petitions Examiner
Office of Petitions

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DEC 0 2 2005

Director
Group 3700

David E. Bennett
Coats & Bennett, P.L.L.C.
P.O. Box 5
Raleigh, NC 27602

In re Application of :
Sorrel :
Serial No. 10/984616 : DECISION ON PETITION
Filed: November 09, 2004 : TO MAKE SPECIAL

For: HAND-HELD BODY WASHING DEVICE

Applicant's petition, filed January 14, 2005, seeks to have this application made special pursuant to the Accelerated Examination Program. The petition is GRANTED.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(VIII) of the Manual of Patent Examining Procedures (MPEP).

Applicant is advised that the examiner's search will be restricted to the subject matter encompassed by the claims. In the event that the application receives a first action rejection, applicant is encouraged to arrange for an interview with the examiner, and to provide the examiner with a working copy of any proposed amendment one working day prior to the interview. Any amendment filed in response to a first action rejection, which would require broadening of the field of search will be treated as an improper response.

PETITION GRANTED.

Richard A. Bertsch

Richard A. Bertsch, Director
Technology Center 3700
571-272-3750

rt/ 12/01/05

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DIW Nov-05

WOODARD, EMHARDT, MORIARTY, MCNETT & HENRY LLP
BANK ONE CENTER/TOWER
111 MONUMENT CIRCLE, SUITE 3700
INDIANAPOLIS IN 46204-5137

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NOV 04 2005

OFFICE OF PETITIONS

In re Application of	:	
Greve et al.	:	
Application No. 10/984,631	:	DECISION GRANTING PETITION
Filed: 9 November, 2004	:	
Atty Dckt No. 48009-3	:	

This is a decision in reference to the petition under 37 CFR 1.10(d) filed on 8 July, 2005, which is treated as a petition filed under 37 CFR 1.10(c), requesting that the above-identified application be accorded a filing date of 9 November, 2004, rather than the currently-accorded filing date of 8 November, 2004.

The petition is **granted**.

Petitioners request the later filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on 9 November, 2004, pursuant to the requirements of 37 CFR 1.10. Petitioners submitted with the present petition a copy of Express Mail receipt number EL983136405US (the same Express Mail number found on the utility patent application transmittal accompanying the original application papers) bearing a handwritten "date-in" of "11-8-4".

Petitioners assert, however, that the "date-in" on the Express Mail label is incorrect. In support, petitioners have provided a copy of an email from the U.S. Postal Service Track & Confirm database showing that Express Mail Item No. EL983136405US was accepted by the USPS on 9 November, 2004.

As such, the showing of record is that the correct date of deposit in Express Mail is 9 November, 2004.

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

The application is being referred to the Office of Initial Patent Examination (OIPE) for correction of the filing date to 9 November, 2004, and for issuance of a corrected Filing Receipt.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Paper No.

GENERAL CHEMICAL PERFORMANCE
PRODUCTS LLC.
90 EAST HALSEY ROAD
PARSIPPANY, NJ 07054

COPY MAILED

JUL 22 2005

OFFICE OF PETITIONS

In re Application of Erik Mori, Brian Hong and James Craig Application No. 10/984,649 Filed: November 9, 2004 Attorney Docket No. GC-217	: : : : : : :	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the "PETITION UNDER RULE 37 C.F.R. 1.47(A) ON BEHALF OF NON SIGNING INVENTOR," filed November 9, 2004.

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

The above-identified application was filed on November 9, 2004, with a declaration executed by joint inventors Brian Hong and James Craig on behalf of themselves and on behalf of non-signing joint inventor Erik Mori. Rule 47 applicants also submitted the petition fee ($130)(No surcharge under §1.16(e) is required because the declaration was submitted on filing of the application). Applicants assert that acceptance of this declaration under §1.47 is proper because inventor Mori refuses to join in the application. In support thereof, applicants submitted a showing that inventor Mori had been presented with the application papers, a written statement from inventor Mori acknowledging receipt of the papers and expressly refusing to sign the declaration, and a statement of the last known address of inventor Mori.

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(s).

The evidence submitted is adequate proof of refusal to join in the application after having been presented with the application papers. As stated above, the petition includes payment of the petition fee and a statement of the last known address of the non-signing inventor. Moreover, the declaration filed November 9, 2004, has been reviewed and found in compliance with § 1.63.

In view thereof, this application is hereby accorded Rule 1.47(a) status.

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

The application will be examined in Technology Center AU 1765 in due course.

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

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No.

Erik Mori
361 DuPahze Street
Naperville, IL 60565

COPY MAILED

JUL 22 2005

OFFICE OF PETITIONS

In re Application of	:	
Mori et al.	:	LETTER
Application No. 10/984,649	:	
Filed: November 9, 2004	:	
Attorney Docket No. GC-217	:	

Dear Mr. Mori:

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. However, no action on your part is required for this patent to issue with you as a named inventor.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Nancy Johnson at (571) 272-3219. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

GENERAL CHEMICAL PERFORMANCE PRODUCTS LLC.
90 EAST HALSEY ROAD
PARSIPPANY, NJ 07054

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JING JING YU
504 – 5411 VINE STREET
VANCOUVER BC V6V 1-74 CA CANADA

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MAY 29 2008

OFFICE OF PETITIONS

In re Application of	:	ON PETITION
Jing Jing Yu	:	
Application No. 10/984,651	:	
Filed: November 10, 2004	:	
Attorney Docket No.	:	

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 19, 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) were obtained. Accordingly, the above-identified application became abandoned on June 20, 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 2875 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: William W. Cochran
2026 Caribou Drive, Suite 201
Fort Collins, CO 80525

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NEKTAR THERAPEUTICS
150 INDUSTRIAL ROAD
SAN CARLOS CA 94070

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AUG 0 1 2007

OFFICE OF PETITIONS

In re Application of	:	
Xuan Zhao	:	
Application No. 10/984,679	:	DECISION ON PETITION
Filed: November 8, 2004	:	
Attorney Docket No. SHE0050.20	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 8, 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 June 4, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed March 2, 2007. Accordingly, the date of abandonment of this application is June 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 payment of the issue fee of $1400.00 and the publication fee of $300.00, (2) the petition fee of $1500.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Christopher Bottorff at (571) 272-6052 or in his absence, the undersigned at (571) 272-7099.

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

David Bucci
Petitions Examiner
Office of Petitions

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VAN PELT, YI & JAMES LLP
10050 N. FOOTHILL BLVD #200
CUPERTINO CA 95014

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NOV 0 2 2007

OFFICE OF PETITIONS

In re Application of	:	
Urmstom et al.	:	
Application No. 10/984686	:	DECISION ON
Filing or 371(c) Date: 11/08/2004	:	PETITION
Attorney Docket Number: LEGAP034	:	

This is a decision in response to the "Petition Under 37 CFR 1.137(a) for Revival of an Application for Patent Abandoned Unavoidably," filed October 3, 2007, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Nonfinal Office action, mailed February 6, 2007. The Office action set three (3) month period for reply. No response having been received, the application became abandoned on May 7, 2007. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

The petition satisfies the requirements of 37 CFR 1.137(a) in that petitioner has supplied (1) the required reply in the form of an Amendment; (2) the petition fee; and (3) a showing to the satisfaction of the Director that the entire delay was unavoidable.

The application will be referred to Technology Center Art Unit 2189 for processing of the reply filed with the petition in due course.

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

Derek L. Woods
Attorney
Office of Petitions

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
10/984,693	11/08/2004	2111	1320	10559-966001 / P19737	7	24	4

CONFIRMATION NO. 3047

UPDATED FILING RECEIPT

OC000000015366330

20985
FISH & RICHARDSON, PC
12390 EL CAMINO REAL
SAN DIEGO, CA 92130-2081

Date Mailed: 03/07/2005

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 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)

Tina C. Zhong, Chandler, AZ;
James Mitchell, Chandler, AZ;

Power of Attorney:

David Feigenbaum–30378
Scott Harris–32030
Stephanie Seidman–33779
Hans Troesch–36950
John Hayden–37640
Carl Kukkonen III–42773
Bing Ai–43312
Jan Rohlicek–43349
Linda Gunderson–46341
William Hunter–47671

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 12/10/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/984,693

Projected Publication Date: 05/11/2006

Non-Publication Request: No

Early Publication Request: No

Title

Arbitration in a multi-protocol environment

Preliminary Class

710

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).

PTO/SB/83 (09-03)
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 contains a valid OMB control number.

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	10/984,694
Filing Date	November 8, 2004
First Named Inventor	Roger Y. Tsien
Art Unit	To Be Assigned
Examiner Name	To Be Assigned
Attorney Docket Number	39754-0976 US

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

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JUN 22 2005

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

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: Assignee of Record has requested transfer of responsibility for application

APPROVED
William R. Dixon
8/25/05
WILLIAM R. DIXON, JR.
SPECIAL PROGRAM EXAMINER

CORRESPONDENCE ADDRESS

1. ☐ The correspondence address is NOT affected by this withdrawal.

2. ☑ Change the correspondence address and direct all future correspondence to:

☐ Customer Number:

OR

☑ Firm or Individual Name	Annette S. Parent, Esq. - Townsend & Townsend & Crew LLP				
Address	2175 North California Blvd				
Address	Suite 625				
City	Walnut Creek	State	CA	ZIP	94596
Country	United States of America				
Telephone	925-472-5000	Fax	925-472-8895		

Name	James Fox		
Signature	James A. Fox	Registration No.	38,455
Date	June 22, 2005	Telephone	650-324-6951

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 C.F.R. 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 C.F.R. 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 by 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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BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

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APR 22 2009

OFFICE OF PETITIONS

In re Application of	:	
KENJI IMURA	:	
Application No. 10/984,718	:	LETTER REGARDING
Filed: November 9, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 12062-21	:	

This is in response to the "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT" filed February 5, 2009. Pursuant to applicant's duty of good faith and candor to the Office, applicant requests that the determination of patent term adjustment under 35 U.S.C. 154(b) be reviewed for accuracy.

The request for review of the patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **71 days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On January 15, 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 is 128 days. On February 5, 2009, applicant submitted the instant comment. Applicant discloses that applicant believes that the patent term adjustment indicated on the Determination of Patent Term Adjustment appears to be longer than appropriate. Applicant does not state a basis for the request for review of the patent term adjustment.

A review of the application history reveals that applicant is correct. On May 29, 2007, applicants submitted a supplemental reply or paper in the form of a Second Supplemental Information Disclosure Statement (IDS) after filing a reply to the nonfinal Office action on April 2, 2007. The record does not support a conclusion that the examiner expressly requested the filing of the IDS. Further, a review of the IDS, filed May 29, 2007, reveals that applicant did not include a statement under 37 CFR 1.704(d).[1] Thus, applicant failed to engage in reasonable efforts to conclude prosecution of the application. Accordingly, the period of adjustment should have been reduced by 57 days pursuant to 37 CFR 1.704(c)(8), counting the number of days beginning on the day after the date the initial reply was filed, April 3, 2007, and ending on the date that the IDS was filed, May 29, 2007. Accordingly, a period of reduction of 57 days is being entered.

In view thereof, the correct patent term adjustment at the time of mailing of the notice of allowance is **71 days**.

As this letter was submitted to advise the Office of an error in applicant's favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks applicant for applicant's good faith and candor in bringing this to the attention of the Office.

Applicant is reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicant will be notified in the

---

[1] Pursuant to 37 CFR § 1.704(d):

> A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

Issue Notification letter that is mailed to applicant approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM screen

Day : Tuesday
Date: 4/21/2009

PALM INTRANET

Time: 17:33:38

PTA Calculations for Application: 10/984718			
Application Filing Date:	11/09/2004	PTO Delay (PTO):	297
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	169
Post-Issue Petitions:	0	Total PTA (days):	71
PTO Delay Adjustment:	-57		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
64	04/21/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		57	
57	01/15/2009	MAIL NOTICE OF ALLOWANCE			
56	01/14/2009	ISSUE REVISION COMPLETED			
55	01/14/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
54	01/14/2009	DOCUMENT VERIFICATION			
53	01/14/2009	NOTICE OF ALLOWABILITY			
52	10/30/2008	DATE FORWARDED TO EXAMINER			
51	10/29/2008	RESPONSE AFTER NON-FINAL ACTION		20	48
50	10/29/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
49	09/02/2008	CASE DOCKETED TO EXAMINER IN GAU			
48	07/09/2008	MAIL NON-FINAL REJECTION			
47	07/07/2008	NON-FINAL REJECTION			
46	05/14/2008	DATE FORWARDED TO EXAMINER			
45	04/28/2008	RCE- AF PROCESSED			
43	05/13/2008	DATE FORWARDED TO EXAMINER			
42	04/28/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)		19	38
41	05/13/2008	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
40	04/28/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
39	04/28/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
38	01/09/2008	MAIL FINAL REJECTION (PTOL - 326)			
37	01/07/2008	FINAL REJECTION			
36	12/06/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			

35	12/06/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		48	32
34	12/06/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
33	10/25/2007	DATE FORWARDED TO EXAMINER			
32	10/19/2007	RESPONSE AFTER NON-FINAL ACTION		23	30
31	10/19/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
30	06/26/2007	MAIL NON-FINAL REJECTION			
29	06/22/2007	NON-FINAL REJECTION			
28	05/29/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
27	05/29/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
26	04/11/2007	DATE FORWARDED TO EXAMINER			
25	04/02/2007	RESPONSE AFTER NON-FINAL ACTION		59	23
24	04/02/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
23	11/02/2006	MAIL NON-FINAL REJECTION	297		-1
22	10/30/2006	NON-FINAL REJECTION			
21	01/03/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
20	09/01/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
19	09/28/2006	CASE DOCKETED TO EXAMINER IN GAU			
18.7	09/01/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	09/01/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	08/24/2006	CASE DOCKETED TO EXAMINER IN GAU			
16	07/25/2006	CASE DOCKETED TO EXAMINER IN GAU			
15	02/03/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
14	11/09/2004	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
13	02/03/2005	CASE DOCKETED TO EXAMINER IN GAU			
12	01/03/2005	REFERENCE CAPTURE ON IDS			
11.7	01/03/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	01/03/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

10	12/15/2004	APPLICATION RETURN FROM OIPE			
9	12/15/2004	APPLICATION RETURN TO OIPE			
8	12/15/2004	APPLICATION RETURN FROM OIPE			
7	12/15/2004	APPLICATION IS NOW COMPLETE			
6	12/15/2004	APPLICATION RETURN TO OIPE			
5	12/15/2004	APPLICATION DISPATCHED FROM OIPE			
4	12/15/2004	APPLICATION IS NOW COMPLETE			
3	12/03/2004	CLEARED BY OIPE CSR			
2	11/20/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	11/09/2004	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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HARMAN - BRINKS HOFER CHICAGO
BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

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JUL 27 2009

OFFICE OF PETITIONS

In re Application of	:	
Volker Kuz, et al.	:	
Application No. 10/984,731	:	DECISION ON PETITION
Filed: November 8, 2004	:	TO WITHDRAW
Attorney Docket No. 11336-837 (P03069US)	:	FROM RECORD
	:	

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

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Harman – Brinks Hofer Chicago, Brinks, Hofer, Gilson & Lione has been revoked by the assignee of the patent application on July 6, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

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

cc: ROBERT P. HART, ESQ.
HARMAN INTERNATIONAL INDUSTRIES, INCORPORATED
8500 BALBOA BOULEVARD
NORTHBRIDGE, CA 91329

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Gildo E. Fato
Laurence M. Dunlap, Ltd.
Suite 202B
14047 Petronella Drive
Libertyville, IL 60048

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NOV 25 2008

In re Application of	:	
John Charin Somberg et al.	:	
Application No. 10/984,773	:	DECISION ON PETITION
Filed: November 10, 2004	:	TO WITHDRAW
Attorney Docket No. S/R003	:	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 October 28, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Gildo Fato sole attorney of record. Gildo Fato has been withdrawn.

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

The correspondence address has been changed and is copied below.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: John C. Somberg, MD
210 S. Saunders Road
Lake Forest, IL 60045

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/984,773	11/10/2004	John Charin Somberg	S/R003

CONFIRMATION NO. 3978

POWER OF ATTORNEY NOTICE

OC000000033298646

Gildo E. Fato
Laurence M. Dunlap, Ltd.
Suite 202B
14047 Petronella Drive
Libertyville, IL 60048

Date Mailed: 11/25/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/28/2008.

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

/kainabinet/

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/984,780	11/10/2004	Takanori Hattori	NGB-201-USAP	3991

28892 7590 07/02/2007
SNIDER & ASSOCIATES
P. O. BOX 27613
WASHINGTON, DC 20038-7613

EXAMINER
PINHEIRO, JASON PAUL

ART UNIT	PAPER NUMBER
3714	

MAIL DATE	DELIVERY MODE
07/02/2007	PAPER

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

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

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SNIDER & ASSOCIATES
P.O. BOX 27613
WASHINGTON DC 20038-7613

In re Application of: Hattori, Takanori et al Serial No.: 10/984,780 Filed: November 10, 2004 Docket: NGB-201-USAP Title: GAME SYSTEM	Withdrawal Holding of Abandonment

This is a decision on the petition to withdraw holding of abandonment, filed on June 12, 2007.

The petition is granted.

The application was held abandoned for failure to timely respond to the Office action mailed on October 30, 2006, which set a three month shortened period for reply. Notice of abandonment was mailed on June 12, 2007.

Petitioner asserts that a response to the Non-Final Office action was received on January 29, 2007. In support, petitioner has supplied a copy of a receipt card with a time stamp of January 29, 2007. The receipt card indicates that the transmittal in duplicate and amendment were received by the USPTO. A copy of amendment is also filed with current petition.

As petitioner has provided convincing evidence that a timely reply to the Office action of October 30, 2006 was timely filed by correspondence on January 29, 2007, there is no abandonment in fact. Any inconvenience or delay caused to applicant is regretted. The petition fee $130.00 shall be refunded and credited to Deposit Account No. 19-2816 upon request.

In view of the above, the Notice of Abandonment mailed June 12, 2007 is in error and is hereby vacated. The holding of abandonment is withdrawn. The examiner is directed to accept the copy of the amendment. This application is being forwarded to the examiner in Art Unit 3714 for appropriate action.

PETITION GRANTED

Karen M. Young

Karen M. Young, Director
Technology Center 3700

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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

MAIL

JUN 0 2 2006

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Akira SUGA, et al. :
Application No. 10/984,783 :
Filed: November 10, 2004 :
For: **PRINTING APPARATUS AND CONTROL METHOD THEREOF, AND PRINTING SYSTEM** :

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed May 5, 2006 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

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

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

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

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

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PATTERSON & SHERIDAN, LLP - - - IPTEC
3040 Post Oak Boulevard
Suite 1500
Houston TX 77056-6582

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MAR 16 2009

OFFICE OF PETITIONS

In re Application of	:	
Yung-Yu Lin	:	
Application No. 10/984,791	:	DECISION ON PETITION
Filed: November 10, 2004	:	
Attorney Docket No. BHT/3212-76	:	

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 **GRANTED**.

This application was held abandoned for failure to timely pay the issue and publication fees on or before October 21, 2008, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed July 21, 2008.

Petitioner asserts that the Notice was not received.

A review of the written record indicates an irregularity in the mailing of the Notice of July 21, 2008. In this regard, the Office received a revocation of power of attorney with new power of attorney and change of address on June 4, 2008, prior to the mailing of the Notice of July 21, 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 November 13, 2008 is hereby vacated and the holding of abandonment withdrawn.

The address was changed to the address associated with customer number 68164, which records of the Office show as PATTERSON & SHERIDAN, LLP - - - IPTEC, 3040 Post Oak Boulevard, Suite 1500, Houston, TX 77056-6582. However, the petition indicates that the address associated with customer number 68164 is 595 Shrewsbury Ave., Suite 100, Shrewsbury, NJ 07702. The address of record with the Office is the Houston, TX address, not the Shrewsbury, NJ address. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

This application is being referred to the Technology Center AU 2627 technical support staff for **re-mailing** the Notice of Allowability and the Notice of Allowance and Fee(s) Due of July 21, 2008. 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.

Christopher Bottorff
Petitions Examiner
Office of Petitions

cc: Patterson & Sheridan, LLP
595 Shrewsbury Ave.
Suite 100
Shrewsbury, NJ 07702

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MAYER BROWN ROWE & MAW LLP
1909 K STREET NW
WASHINGTON, DC 20006

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MAR 17 2006

OFFICE OF PETITIONS

In re Application of	:
Jin Tae Kim et al	:
Application No. 10/984,796	: DECISION GRANTING PETITION
Filed: November 10, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 123034-05004812	:

This is a decision on the petition, filed March 16, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 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 2874 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Frances Hicks
Petitions Examiner
Office of Petitions

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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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ANNANDALE, VA 22003

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OFFICE OF PETITIONS

In re Application of	:	
Chang et al.	:	
Application No. 10/984,798	:	ON PETITION
Filed: November 10, 2004	:	
Attorney Docket No. 18906-164	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of August 4, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). In view of the 3-month extension of time filed, January 15, 2009 the date of abandonment of this application is February 5, 2009.

It is noted that petitioners suggest a timely Request for Continued Examination (RCE) under 37 CFR 1.114 was filed on January 15, 2009; however, the RCE was an improper filing since it was not accompanied by the fee required under 37 CFR 1.17(e). A proper RCE was included with the present petition.

In view of the above, the petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, (2) the petition fee of $1,620, and (3) an adequate statement of unintentional delay.

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

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

This application is being referred to Technology Center AU 2629 for processing of the RCE and for appropriate action by the Examiner in the normal course of business in accordance with 37 CFR 1.114.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: JUSTIN KING
WPAT, P.C.
1940 DUKE STREET
SUITE 200
ALEXANDRIA, VA 22314

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TECHNOLOGY CENTER 2600

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

In re Application of
SUGA, AKIRA, et al.
Application No. 10/984,807
Filed: November 10, 2004
For: **DIGITAL CAMERA AND CONTROL METHOD THEREOF, AND PRINTING SYSTEM**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed April 20, 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
Special Program Examiner
Technology Center 2600
Communications

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BUCHANAN INGERSOLL PC
(INCLUDING BURNS, DOANE, SWECKER & MATHIS)
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

In re Application of	:	
Willi Horber	:	
Serial No.: 10/984,831	:	DECISION ON PETITION
Filed: November 10, 2004	:	
For: Endoprosthesis for Replacing a Joint	:	
Especially a Shoulder Joint	:	

This is in response to applicants' petition filed May 11, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

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

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

Should there be any questions with regard to this letter please contact 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

Frederick R. Schmidt, Director
Technology Center 3700

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KRATZ, QUINTOS & HANSON, LLP
1420 K STREET, N.W.
SUITE 400
WASHINGTON DC 20005

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In re Application of	:	
Kobayashi et al.	:	
Application No. 10/984,832	:	DECISION ON PETITION
Filed: November 10, 2004	:	
Attorney Docket No. 040564	:	

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

The petition is **GRANTED**.

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

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 request to change the address of record should be filed. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

This matter is being referred to Technology Center 3600 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Liana Walsh
Petitions Examiner
Office of Petitions

Cc: EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON, MA 02205

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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	: Sophie Wilson	: DECISION ON REQUEST FOR
Patent Number	: 7600102	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/984,877	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **6** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

Mail Date: 04/21/2010

Applicant	: Peter John Deacon Wickham	: DECISION ON REQUEST FOR
Patent Number	: 7571725	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/984,893	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **987** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	§	BEFORE THE EXAMINER:
Datta et al.	§	Not Yet Assigned
Serial No.: 10/984,900	§	Group Art Unit No.: Not Yet Assigned
Filed: November 10, 2004	§	Attorney Docket No.: 1998B037A/8
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:\BPCLAW\Prosecution\EMOC Prosecution\1998\1998B037A-8\1998B037A-8 (US)\1998B037-8-US-2005FEB14-Petition to Make Special.doc

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6-6-07

TO SPE OF : ART UNIT 1773

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/984926 Patent No.: 7041306

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 figs

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: Changes to drawing introduce new matter. Change from a 2 layer structure to a 1 layer structure introduces new matter.

Carol Chaney — SPE

1773 — Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

Mail Date: 04/22/2010

Applicant	: Tomoya Matsui	: DECISION ON REQUEST FOR
Patent Number	: 7633497	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/984,978	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1255** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

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JUL 28 2009

OFFICE OF PETITIONS

In re Application of	:	
Chen et al.	:	
Application No. 10/985,013	:	ON APPLICATION FOR
Filed: November 10, 2004	:	PATENT TERM ADJUSTMENT
Atty. Docket No. 035879-0189	:	

This is in response to the REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705, filed July 1, 2009, which is properly treated as a petition under 37 CFR 1.705(b). Applicants submit that the correct patent term adjustment to be indicated on the patent is one hundred thirty-three (133) days, not sixty-eight (68) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants seek this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined.

Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

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

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

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[1] For example, if applicants dispute both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed, and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicants must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within two months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
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DEC 1 8 2009

OFFICE OF PETITIONS

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

In re Patent No. 7,582,726	:
Chen et al.	:
Issue Date: September 1, 2009	: DECISION ON REQUEST FOR
Application No. 10/985,013	: RECONSIDERATION OF
Filed: November 10, 2004	: PATENT TERM ADJUSTMENT
Attorney Docket No. 096630-0189	:

This is in response to the SECOND REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705, filed August 24, 2009, which is properly treated under 37 CFR 1.705(d). Patentees request that the determination of patent term adjustment for the above-identified patent be corrected from sixty-eight (68) days to one hundred thirty-three (133) days.

Preliminarily, patentees request that the Office defer or delay a decision on this request for reconsideration until a final decision has been rendered in Wyeth v. Dudas, 580 F.Supp.2d 138, 88 U.S.P.Q.2d 1538 (D.D.C. 2008), which is now on appeal at the U.S. Court of Appeals for the Federal Circuit, under Federal Circuit Docket No. 2009-1120. However, the Office notes that there is no specific regulatory provision for requesting that a petition under 37 CFR 1.705(d) be held in abeyance.

The request for reconsideration of patent term adjustment is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. 154(b) of 68 days.

The above-identified application was filed on November 10, 2004. On January 14, 2008, a request for continued examination (RCE) was filed. On September 1, 2009, the above-identified application matured into U.S. Patent No. 7,582,726 with a revised patent term adjustment of 68 days. The Office

determined that the 64 days of Office delay, pursuant to 35 U.S.C. 154(b)(1)(B)[1] and 37 CFR 1.702(b),[2] overlap with the 230 days of Office delay,[3] pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1),[4] accorded prior to the filing of the request for continued examination. As such, the Office allowed entry of only the period of adjustment of 230 days for Office delay. No additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the 162 days of applicant delay, the patent issued with a revised patent term adjustment of 68 days.

On August 24, 2009, patentees timely submitted this request for reconsideration of patent term adjustment within two months of the issue date of the patent. See 37 CFR 1.705(d). Patentees aver that the correct number of days of Patent Term Adjustment

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[1] Pursuant to 35 U.S.C. 154(b)(1)(B), 37 CFR 1.702(b) provides, in pertinent part, that:

Failure to issue a patent within three years of the actual filing date of the application. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b).

[2] As of the filing of the RCE on January 14, 2008, the application was pending three years and 406 days.

[3] A [redacted] Office action was mailed on October 10, 2006, 14 months and 230 days after the application was filed on November 10, 2004.

[4] 37 CFR 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

(a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:

(1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application[.]

is 133 days under the court's interpretation of the overlap provision as set forth in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant to Wyeth, a PTO delay under 35 U.S.C. 154(b)(1)(A) overlaps with a delay under 35 U.S.C. 154(b)(1)(B) only if the delays "occur on the same day." Patentees maintain that the total non-overlapping PTO delay under 35 U.S.C. 154(b)(1)(A) and 35 U.S.C. 154(b)(1)(B) is 295 days as these periods do not occur on the same days. Given the 162 days of applicant delay, patentees assert entitlement to 133 days of patent term adjustment.

The Office notes that patentees filed an RCE on January 14, 2008. The filing of an RCE cuts off the ability to accumulate any additional patent term adjustment under the three-year pendency provision. The period beginning on the day the RCE is filed to the issue date of the patent is excluded from the period under § 1.702(b). Accordingly, the period in this instance is 64 days, rather than 65 days as calculated by patentees, counting the number of days in the period beginning on November 11, 2007, the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a), and ending on January 13, 2008, the day before the date the RCE was filed.

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

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

As explained in *Explanation of 37 CFR 1.703(f)*[5] *and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the

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[5] Likewise, 37 CFR 1.703(f) provides that:

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

position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

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

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the date of filing of the application under 35 U.S.C. 111(a) on November 10, 2004, and ending on the day before the date of filing of a request for continued examination, January 13, 2008 (not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). The relevant period ends with the filing of the RCE as the three-year time frame specified in 35 U.S.C. 154(b)(1)(B) does not include the period subsequent to the filing of the RCE. 35 U.S.C. 154(b)(1)(B)(i).

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), 230 days of patent term adjustment were accorded during the pendency of the application for Office delay prior to the filing of the request for continued examination. There were no Office delays subsequent to the filing of the request for continued examination. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 64 days of patent term adjustment accrued for Office issuance of the patent more than three years after the filing date of the application.

All of the 64 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 230 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 64 days and the 230 days is neither permitted nor warranted. The Office accorded the greater period of 230 days for Office delay. 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 68 days.

The Office will charge the Deposit Account for the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mail Date: 04/21/2010

Applicant	: Wen Yuan Chen	: DECISION ON REQUEST FOR
Patent Number	: 7582726	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/985,013	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **132** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Patent No. : 7601331
Inventor(s) : Chow et al.
Issued :10/13/09
Title : NIR-SENSITIVE NANOPARTICLE
Docket No. :3240-103

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.
See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.
Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

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

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

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

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

RoChaun Johnson
For Mary Diggs
Decisions & Certificates
of Correction Branch
(571) 272-0470

[ROTHWELL, FIGG, ERNST & MANBECK
1425 K STREET, N.W., SUITE 800
WASHINGTON DC 20005

[RMJ]

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1425 K STREET, N.W.
SUITE 800
WASHINGTON, DC 20005

Mail Date: 04/20/2010

Applicant	: Gan Moog Chow	: DECISION ON REQUEST FOR
Patent Number	: 7601331	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/985,018	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1365** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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1425 K STREET, N.W.
SUITE 800
WASHINGTON, DC 20005

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JUL 01 2010

OFFICE OF PETITIONS

In re Patent No. 7,601,331	:	
Issue Date: October 13, 2009	:	
Application No. 10/985,018	:	DECISION ON PETITION
Filed: November 10, 2004	:	
Attorney Docket No. 3240-103	:	

This is a decision on the petition, filed, January 21, 2010, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) by way of a certificate of correction in the patent.

The request is **GRANTED**.

Petitioner states that the correct assignee names are National University of Singapore and Massachusetts Institute of Technology. Petitioner further states that the assignee's name was not correctly identified 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 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 was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that National University of Singapore and Massachusetts Institute of Technology were the assignees of record before issuance of the patent. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it is appropriate for a certificate of correction to be processed.

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

Petitioner should note that the processing fee of $130 will be charged to petitioner's deposit account as authorized.

Inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction.

Carl Friedman
Petitions Examiner
Office of Petitions

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

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FEB 13 2007

OFFICE OF PETITIONS

In re Application of	:	
Kevin S. Currie et al.	:	
Application No. 10/985,023	:	DECISION ON PETITION
Filed: November 10, 2004	:	TO WITHDRAW
Attorney Docket No. 09580.0003-02000	:	FROM RECORD
	:	

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, 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 assignee for the subject application has requested that the subject application be transferred.....***, do not meet any the conditions set forth in 37 CFR 10.40 because in order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director.

In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original

owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying 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 Terri Williams at 571-272-2991.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Anthony J. Zelano, Esq.**
Millen, White, Zelano & Branigan, P.C.
Suite 1400
Arlington Courthouse Plaza I
2200 Clarendon Boulevard
Arlington, VA 22201

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OFFICE OF PETITIONS

In re Application of :
David F. Bliss et al :
Application No. 10/985,063 : ON PETITION
Filed: November 10, 2004 :
Attorney Docket No. AFB00717 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 8, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to submit corrected drawings to the Notice of Allowability, mailed October 25, 2006, which set a period for reply of two (2) months. A Notice of Abandonment was mailed on January 29, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) a reply in the form of drawings; (2) the petition fee of $1,500; and (3) a showing to the satisfaction of the Director that the entire delay was unintentional. Accordingly, the failure to timely reply to the Notice of October 25, 2006 is accepted as being unintentionally delayed.

This application is being referred to Publishing Division for further processing in accordance with this decision on petition.

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

Frances Hicks
Petitions Examiner
Office of Petitions

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OFFICE OF COMMAND COUNSEL,
U.S. ARMY MATERIEL COMMAND
ATTN: AMCCC-B-IP
9301 CHAPEK ROAD
FORT BELVOIR, VA 22060-5527

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AUG 0 2 2007

OFFICE OF PETITIONS

In re Application of	:	
Mel Morganstein	:	
Application No. 10/985,066	:	ON PETITION
Filed: November 5, 2004	:	
Attorney Docket No. ARL 01-08	:	

This is a decision on the petition filed July 9, 2007, requesting that the above-cited application be accorded a filing date of November 5, 2004.

The petition is **granted**.

The review of the official application file as maintained by the Patent and Trademark Office reveals that the subject application was deposited on November 10, 2004, and accorded an official filing date of that same date. The instant petition was filed on July 9, 2007, requesting that the filing date for the application be changed to November 5, 2004. Petitioner submits that the late William W. Randolph hand-carried two applications to the Patent and Trademark Office on November 5, 2004—non-provisional applications 10/985,067 and 10/985,066. Petitioner also files a copy of the Application Transmittal Sheet that bears an Office date-stamp of November 5, 2004. It is noted that the same petition was filed in 10/985,067. The petition was granted and that application accorded a filing date of November 5, 2004. It is noted that the petition filed in 10/985,067 is identical in its fact pattern to the subject petition except that there is no declaration from Mr. Randolph for the subject petition because Mr. Randolph is deceased.

The undersigned previously consulted with the Office of Patent Legal Administration on this fact pattern. It was determined that the Application Transmittal Sheet bearing the date stamp of November 5, 2004, is considered a stamped postcard receipt. The Application Transmittal Sheet is *prima facie* evidence that the application was received on November 5, 2004, notwithstanding the other Office-date stamped postcard reflecting a date of November 10, 2004. The application is accorded a filing date of November 5, 2004, accordingly.

The petition fee of $400.00 will be refunded, in due course.

The application file will be directed to the Office of Initial Patent Examination for further processing with a filing date of November 5, 2004. The Office of Initial Patent Examination will 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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U.S. ARMY MATERIEL COMMAND
ATTN: AMCCC-B-IP
9301 CHAPEK ROAD
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OFFICE OF PETITIONS

In re Application of :
Conroy, et al. :
Application No. 10/985,067 : DECISION DISMISSING PETITION
Filed: November 10, 2004 :
Attorney Docket No.ARL 03-38 :

This is a decision on the petition filed December 20, 2006, requesting that the above-cited application be accorded a filing date of November 5, 2004.

The petition is **dismissed**.

The review of the official application file as maintained by the Patent and Trademark Office reveals that the subject application was deposited on November 10, 2004, and accorded an official filing date of that same date. The instant petition was filed on December 20, 2006, requesting that the filing date for the application be changed to November 5, 2004. Petitioner submits that William W. Randolph hand-carried the application to the Patent and Trademark Office, and files an affidavit from Mr. Randolph in support of the petition.

It is should be noted that the record as maintained by the Patent and Trademark Office is the official record for the application and is presumed accurate. It is, therefore, incumbent on petitioner to overcome this presumption by *prima facie* evidence to the contrary. The instant petition is accompanied by the affidavit of Mr. Randolph, a copy of the Office date-stamped postcard reflecting a date of November 10, 2004, a copy of the application transmittal sheet dated November 5, 2004. This evidence is not sufficient to rebut the presumption of the accuracy of the file record as maintained Patent and Trademark Office. It is noted that hand-carrying the application would normally provide the best assurance that the appropriate filing date would be accorded the application. It is reasonable to expect, however, that Mr. Randolph would have checked the filing date stamped on the postcard prior to leaving the customer service window. Although the apparent failure to check the date would not prevent the instant petition from being granted, it does not help petitioner to overcome the presumption that the application file as maintained by the Patent and Trademark Office is accurate. Petitioner has not provided *prima facie* evidence that the application was deposited on November 5, 2004, rather than November 10, 2004. The petition is dismissed accordingly.

The petition fee of $400.00 will not refunded as the petition was not necessitated by an error on the part of Patent and Trademark Office.

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

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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P.O. Box 1450
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OFFICE OF COMMAND COUNSEL,
U.S. ARMY MATERIEL COMMAND
ATTN: AMCCC-B-IP
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OFFICE OF PETITIONS

In re Application of	:	
Conroy, et al.	:	
Application No. 10/985,067	:	ON PETITION
Filed: November 5, 2004	:	
Attorney Docket No.ARL 03-38	:	

This is a decision on the petition filed December 20, 2006, requesting that the above-cited application be accorded a filing date of November 5, 2004.

The decision of January 26, 2007, is **vacated.**

The petition is **granted**.

The review of the official application file as maintained by the Patent and Trademark Office reveals that the subject application was deposited on November 10, 2004, and accorded an official filing date of that same date. The instant petition was filed on December 20, 2006, requesting that the filing date for the application be changed to November 5, 2004. Petitioner submits that William W. Randolph hand-carried the application to the Patent and Trademark Office, and files an affidavit from Mr. Randolph in support of the petition. Petitioner also files a copy of the Application Transmittal Sheet that bears an Office date-stamp of November 5, 2004.

The undersigned has consulted with the Office of Patent Legal Administration, which has determined that the Application Transmittal Sheet bearing the date stamp of November 5, 2004, is considered a stamped postcard receipt. The Application Transmittal Sheet is *prima facie* evidence that the application was received on November 5, 2004, notwithstanding the other Office-date stamped postcard reflecting a date of November 10, 2004. The application is accorded a filing date of November 5, 2004, accordingly.

The petition fee of $400.00 will be refunded, in due course.

The application file will be directed to the Office of Initial Patent Examination for further processing with a filing date of November 5, 2004. The Office of Initial Patent Examination will 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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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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NAVAL RESEARCH LABORATORY
ASSOCIATE COUNSEL (PATENTS)
CODE 1008.2
4555 OVERLOOK AVENUE, S.W.
WASHINGTON DC 20375-5320

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AUG 29 2007

OFFICE OF PETITIONS

In re Application of	:	
Webster Long et al.	:	
Application No. 10/985,072	:	DECISION ON PETITION
Filed: November 5, 2004	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 96381-US2	:	

This is a decision on the PETITION FOR UNINTENTIONALLY DELAYED BENEFIT CLAIM under 37 CFR 1.78(a)(6), filed July 30, 2007 to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to prior-filed provisional application No. 60/615,243. This decision is made in light of the executed supplemental application data sheet filed August 24, 2007.

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 November 5, 2004, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/615,243, which was filed on October 4, 2004, and for which priority is claimed.

A reference to the prior-filed provisional application has been included in the executed supplemental application data sheet filed August 24, 2007.

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 application, accompanies this decision on petition.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3219. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1755 for consideration by the examiner of the claim under 35 U.S.C. §119(e) of the prior-filed provisional application.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/985,072	11/05/2004	1755	898	96381-US2	26	3

CONFIRMATION NO. 4155

CORRECTED FILING RECEIPT

OC000000025563840

26384
NAVAL RESEARCH LABORATORY
ASSOCIATE COUNSEL (PATENTS)
CODE 1008.2
4555 OVERLOOK AVENUE, S.W.
WASHINGTON, DC 20375-5320

Date Mailed: 08/27/2007

Receipt is acknowledged of this nonprovisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

L. Jeffrey Webster Long, Alexandria, VA;
Debra Rose Rolison, Arlington, VA;
Wendy Sue Baker, Lanham, MD;

Power of Attorney: The patent practitioners associated with Customer Number **26384**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/615,243 10/04/2004

Foreign Applications

If Required, Foreign Filing License Granted: 03/02/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/985,072

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

SULFUR-FUNCTIONALIZED CARBON NANOARCHITECTURES AS POROUS, HIGH-SURFACE-AREA SUPPORTS FOR PRECIOUS METAL CATALYSTS

Preliminary Class

502

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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GARY R. PELLETT
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OFFICE OF PETITIONS

In re Application of	:	
Tim-Hermann Kordes	:	DECISION ON PETITION TO
Application No. 10/985,078	:	WITHDRAW HOLDING OF
Filed: 28 October, 2004	:	ABANDONMENT
For: MINIATURE ROSE PLANT NAMED	:	
'KORPAGBEL'	:	

This is a decision on the petition filed on 21 February, 2006, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to timely respond to the Notice of Allowance Fee(s) Due mailed on 15 June, 2005, which set a three (3) month statutory period for reply. The filing of the present petition precedes the mailing of Notice of Abandonment.

Petitioner, *pro se*, assert that the Notice mailed on 15 June, 2005, was never received.

In the absence of any irregularity in the mailing of the final Office action, there is a strong presumption that the final Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the final Office action was not in fact received. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in practitioner's

statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the final Office action may have been lost after receipt rather than a conclusion that the final Office action was lost in the mail.

A review of the record indicates that the Office action was properly mailed to the petitioner at the correspondence address of record at the time of mailing. Thus, there was no irregularity in mailing the Office action on the part of the United States Patent and Trademark Office.

In support of the petition, the petitioner has submitted a statement by inventor Tim-Hermann Kordes stating that "a search of the file jacket and this office's Receipt Docket revealed that no Notice of Allowance and Fees due was received." A copy of petitioner's Receipt Docket from 23 December, 2004, through 14 February, 2006, is supplied with the petition. Petitioner further states in his petition, that there are no entries related to a Notice of Allowance for this application in the Receipt Docket.

The petitioner has made a sufficient showing of nonreceipt of the Office action. Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is **GRANTED.**

The application file is being referred to Technology Center 1600 technical support staff for remailing of the Notice of Allowance and Fee(s) Due mailed on 15 June, 2005. The period for reply will be reset from the mailing date thereof.

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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OFFICE OF PETITIONS

In re Application of	:	
Thomas J. Gieseke et al.	:	
Application No. 10/985,082	:	ON PETITION
Filed: November 8, 2004	:	
Attorney Docket No. 82868	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 30, 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 November 16, 2006, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on February 17, 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 issue fee; (2) the petition fee of $1540; 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 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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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OFFICE OF PETITIONS

NAVAL UNDERSEA WARFARE CENTER
DIVISION NEWPORT
1176 HOWELL STREET, CODE 000C
BLDG 112T
NEWPORT, RI 02841

In re Application of :
Ansay, et. al : DECISION ON PETITION
Application No. 10/985,083 :
Filed: November 8, 2004 :
Docket No.: 83431 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 11, 2006.

The petition is hereby **GRANTED**.

This application became abandoned June 23, 2006 for failure to timely submit a proper reply to the Notice of Allowance (Notice) mailed March 22, 2006. Notice of Abandonment was mailed July 26, 2006.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4)any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 C.F.R. § 1.137(b). Accordingly, the failure to timely submit a proper reply to the Notice is accepted as having been unintentionally delayed.

This application will be forwarded to the Office of Patent Publication 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

13 MAY 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

LUMEN INTELLECTUAL PROPERTY SERVICES, INC.
2345 Yale Street, 2d Floor
Palo Alto, CA 94306

In re Application of :
SASAHARA, Jun *et al* :
Application No.: 10/985,085 :
Filing Date: 04 November 2004 : **DECISION**
Attorney Docket No.: HON-106/PCT/US :
For: FUEL CELL ASSEMBLY AND :
METHOD FOR BODING A :
SEPARATOR AND AN ELECTROLYTE :
LAYER OF A FUEL CELL ASSEMBLY :

This decision is in response to applicants' "Petition Under 37 C.F.R. 1.182" filed on 29 April 2005 which is treated as a petition under 37 CFR 1.181. No fee is required

BACKGROUND

On 04 November 2004, applicants filed the present U.S. national application papers which included a Utility Patent Application Transmittal letter (PTO/SB/05).

On 11 March 2005, a filing receipt was mailed indicating no priority claim for the above-identified application.

On 29 April 2004, applicant filed the subject petition.

DISCUSSION

Conflicting Instructions

In the petition, applicants request that the Office "disregard the US Utility Application Transmittal that was mistakenly filed with the original application" and treat the application as a national stage filing under 35 U.S.C. 371.

Any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all the conditions set forth in 35 U.S.C. 371(c). The official PTO Notice published in the Official Gazette at 1077 OG 13 (April 14, 1987) states, in part, that: "[i]f there are any conflicting instructions as to which section of the statute (371 or 111) is intended the application will be accepted under 35 U.S.C. 111."

A review of the above-captioned application reveals that the above-captioned application was properly treated by the Office as a filing under 35 U.S.C. 111(a). The

Utility Patent Application Transmittal letter filed 04 November 2004 states that the papers were "for filing under 37 CFR 1.53(b)." Application papers submitted under 37 CFR 1.53(b) are filed under 35 U.S.C. 111(a). There are no provisions allowing the Office to disregard these papers containing the conflicting instructions.

Accordingly, the papers deposited on 04 November 2004 constituted a filing under 35 U.S.C. 111(a) and were properly processed that way.

Correct Priority Claims

Applicants request that the priority information be corrected to add PCT/JP03/05632 filed 02 May 2003 and U.S. Provisional Application No. 60/379,524 filed 09 May 2002 as a priority to the above-captioned application.

The Office is unable to correct the filing receipt because the priority claim is over a year prior to the filing date of this application. Applicants are entitled to claim the benefit under 35 U.S.C. 120 and 365(c) of the filing date of the international application PCT/JP03/05632 for the common subject matter, since this application and the international application designating the United States were copending on 04 November 2004. A petition under 37 CFR 1.78 and an appropriate petition fee would be required.

DECISION

For the reasons discussed above, applicants' petition under 37 CFR 1.181 is **DISMISSED** without prejudice

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Applicants may also consider filing a national stage application for PCT/JP03/05632. A petition to revive pursuant to 37 CFR 1.137(b) would be required.

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the 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.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

2 3 DEC 2008

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United States Patent and Trademark Office
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LUMEN INTELLECTUAL PROPERTY SERVICES, INC.
2345 Yale Street, 2d Floor
Palo Alto, CA 94306

In re Application of :
SASAHARA, Jun *et al* :
Application No.: 10/985,085 :
Filing Date: November 4, 2004 : **DECISION**
Attorney Docket No.: HON-106/PCT/US :
For: FUEL CELL ASSEMBLY AND :
METHOD FOR BODING A :
SEPARATOR AND AN ELECTROLYTE :
LAYER OF A FUEL CELL ASSEMBLY :

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed February 4, 2008, 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.

The petitions are **GRANTED**.

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

A petition for acceptance of a 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 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 submitted; and (3) the statement of unintentional delay has been interpreted as complying with the requirement noted above. If this interpretation is incorrect, applicants should immediately notify the office. Accordingly, having found that the 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 (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. §119(e), §120 and 37 CFR 1.78(a)(1), (a)(2), (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 international and provisional applications, accompanies this decision on petition.

The application is being forwarded to Technology Center AU 1795 for appropriate action as deemed appropriate in light of this decision.

Any inquiries concerning this decision may be directed to James Thomson at (571) 272-3302. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Boris Milef
Legal Examiner
Office of PCT Legal Administration

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
10/985,085	11/04/2004	1795	920	HON-106/PCT/US	12	2

CONFIRMATION NO. 3240

CORRECTED FILING RECEIPT

30869
LUMEN PATENT FIRM
2345 YALE STREET
SECOND FLOOR
PALO ALTO, CA 94306

OC000000033756671

Date Mailed: 12/23/2008

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)

Jun Sasahara, Wako-shi, JAPAN;
Toshifumi Suzuki, Wako-shi, JAPAN;
Tadahiro Kubota, Wako-shi, JAPAN;
Nariaki Kuriyama, Wako-shi, JAPAN;
Yuji Saito, Mountain View, CA;

Power of Attorney:

Thomas McFarlane--39299
Marek Alboszta--39894
Katharina Schuster--50000
Ron Jacobs--50142
Tianhua GU--52480
Robert Lodenkamper--55399

Domestic Priority data as claimed by applicant

This application is a CON of PCT/JP03/05632 05/02/2003
which claims benefit of 60/379,524 05/09/2002

Foreign Applications

If Required, Foreign Filing License Granted: 12/10/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/985,085**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Fuel cell assembly and method for bonding a separator and an electrolyte layer of a fuel cell assembly

Preliminary Class

429

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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MAR – 8 2005

PERKINS COIE LLP
P.O. BOX 2168
MENLO PARK CA 94026

In re Application of:	:
Aravanis et al.	:
Serial No.: 10/985,102	: PETITION TO MAKE SPECIAL
Filed: November 9, 2004	:
Attorney Docket No.: 40271-8002.US01	:

This is in response to applicants' petition filed January 3, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(d), based on applicants who are small entities having applications relating to biotechnology.

Applicants have satisfied the provisions set forth in M.P.E.P. 708.02, XII (A), (B), and (C). The $130.00 petition fee as required by 37 CFR 1.17(h) was received. Therefore, the petition is **GRANTED**.

Should there be any questions with regard to this letter please contact Marianne C. Seidel by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile transmission to the general Office facsimile number.

Marianne C. Seidel

Marianne C. Seidel
Special Program Examiner
Technology Center 1600

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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BASF AKTIENGESELLSCHAFT
CARL-BOSCH STRASSE 38, 67056 LUDWIGSHAFEN
LUDWIGSHAFEN, 69056
GERMANY

Mail Date: 04/20/2010

Applicant	: Karl R. Gust	: DECISION ON REQUEST FOR
Patent Number	: 7605216	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/985,104	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **632** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

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JUL 0 3 2006

OFFICE OF PETITIONS

In re Application of	:	
Tokihiko Sawashi	:	
Application No. 10/985,120	:	ON PETITION
Filed: November 10,2004	:	
Attorney Docket No. SONYJP 3.0-417	:	

This is a decision on the petition, filed June 30, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 25, 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 2816 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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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Paper No. _____

Date : July 3, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Tokihiko Sawashi
Application No. :10/985,120
Filed :November 10, 2004

The above-identified application has been assigned Patent No. 7,075,349 and an issue date of July 11, 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 July 11, 2006:

"All reference to Patent No. 7,075,349 to Tokihiko Sawashi of Tokyo for POWER AMPLIFICATION CIRCUITS appearing in the Official Gazette of July 11, 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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KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Sawashi :
Application No. 10/985,120 :
Filed: November 10, 2004 :
Attorney Docket No. SONYJP 3.0-417 :
For: POWER AMPLIFICATION CIRCUITS

This is a decision on the petition under 37 CFR 1.181, filed July 26, 2007 (certificate of mailing date July 23, 2007), to withdraw the holding of abandonment in the above-identified application.

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

The Office contended that the above-identified application became abandoned for failure to timely file Part B of the March 16, 2007 Notice of Allowance and Fee(s) Due, which is considered a request to reapply the previously paid issue fee towards the issue fee currently due. The Office has no record of receiving a timely reply. Therefore, the Office contended that this application became abandoned three months after the mailing of the March 16, 2007 Notice of Allowance and Fee(s) Due, on June 17, 2007. A Notice of Abandonment was mailed on July 11, 2007.

Petitioner requests withdrawal of the holding of abandonment based on the assertion that Part B of the March 16, 2007 Notice of Allowance and Fee(s) Due was transmitted via facsimile to the Office on June 13, 2007. As stated in the preceding paragraph, the Office has no record of receiving a reply to the March 16, 2007 Notice of Allowance and Fee(s) Due.

Under 37 C.F.R. § 1.8(a)(1) correspondence is considered timely if: (1) the correspondence is mailed or transmitted prior to expiration of the set period for response by being properly addressed to the Patent and Trademark Office as set out in 37 C.F.R. § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail or transmitted to the Patent and Trademark Office in accordance with 37 C.F.R. § 1.6(d); and (2) the correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have a reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

The copy of the "Facsimile Transmission - Issue Fee Transmittal - (Previously Paid 5/25/06)" bears a certificate of mailing, dated June 13, 2007, in compliance with the requirements of 37 C.F.R. § 1.8(a)(1) as set forth above. In the future, petitioner is encouraged to specify a facsimile number to which correspondence is being transmitted in any certificate of facsimile transmission. The person signing the certificate had reasonable basis to expect that the correspondence would be transmitted on June 13, 2007.

Furthermore, petitioner has provided a copy of an Auto-Reply Facsimile Transmission receipt from the Office that shows a two page document with the "Facsimile Transmission - Issue Fee Transmittal - (Previously Paid 5/25/06)" as the first page was received in the Office on June 13, 2007.

In light of the above, the petition is **granted**, the July 11, 2007 Notice of Abandonment is **vacated**, and the holding of abandonment is withdrawn.

After the mailing of this decision, the application will be returned to the Office of Data Management for processing into a patent.

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

Shirene Willis Brantley
Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WOODCOCK WASHBURN LLP (MICROSOFT CORPORATION)
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

MAILED

AUG 11 2009

OFFICE OF PETITIONS

In re Application of :
Steven T. Ansell et al. :
Application No. 10/985,130 :
Filed: November 10, 2004 :
Attorney Docket No. MSFT-4578/303317.06 :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 22, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of May 13, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A one (1) month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is September 14, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

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 be acknowledged as the attorney of record regarding this application, the appropriate power of attorney document must be submitted.

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

This application is being referred to Technology Center AU 2453 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WALKER DIGITAL
2 HIGH RIDGE PARK
STAMFORD CT 06905

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NOV 06 2006
OFFICE OF PETITIONS

In re Application of Walker, et al. Application No. 10/985,131 Filed: November 10, 2004 Attorney Docket No. 01-045-C1	: : : : :	ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 24, 2006 and supplemented on October 26, 2006, to revive the above-identified application.

This application became abandoned for failure to timely pay the issue fee and publication fee within three (3) months of the mailing of the Notice of Allowance and Fee(s) Due, mailed November 3, 2005. Accordingly, this application became abandoned on February 4, 2006. A Notice of Abandonment was mailed on March 28, 2006.

Applicants have submitted a proper reply in the form of the issue fee, the publication fee and a completed PTOL-85, an acceptable statement of the unintentional nature of the delay in responding to the November 3, 2005 Notice of Allowance and Fee(s) Due, and the petition fee.

The petition is **granted**.

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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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GIBSON & DERNIER LLP
900 ROUTE 9 NORTH
SUITE 504
WOODBRIDGE NJ 07095

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DEC 2 2 2009

OFFICE OF PETITIONS

In re Application of

SOTO, Carlos
Application No. 10/985,140
Filed: November 10, 2004
Attorney Docket No. **300/15**

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 02, 2009.

The request is **NOT APPROVED**.

The Office has revised its change in procedure for request to withdraw from representation applies to requests filed on or after May 12, 2008.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because there is no indication that acts (1) thru (3) noted in the above-identified certifications have been performed. See PTO/SB/83 (11-08).

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

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

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **CENTERBEAM, INC.**
30 RIO ROBLES DRIVE
SAN JOSE CA 95134

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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GIBSON & DERNIER LLP
900 ROUTE 9 NORTH
SUITE 504
WOODBRIDGE NJ 07095

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DEC 2 2 2009

OFFICE OF PETITIONS

In re Application of	:	
LIU, Zhenyi et al.	:	
Application No. 10/985,147	:	DECISION ON PETITION
Filed: November 10, 2004	:	TO WITHDRAW
Attorney Docket No. **601/2**	:	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 02, 2009.

The request is **NOT APPROVED**.

The Office has revised its change in procedure for request to withdraw from representation applies to requests filed on or after May 12, 2008.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because there is no indication that acts (1) thru (3) noted in the above-identified certifications have been performed. See PTO/SB/83 (11-08).

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

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

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **BEIJING SJ ENVIRONMENTAL**
PROTECTION AND NEW MATIERAL CO., LTD
F/17 DAHANG JIYE TOWER, NO. 33 RENDA NORTH RD.
HAIDIAN DISTRICT 100080
CHINA

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United States Patent and Trademark Office
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GIBSON & DERNIER LLP
900 ROUTE 9 NORTH
SUITE 504
WOODBRIDGE NJ 07095

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FEB 16 2010

In re Application of	:	
Liu, Zhenyi et al.	:	
Application No. 10/985,147	:	DECISION ON PETITION
Filed: November 10, 2004	:	TO WITHDRAW
Attorney Docket No. **601/2**	:	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 January 13, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Matthew Dernier on behalf of all attorneys of record who are associated with customer No. 27538. All attorneys/agents associated with the Customer Number 27538 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 Zhenyi Liu at the address indicated below.

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

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **BEIJING SJ ENVIRONMENTAL PROTECTION AND**
NEW MATERIAL CO., LTD
F/17 DAHANG JIYE TOWER, NO. 33 RENDA NORTH RD.
HAIDIAN DISTRICT
BEIJING, CHINA 100080

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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HOWARD & HOWARD ATTORNEYS PLLC
450 West Fourth Street
Royal Oak, MI 48067

Mail Date: 04/21/2010

Applicant	: Demetrios Stavrakis	: DECISION ON REQUEST FOR
Patent Number	: 7661449	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/985,168	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1122** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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LEE & HAYES, PLLC
601 W. RIVERSIDE AVENUE
SUITE 1400
SPOKANE, WA 99201

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
John R. Douceur et al :
Application No. 10/985,202 :
Filed: November 10, 2004 :
Attorney Docket No. MS1-0712USC2

This is a decision on the petition, filed January 30, 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 6, 2009 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2434 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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COMMISSIONER FOR PATENTS
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Weyerhaeuser Company
Intellectual Property Dept.
CH 1J27
P.O. Box 9777
Federal Way, WA 98063

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MAY 2 0 2008

OFFICE OF PETITIONS

In re Application of Edwin Hirahara Application No. 10/985,217 Filed: November 9, 2004 Attorney Docket No. WEYE-1-21997/24872A	: : : : :	DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed, January 14, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement June 27, 2007 which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 27, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election with an amendment, (2) the petition fee of $1540, and (3) a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1050 extension of time fee submitted on January 3, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

This application is being referred to Technology Center AU 3751 for appropriate action by the Examiner in the normal course of business on the reply received January 3, 2008.

Andrea Smith
Petitions Examiner
Office of Petitions

OIPE JC145
AUG 1 1 2005
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Unit: 1722

Examiner:

Applicant(s): Patrick A. Tooman et al.

Serial No.: 10/985,227

Filing Date: November 10, 2004

For: VALVE GATE ASSEMBLY

PETITION TO MAKE SPECIAL

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC 1700

SEP - 1 2005

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

Sir:

Pursuant to the provisions of 37 C.F.R. 1.102, Applicants respectfully request the Commissioner to make this application "Special" on the basis that an infringing device is being offered for sale in the United States. Declarations by Applicants and Applicants' attorney are attached in support of this Petition.

Respectfully submitted,

By: _____
Daniel H. Bliss
Reg. No. 32,398

BLISS McGLYNN, P.C.
2075 West Big Beaver Road, Suite 600
Troy, Michigan 48084
(248) 649-6090

Date: August 9, 2005

Attorney Docket No.: 1611.00001

CERTIFICATE OF MAILING: (37 C.F.R. 1.8) I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the U.S. Postal Service with sufficient postage as First Class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on August 9, 2005, by _____
Daniel H. Bliss

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	10/985,231
Filing Date	11/10/2004
First Named Inventor	NANDA, Puneet
Art Unit	1744
Examiner Name	
Attorney Docket Number	P06602US00

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

11-29-06
Approved
Jacqueline M. Stone
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.
- ☐ the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- ☑ the attorneys/agents associated with Customer Number 22885

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: FAILURE TO PAY BILL

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	Raaj Jhamb c/o DR. FRESH, INC.				
Address	6645 Caballero Blvd.				
City	Buena Park	State	CA	Zip	90620
Country					
Telephone		Email			

Signature	Michael G. Voorhees		
Name	Michael G. Voorhees	Registration No.	25,715
Date	8/29/06	Telephone No.	515-288-3667

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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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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MCKEE, VOORHEES & SEASE, P.L.C.
801 GRAND AVENUE
SUITE 3200
DES MOINES, IA 50309-2721

Mail Date: 04/20/2010

Applicant	: Puneet Nanda	: DECISION ON REQUEST FOR
Patent Number	: 7596827	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/985,231	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1021** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN VA 22102

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JAN 16 2008

OFFICE OF PETITIONS

In re Application of	:	
McLellan et al.	:	
Application No. 10/985,233	:	DECISION ON PETITION
Filed: November 10, 2004	:	
Attorney Docket No. 618902001920	:	

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

The petition is **GRANTED**.

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

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 $2230.00 extension of time fee submitted with the petition on December 12, 2007, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

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

This matter is being referred to Technology Center 2826 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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NOV 29 2007

OFFICE OF PETITIONS

In re Application of :
Jamie et al. :
Application No. 10/985,239 : ON PETITION
Filed: November 10, 2004 :
Attorney Docket No. J1162.80003 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 18, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely reply to the non-final Office action mailed December 5, 2006. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, this application became abandoned on March 6, 2007. A Notice of Abandonment was mailed August 28, 2007.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:
(1) the required reply,[1]
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information.[2]

---

[1] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

[2] See MPEP 711.03(c)(III)(C) and (D).

The instant petition lacks item(s) (1). A response to the December Office action is required for revival, which was not included with the instant petition.

Further, the petition must be signed by:

(1) An attorney or agent of record appointed in compliance with § 1.34(b);
(2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a);
(3) The assignee of record of the entire interest, if there is an assignee of record of the entire interest;
(4) An assignee of record of an undivided part interest, and any assignee(s) of the remaining interest and any applicant retaining an interest, if there is an assignee of record of an undividing part interest; or
(5) All of the applicants (§§ 1.42. 1.43 and 1.47) for patent, unless there is an assignee of record of the entire interest and such assignee has taken action in the application in accordance with §§ 3.71 and 3.73.

The instant petition was only signed by one of the two listed inventors.

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

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

By hand: Customer Window located at:

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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SHAHROOZ JAMIE
POST OFFICE BOX 10
CLAY, WV 25043

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OFFICE OF PETITIONS

In re Application of	:	
Jamie et al.	:	
Application No. 10/985,239	:	DECISION ON PETITION
Filed: November 10, 2004	:	
Attorney Docket No. J1162.80003	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed December 26, 2007, to revive the above-identified application.

The petition is **GRANTED**.

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

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

This matter is being referred to Technology Center 2873 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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BRADLEY ARANT ROSE & WHITE, LLP
INTELLECTUAL PROPERTY DEPARTMENT-NWJ
1819 FIFTH AVENUE NORTH
BIRMINGHAM AL 35203-2104

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AUG 19 2008

In re Application of	:	
John L. Miller Jr.	:	
Application No. 10/985,245	:	DECISION ON PETITION
Filed: November 10, 2004	:	
Attorney Docket No. P73902US01TL	:	

This is a decision on the petition under the unavoidable provisions of 37 CFR 1.137(a) and in the alternative under the unintentional provisions of 37 CFR 1.137(b), filed June 27, 2008, to revive the above-identified application.

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

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

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 16, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). Since the amendment submitted does not prima facie place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b).

<u>As to the petition under 37 CFR 1.137(a):</u>

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the

satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d). The instant petition lacks items (1) and (3).

As to item (1), the petition includes an amendment rather than the required Notice of Appeal, RCE, or the filing of a continuation application under 37 CFR 1.53(b). The examiner has determined that the amendment filed with the petition does not prima facie place the application in condition for allowance.

As to item (3), petitioner states that the examiner's advisory action was mailed at the end of the six month period for response and thus gave petitioner no time to respond to the advisory action. Petitioner may not rely upon non-receipt of an advisory action to establish that the delay was unavoidable. 37 CFR 1.116 and 1.135(b) are manifest that proceedings concerning an amendment after final rejection will not operate to avoid abandonment of the application in the absence of a timely and proper appeal. A delay is not "unavoidable" when an applicant simply permits the maximum extendable statutory period for reply to a final Office action to expire while awaiting a notice of allowance or other action. See MPEP 711.03(c)(II)(C)(2).

Petitioner's remarks concerning the examiner's position as set forth in the advisory action are not convincing. If petitioner felt the examiner's position was not proper or accurate then he should have addressed them in a timely manner.

<u>As to the petition under 37 CFR 1.137(b):</u>

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

The petition includes an amendment which fails to place the application in condition for allowance and is thus not a proper response.

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 Carl Friedman at (571) 272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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INTELLECTUAL PROPERTY DEPARTMENT-NWJ
1819 FIFTH AVENUE NORTH
BIRMINGHAM AL 35203-2104

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In re Application of	:	
John L. Miller Jr.	:	
Application No. 10/985,245	:	ON PETITION
Filed: November 10, 2004	:	
Attorney Docket No. P73902US01TL	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed September 16, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to reply in a timely manner to the final Office action mailed November 16 2007 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, by operation of law, the above-identified application became abandoned on February 17, 2008.

The petition decision mailed August 19, 2008, indicates the petition under 37 CFR 1.137(b) filed June 27, 2008 was dismissed as failing to provide a proper response in that the amendment failed to prima facie put the case in condition for allowance.

The renewed petition provides an RCE and fee.

The renewed petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE (2) the petition fee of $770; (3) the required statement of unintentional delay have been received. Accordingly, the RCE 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 Technology Center Art Unit 3635 for consideration of the RCE in due course.

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1122B
4417 LANCASTER PIKE
WILMINGTON, DE 19805

Mail Date: 04/20/2010

Applicant	: Narendra S. Yadav	: DECISION ON REQUEST FOR
Patent Number	: 7659120	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/985,254	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **555** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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R. Glenn Akhavein
5112 Coral Blvd.
Bradenton FL 34210

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MAR 28 2007

OFFICE OF PETITIONS

In re Application of
Akhavein
Application No. 10/985,255
Filed: November 10, 2004
Title: Simplified Flushing System

ON PETITION

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed December 29, 2006.

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

Any request for reconsideration should be filed within **TWO MONTHS** of the mailing date of this decision in order to be considered timely. 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136.

This above-identified application became abandoned for failure to timely file a complete reply to the non-final Office Action of September 13, 2005. An amendment and request for two month extension of time was filed on February 13, 2006. In response to the amendment a Notice of Non-Compliant Amendment (37 CFR 1.121) was mailed on March 3, 2006 which set an extendable reply period of one month. A timely reply to the Notice of Non-Compliant Amendment was not received. This application became abandoned on April 4, 2006. A Notice of Abandonment was mailed on December 8, 2006.

Petitioner states a reply was submitted on April 3, 2006 via express mail. Petitioner states the reply was given the incorrect filing date of July 12, 2006. Petitioner points to the notation made on the document that the reply was received from the TC without a date stamp, thus the date of receipt was given. Petitioner has provided a copy of the express mail label and a copy of the receipt received from the USPS.

Petitioner's argument has been considered but deemed unpersuasive.

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.[1] (emphasis added)

Paragraph (c) of 37 CFR 1.10 states that:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the 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 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 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.

---

[1] See 37 CFR 1.6(a).

The petition lacks the showing required for item (2).

The reply which was purportedly submitted on April 3, 2006 does not contain the number of the Express Mail label. Petitioner is unable to establish the reply was contained in the Express Mail package mailed on April 3, 2006.

Petitioner may wish to consider filing a petition under 37 CFR 1.137(b).

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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OFFICE OF THE DIRECTOR
TC 3600

KNOBBE MARTENS OLSON & BEAR, LLP
2040 Main Street
Fourteenth Floor
Irvine, CA 92614

In re application of :
Jason L. Chamberlain :
Application No. 10/985,261 :
Filed: November 10, 2004 :
For: FRAME ASSEMBLY FOR A BICYCLE

DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)

This is a decision on the petition under 37 C.F.R §1.102(d) filed November 10, 2004 to make the above-identified application special. The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(h); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market or method in use; (B) that a rigid comparison of the alleged infringing device, product or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed November 10, 2004 lacks requirements 2(A)-(C) above as the Chamberlain Declaration is missing or was not included in the petition submittal.

In view of these deficiencies, the petition is **DISMISSED**.

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Should petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving the information as outlined above.

Applicant should promptly submit a renewed petition to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

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

SNM/jwk: 1/25/05

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

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OFFICE OF PETITIONS

In re Patent No. 7,052,029 :
Issue Date: May 30, 2006 :
Application No. 10/985,261 :
Filed: November 10, 2004 :
Attorney Docket No. SPECBIC.144C1 :

NOTICE

This is a notice regarding your request, filed December 1, 2006, for acceptance of a fee deficiency submission under 37 CFR 1.28.

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

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

This file is no longer entitled to small entity status. Accordingly, all future fees paid in this file must be paid at the large entity rate, absent further notification from a proper party of a change in status. *See* 37 CFR 1.27(c)(2).

Inquiries related to this communication should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 05/25/2010

Applicant	: Chung L. Chang	: DECISION ON REQUEST FOR
Patent Number	: 7636930	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/985,262	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1219** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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
WASHINGTON, DC 20231
www.uspto.gov

Needle & Rosenberg, P.C.
Suite 1000
999 Peachtree Street
Atlanta, GA 30309

4/11/08

Art Unit 3765

In re Application of KEITH Serial No. 10/985,269 Filed: November 10, 2004 For: Yarn Manufacturing Apparatus and Method	DECISION ON PETITION

This is a decision to petitioner's request to permit color photographs filed January 7, 2008.

Under 37 CFR 1.84(a)(2), the petitioner must file (i) the fee set forth in 37 CFR 1.17(h), (ii) three (3) sets of color photographs and (iii) an amendment to the specification, if necessary. Petitioner has satisfied all of the requirements of (i) through (iii) above.

The use of color photographs is provided in MPEP 608.02 with reference to color drawings as part of 37 CFR 1.84(a)(2), the rule states "on rare occasions, color drawings may be necessary as the **only** practical medium by which to disclose the subject matter to be sought to be patented in a utility ... application."

The Office believes that color photographs are not the only medium by which the subject matter to be patented can be disclosed. It appears that black and white drawings would be sufficient to show the high degree of color "pop" as defined in the specification to effectively demonstrate the visual difference in the yarn of the present invention.

The petition is denied.

Gary L. Welch
Supervisory Patent Examiner
Art Unit 3765
(571) 272-4996
(571) 273-4996 fax

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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HISCOCK & BARCLAY, LLP
2000 HSBC PLAZA
100 Chestnut Street
ROCHESTER NY 14604-2404

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OFFICE OF PETITIONS

In re Application of Yong San Yoon, et al. Application No. 10/985,297 Filed: November 10, 2004 Attorney Docket No. 20010.000221 (WA-431/US)	: : : : :	DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 18, 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 19, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed April 19, 2006. Accordingly, the date of abandonment of this application is July 20, 2006.

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

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.

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
WWW.USPTO.GOV

Paper No. None

JENSEN + PUNTIGAM, P.S.
SUITE 1020
2033 6TH AVE
SEATTLE WA 98121

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OFFICE OF PETITIONS

In re Application of	:	
Ronald E. Carson et al.	:	
Application No. 10/985,310	:	DECISION GRANTING
Filed: November 9, 2004	:	PETITION UNDER 37 C.F.R.
Title: METHOD OF MARKING AND	:	§1.137(b)
TRACKING OBJECTS	:	

This is a decision on the petition filed February 21, 2007, pursuant to 37 C.F.R. §1.137(b)[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 June 26, 2006, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on September 27, 2006.

---

1 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 § 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 (d) of this section.

With the present petition, Petitioner has filed the petition fee, an amendment, and the proper statement of unintentional delay. A terminal disclaimer is not required.

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 amendment that was received with the present petition can be processed.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[2]. 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

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

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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KATHY MANKE
AVAGO TECHNOLOGIES LIMITED
4380 ZIEGLER ROAD
FORT COLLINS CO 80525

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OFFICE OF PETITIONS

In re Application of	:	
Geefay, et al.	:	
Application No. 10/985,312	:	DECISION
Filed: 9 November, 2004	:	
Attorney Docket No. 10040635-1	:	

This is a decision on the petition, filed on 18 July, 2008, considered as a petition under 37 C.F.R. §1.137(b) to revive the application as having been abandoned due to unintentional delay.

The petition under 37 C.F.R. §1.137(b) is **GRANTED**.

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

BACKGROUND

The record reflects that:

Applicant, failed to reply timely and properly to the final Office action mailed on 12 June, 2007, with reply due absent an extension of time on or before 12 September, 2007.

Petitioner filed an after-final amendment on 31 August, 2007, and a Notice of Appeal on 12 September, 2007—notably the fee though authorized was not charged at that time and now is to Deposit account 50-3718.

The Examiner mailed an Advisory Action on 21 September, 2007.

The application went abandoned by operation of law after midnight 12 November, 2007.

The Office mailed the Notice of Abandonment on 8 April, 2008.

Following an Interview on 17 April, 2008, Petitioner filed on 18 July, 2008, the instant petition with fee authorization (now charged), a reply in the form of an Appeal Brief and fee authorization (now charged), and made the statement of unintentional delay.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]
The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

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.[3]))

As to Allegations of Unintentional Delay

The requirements under 37 C.F.R. §1.137(b) have been satisfied.

---

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

[2] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

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

CONCLUSION

Accordingly, The petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to Technology Center/AU (TC/AU) 2812 to await the Examiner's Answer in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

---

[4] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/985,321	11/10/2004	1642	786	8654/2302	19	17	7

CONFIRMATION NO. 5221

OC000000016677884

29933
PALMER & DODGE, LLP
KATHLEEN M. WILLIAMS
111 HUNTINGTON AVENUE
BOSTON, MA 02199

Date Mailed: 08/02/2005

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)

Svend K. Petersen-Mahrt, Cambridge, UNITED KINGDOM;
Reuben Harris, Cambridge, UNITED KINGDOM;
Michael S. Neuberger, Cambridge, UNITED KINGDOM;
Rupert Christopher Landsdowne Beale, Cambridge, UNITED KINGDOM;

Assignment For Published Patent Application

Medical Research Council

Power of Attorney: The patent practitioners associated with Customer Number **29933**.

Domestic Priority data as claimed by applicant

This application is a CON of PCT/GB03/02002 05/09/2003

Foreign Applications

UNITED KINGDOM 0210755.5 05/10/2002
UNITED KINGDOM 0213751.1 06/14/2002
UNITED KINGDOM 0217519.8 07/29/2002

If Required, Foreign Filing License Granted: 03/14/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/985,321

Projected Publication Date: To Be Determined - pending completion of Sequence Disclosures

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Activation induced deaminase (AID)

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.

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

GRANTED

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

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

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

NOT GRANTED

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/985,332	11/09/2004	Bradley Berman	KING.010PA	3320

76385 7590 10/06/2008
Hollingsworth & Funk, LLC
8009 34th Avenue South
Suite 125
Minneapolis, MN 54425

EXAMINER
WERT, JOSHUA P

ART UNIT	PAPER NUMBER
3714	

MAIL DATE	DELIVERY MODE
10/06/2008	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Hollingsworth & Funk, LLC
Suite 125
8009 34th Avenue South
Minneapolis MN 55425

In re Application of:
BERMAN, BRADLEY et al
Serial No. 10/985,332
Filed: Nov. 9, 2004
Docket: KING.010PA
Title: SYSTEM AND METHOD FOR IDENTIFYING PAYOUTS IN GAMING SYSTEMS

DECISION ON PETITION
UNDER 37 CFR § 1.181

This is a decision on the petition filed Aug. 28, 2008 requesting withdrawal of holding of abandonment. The petition is now being considered under 37 CFR 1.181.

The petition is **granted.**

A Notice of Abandonment, Form PTO-1432, was mailed on Aug. 20, 2008, in patent application Serial Number 10/985,332. The Notice of Abandonment alleged that applicant failed to file a response to the Office letter dated Feb. 2, 2008.

After a review of the record, a response to the Non-final Office action was filed Aug. 11, 2008 with three-month extension fee has been associated with the application file. The response includes a petition for a three-month extension of time also has been charged to the attorney's deposition account on Aug. 12, 2008. The response also included a certificate of mailing under 37 CFR 1.8 dated Aug. 6, 2008 signed by Tracey Dotter. Accordingly, the response is considered timely and the Notice of Abandonment is, therefore, hereby RESCINDED.

Any inconvenience occasioned by the delay in associating the response with the application file is regretted. In view of the above, the Notice of Abandonment mailed Aug. 20, 2008 is in error and is hereby vacated. The holding of abandonment is withdrawn. This application is being forwarded to the examiner in Art Unit 3714 for appropriate action. Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION GRANTED.

Robert Olszewski, Director
Technology Center 3700

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KLARQUIST SPARKMAN LLP
121 S.W. SALMON STREET
SUITE 1600
PORTLAND, OR 97204

Mail Date: 04/21/2010

Applicant	: Avraham E. Shinnar	: DECISION ON REQUEST FOR
Patent Number	: 7607125	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/985,353	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/11/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **840** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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TC 3600

KNOBBE MARTENS OLSON & BEAR, LLP
2040 Main Street
Fourteenth Floor
Irvine, CA 92614

In re application of
Jason L. Chamberlain et al
Application No. 10/985,356
Filed: November 10, 2004
For: FRAME ASSEMBLY FOR A BICYCLE

DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)

This is a decision on the petition under 37 C.F.R. § 1.102(d) filed November 10, 2004 to make the above-identified application special.

The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market or method in use; (B) that a rigid comparison of the alleged infringing device, product or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed November 10, 2004, meets all of the requirements above and is **GRANTED**.

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

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference and appeal, if any,

only if petitioner makes a prompt *bona fide* effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121

RAR/jwk: 1/25/05

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2040 MAIN STREET
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IRVINE, CA 92614

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MAY 09 2007

OFFICE OF PETITIONS

In re Patent No. 7,059,620 :
Issue Date: June 13, 2006 :
Application No. 10/985,356 : NOTICE
Filed: November 10, 2004 :
Attorney Docket No. SPECBIC.142C1

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

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

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

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

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TRANSPACIFIC LAW GROUP
617 NORTH DELAWARE STREET
SAN MATEO CA 94401

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APR 26 2007

OFFICE OF PETITIONS

In re Application of

OH-YANG, Eric et al.
Application No. 10/985,357
Filed: November 10, 2004
Attorney Docket No. **N0151/PP/HH**

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 26, 2007.

The request is **NOT APPROVED**.

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

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **VENABLE LLP**
RAYMOND J. HO
575 7TH STREET NW
WASHINGTON, DC 20004-1601

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

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DEC 2 0 2007

OFFICE OF PETITIONS

In re Application of	:	
Parag Patel et al.	:	
Application No. 10/985,363	:	DECISION ON PETITION
Filed: November 10, 2004	:	TO WITHDRAW
Attorney Docket No. OACHAR.003A	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 1, 2007.

The request is **APPROVED**.

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

The request was signed by Kyle F. Schlueter 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 8, 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: **Parag Patel**
4708 La Villa Marina
Unit G
Marina Del Rey, CA 90292

cc: **ON A CHART, LLC**
1801 S. Lincoln Blvd., Suite 252
Los Angeles, CA 90291

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/985,363	11/10/2004	Parag Patel	OACHAR.003A

CONFIRMATION NO. 4211

POWER OF ATTORNEY NOTICE

OC000000027366579

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

Date Mailed: 12/19/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/01/2007.

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

/tswilliams/

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

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MAR 1 4 2005

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TC 3600

KNOBBE MARTENS OLSON & BEAR LLP
2040 Main Street
Fourteenth Floor
Irvine, CA 92614

In re application of
Jason L. Chamberlain et al.
Application No. 10/985,384
Filed: November 10, 2004
For: FRAME ASSEMBLY FOR A BICYCLE

DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)

This is a decision on the petition under 37 C.F.R § 1.102(d) filed November 10, 2004 to make the above-identified application special.

The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market or method in use; (B) that a rigid comparison of the alleged infringing device, product or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed November 10, 2004 meets all of the requirements above and, therefore, the petition is **GRANTED**.

With regards to element 2(C) above, an Information Disclosure Statement was filed on November 10, 2004.

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

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

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

SNM/pav: 03/10/05

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OFFICE OF PETITIONS

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

In re Patent No. 6,953,202	:	
Issue Date: October 11, 2005	:	
Application No. 10/985,384	:	NOTICE
Filed: November 10, 2004	:	
Patentee(s): Jason L. Chamberlain, et. al.	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed December 4, 2006. 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**. Therefore, status as a small entity has been removed and all future fees paid must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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VIERRA MAGEN/MICROSOFT CORPORATION
575 MARKET STREET, SUITE 2500
SAN FRANCISCO CA 94105

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NOV 07 2008

OFFICE OF PETITIONS

In re Application of :
Qureshi, et al. :
Application No.: 10/985,394 : ON PETITION
Filing Date: November 10, 2004 :
Attorney Docket No. MSFT-01014US0 :

This is a decision on the petition under 37 CFR 1.47, filed October 8, 2008. The petition will be treated as a petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.67.

The petition is **granted**.

Petitioner requests that the supplemental declaration be accepted without the signature of inventor Voskuhl, as inventor Voskuhl cannot be located to sign the supplemental declaration. It is noted, that in this case, 37 CFR 1.67 requires that the supplemental declaration be signed by all named inventors, yet petitioner has demonstrated that inventor Voskuhl is refusing to do so. In such a case, Section 603 of the *Manual of Patent Examining Procedure* (MPEP) provides that:

> When an inventor who executed the original declaration is refusing or cannot be found to execute a required supplemental declaration, the requirement for that inventor to sign the supplemental declaration may be suspended or waived in accordance with 37 CFR 1.183. All available joint inventor(s) must sign the supplemental declaration on behalf of themselves, if appropriate, and on behalf of the nonsigning inventor. See MPEP § 409.03(a). If there are no joint inventor(s), then the party with sufficient proprietary interest must sign the supplemental declaration on behalf of the nonsigning inventor. See MPEP § 409.03(b).

Accordingly, the instant petition will be treated as petition under 37 CFR 1.183 to waive the requirement of 37 CFR 1.67 so as to accept the supplemental declaration filed October 8, 2008, without the signature of inventor Voskuhl. The petition is granted; the requirement of 37 CFR 1.67 that all named inventors execute the supplemental declaration is waived as to inventor Voskuhl, and the supplemental declaration without the signature of inventor Voskuhl is acknowledged and made of record.

The fee for the instant petition is $400.00. Deposit account 50-1826 will be charged an additional $200.00 accordingly.

The application file will be forwarded to Technology Center 2400, GAU 2442 for further processing.

Telephone inquiries regarding this matter 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
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57TH FLOOR, KEY TOWER
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OFFICE OF PETITIONS

In re Application of
Irina Medvedev et al.
Application No. 10/985,400
Filed: November 10, 2004
Attorney Docket No.: **020073C1**

ON PETITION

This is a decision on the petition filed April 3, 2009 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed April 25, 2008. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned July 28, 2008. Accordingly, a Notice of Abandonment was mailed December 4, 2008.

This matter is being referred to Technology Center 2419 for appropriate action on the amendment filed April 3, 2009.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

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

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

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

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

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OFFICE OF PETITIONS

In re Application of
Mark A. Conkling et al.
Application No. 10/985,401
Filed: November 10, 2004
Attorney Docket No. 5051-471CT

DECISION GRANTING PETITION

This is a decision on the petition filed May 3, 2005, requesting that the above-identified application be accorded a filing date of November 10, 2004, with Figures 1-3, as described in the specification, as part of the original disclosure. The petition is treated under 37 CFR 1.53.

The petition is **GRANTED**.

The application was filed on November 10, 2004. However, on March 23, 2005, the Office of Initial Patent Examination mailed a "Notice Of Incomplete Nonprovisional Application" stating that the application had not been accorded a filing date because the application had been deposited without drawings and because the application as filed did not contain a CRF copy of the "Sequence Listing" and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), (f), (g), 1.825(b), or (d), as required by the Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures.

In response, the present petition was filed, accompanied by, inter alia, three sheets of drawings (Figures 1-3) and a claim that the above-identified application is a continuation of Application No. 09/941,042 filed August 28, 2001.

A search of the official file reveals that on November 10, 2004, a "Utility Patent Application Transmittal" letter indicated that the application was a continuation of Application No. 09/941,042, and that the entire disclosure from the prior application is incorporated by reference.

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.

Also, as aptly cited by petitioners, 37 CFR 1.57 provides that a proper priority claim under 37 CFR 1.55 or 37 CFR 1.78 can also be considered an incorporation by reference of the prior filed application as to the inadvertently omitted portion of the specification or drawings.

Based on petitioners' representation that the papers supplied with the petition constitute a copy of the "entire submission" of the present application, and the incorporation by reference statement appearing on the transmittal letter deposited on November 10, 2004, stating that the entire disclosure of Application No. 09/941,042 was incorporated by reference in the present application, it appears that the specification was present in the Office on November 10, 2004, albeit in the file of another application, *i.e.*, Application No. 09/941,042. Therefore, on petition, the application may be accorded the requested filing date.

The application will be processed and examined with the three sheets of drawings and the statement regarding sequence listing supplied on May 3, 2005, as a part of the original disclosure.

Since the petition was required to accord the requested filing date, the petition fee of $400.00 has been charged to deposit account no. 50-0220 and will not be refunded.

The primary examiner is expected to compare the drawings supplied on May 3, 2005, to the disclosure of prior application no. 09/941,042 in order to verify that the drawings are in fact, a part of the disclosure of the prior application.

The application is being forwarded to the Office of Initial Patent Examination for correction of the filing date to November 10, 2004, using the application papers filed November 10, 2004, and those submitted May 3, 2005 as a part of the original disclosure.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Kilpatrick Stockton, LLP
1001 West Fourth Street
Winston-Salem, NC 27101

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OFFICE OF PETITIONS

In re Application of	:	
Stephen Charles Graf	:	
Application No. 10/985,403	:	DECISION ON PETITION
Filed: November 11, 2004	:	TO WITHDRAW
Attorney Docket No. 39394-304193	:	FROM RECORD
	:	

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

A review of the file record indicates that the power of attorney to T. Benjamin Schroeder and all attorneys/agents of record has been revoked by the assignee of the patent application on July 7, 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: Woodward, Emhardt, Moriarty, McNett,
& Henry, LLP
111 Monument Circle, Suite 3700
Indianapolis, IN 46204-5137

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607 14TH STREET, N.W.
WASHINGTON DC 20005

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MAY 3 1 2005

OFFICE OF PETITIONS

In re Application of
Kogen, et al.
Application No.: 10/985,414
Filed: November 10, 2004
Attorney Docket No.: CITI0262-CIP
For: METHOD AND SYSTEM FOR CERTIFICATE DELIVERY AND MANAGEMENT

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed May 13, 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 November 10, 2004 without an executed oath or declaration. Accordingly, on December 14, 2004, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a surcharge for its late filing.

In response, on May 13, 2005, a request for a three month extension of time and required fee, the surcharge, the petition fee, and the instant petition were filed. A declaration of facts by registered practitioner George T. Marcou states that on February 1, 2005 Mr. Marcou mailed a copy of the application, a copy of an executed assignment, and a declaration to non-signing inventor Herve Garcia at his last known address. From February 2, 2005 to February 5, 2005, several delivery attempts were made. However, UPS was unable to contact the receiver, as evidenced by e-mails from UPS to Jeanne Paolella-Bald, who works for Kilpatrick Stockton. UPS sent a postcard to the recipient requesting that they contact UPS about the package. On February 14, 2005 UPS

sent another e-mail to Ms. Paolella-Bald informing the her that the package was going to be returned to sender.

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $200, 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 non-signing inventor cannot be reached or has refused to sign the declaration.

UPS attempted delivery of the package over a very short time frame. There is no indication that Mr. Garcia was actively avoiding picking up the package or that Mr. Garcia moved from his last known address. It is conceivable that Mr. Garcia was out of town during the period in which UPS attempted delivery. As stated in MPEP 409.03(d), " The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 CFR 1.47(a)."

Petitioners must engage in further efforts to contact Mr. Garcia and obtain a signed declaration from him.

It appears that petitioners have located Mr. Garcia's place of residence. Thus,temporary inability to reach/locate Mr. Garcia is not a ground for granting 47 status. In order to obtain 47 status, petitioners must show Mr. Garcia's refusal, either express or constructive, to execute the declaration. When petitioners show that Mr. Garcia 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.

Any written refusal to sign the declaration should be included as documentary evidence in any reconsideration petition. If there is an oral refusal, the facts surrounding the refusal should be included in a declaration by a party with first hand knowledge of the refusal. <u>If it is concluded by the 37 CFR 1.47 applicant that a non-signing inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration</u>.

The affidavit or declaration of facts must be signed, where at all possible, by a person having *firsthand knowledge* of the facts recited therein. Statements based on hearsay will not normally be accepted. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.

Regarding fees, the current Rule 47 petition fee is $200.00. Petitioners submitted only $130.00 towards the fee. Accordingly, petitioners' deposit account was charged the $70.00 balance due on May 16, 2005.

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

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

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

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

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
Kogen, et al.
Application No.: 10/985,414
Filed: November 10, 2004
Attorney Docket No.: CITI0262-CIP
For: METHOD AND SYSTEM FOR CERTIFICATE DELIVERY AND MANAGEMENT

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed June 20, 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 November 10, 2004 without an executed oath or declaration. Accordingly, on December 14, 2004, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a surcharge for its late filing.

In response, on May 13, 2005, a request for a three month extension of time and required fee, the surcharge, the petition fee, and a Rule 47(a) petition were filed. A declaration of facts by registered practitioner George T. Marcou states that on February 1, 2005 Mr. Marcou mailed a copy of the application, a copy of an executed assignment, and a declaration to non-signing inventor Herve Garcia at his last known address. From February 2, 2005 to February 5, 2005, several delivery attempts were made. However, UPS was unable to contact the receiver, as evidenced by e-mails from UPS to Jeanne Paolella-Bald, who works for Kilpatrick Stockton. UPS sent a postcard to the recipient requesting that they contact UPS about the package. On February

14, 2005 UPS sent another e-mail to Ms. Paolella-Bald informing the her that the package was going to be returned to sender.

The May 13, 2005 petition was dismissed on May 31, 2005 for failure to establish that the non-signing inventor could not be reached or refused to sign the declaration.

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $200, and
(4) the last known address of the omitted inventor(s).

This reconsideration petition lacks item (1) above.

As to item (1), Applicants have failed to establish that the non-signing inventor cannot be reached. Petitioners have submitted a copy of an Exception Notification from USPS dated May 14, 2004 that states that Mr. Garcia has moved and that UPS was unable to contact Mr. Garcia.

A showing of **diligence** is critical in obtaining Rule 47 status when an inventor cannot be located or reached. Repeated attempts to deliver the letter to the same address does not meet the required level of diligence that must be shown in order to obtain Rule 47 status.

Petitioner should engage in further efforts to locate Mr. Garcia. The following is a list of evidentiary sources that are commonly relied upon to prove inability to locate an inventor: searches of Internet databases; inquiries of local telephone directories; telegrams; and documented inquiries of last known employers. Every listed type of search need not be done. However, a diligent effort to find the inventor must be made.

Documentary evidence that supports a finding that the non-signing inventor could not be found or reached should be made part of any affidavits or declarations that fully describe the exact facts which are relied on to establish that a diligent effort was made to locate the non-signing inventor. Printed computer records would suffice.

The affidavit or declaration of facts must be signed, where at all possible, by a person having *firsthand knowledge* of the facts recited therein. Statements based on hearsay will not normally be accepted. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.

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

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Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

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

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

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
Kogen, et al.
Application No.: 10/985,414
Filed: November 10, 2004
Attorney Docket No.: CITI0262-CIP
For: METHOD AND SYSTEM FOR CERTIFICATE DELIVERY AND MANAGEMENT

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the second reconsideration petition under 37 CFR 1.47(a), filed August 29, 2005.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Herve Garcia, cannot be located. Specifically, the original declaration/statement of facts of registered practitioner George T. Marcou states that on February 1, 2005 Mr. Marcou mailed a copy of the application, a copy of an executed assignment, and a declaration to non-signing inventor Herve Garcia at his last known address. From February 2, 2005 to February 5, 2005, several delivery attempts were made. However, UPS was unable to contact the receiver, as evidenced by e-mails from UPS to Jeanne Paolella-Bald, who works for Kilpatrick Stockton. UPS sent a postcard to the recipient requesting that they contact UPS about the package. On February 14, 2005 UPS sent another e-mail to Ms. Paolella-Bald informing the her that the package was going to be returned to sender. In the second reconsideration petition, Mr. Marcou has establishes that on-line searches for Mr. Garcia's location were fruitless. Petitioners have dilgently searched for Mr. Garcia. 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 returned to Technology Center AU 2131 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

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OFFICE OF PETITIONS

In re Application of
Dilip K. BISWAL et al.
Application No. 10/985,421
Filed: November 10, 2004
Attorney Docket No.
SVL920040054US1/3296P

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 21, 2008 and re-submitted on February 25, 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 January 22, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed October 22, 2007. Accordingly, the date of abandonment of this application is January 23, 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 and the publication fee of $300, (2) the petition fee of $1540; and (3) a proper statement of unintentional delay. Accordingly, the Issue Fee and Publication Fee is accepted as having been unintentionally delayed.

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

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

David Bucel
Petitions Examiner
Office of Petitions

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ROBERT D. FISH
RUTAN & TUCKER LLP
611 ANTON BLVD 14TH FLOOR
COSTA MESA CA 92626-1931

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OFFICE OF PETITIONS

In re Application of	:	
Yiju Zhao et al.	:	
Application No. 10/985,429	:	DECISION ON PETITION
Filed: November 10, 2004	:	TO WITHDRAW
Attorney Docket No. 101155.0014US1	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed November 30, 2005

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of attorneys/agents associated with customer number 34284. 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).

Robert D. Fish signed the request on behalf of all attorneys of record.

Robert D. Fish and all attorneys/agents associated with application have been withdrawn.

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

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

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

David Bucci
Petitions Examiner
Office of Petitions

Cc: Yiju Zhao
9800 Madelaine Court
Ellicot City, Maryland 21042

cc: Novo Vascular, Inc., Jodi Akin
1440 Maria Lane, Suite 100
Walnut Creek, CA 94596

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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
10/985,429	11/10/2004	Yiju Zhao	

CONFIRMATION NO. 7255

OC000000020352428

Yiju Zhao
9800 Madelaine Court
Ellicot City, MD 21042

Date Mailed: 09/08/2006

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

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

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.

CHARLES SMOOT
OP (571) 272-3299

ATTORNEY/APPLICANT COPY

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THELEN REID & PRIEST
P.O. BOX 640640
SAN JOSE CA 95164-0640

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OFFICE OF PETITIONS

In re Application of :
Turguy Goker et al :
Application No. 10/985,434 :
Filed: November 10, 2004 :
Attorney Docket No. 036263-450 :

ON PETITION

This is a decision on the petition, filed May 3, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on November 17, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2627 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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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
10/985,445	11/11/2004	3617	920	FS.20154US1A	6	14	3

CONFIRMATION NO. 7252

CORRECTED FILING RECEIPT

OC000000016899235

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

Date Mailed: 08/30/2005

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)

Yuji Tateishi, Hamamatsu-shi, JAPAN;
Toshiyuki Mizushima, Hamamatsu-shi, JAPAN;
Masahiro Mizuno, Hamamatsu-shi, JAPAN;

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

Domestic Priority data as claimed by applicant

Foreign Applications

JAPAN 2003-380941 11/11/2003
JAPAN 2004-032526 02/09/2004

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

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/985,445

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Anode mounting structure for outboard motor engine

Preliminary Class

440

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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100521

DATE : May 21, 2010

TO SPE OF : ART UNIT 2186

SUBJECT : Request for Certificate of Correction on Patent No.: 7340494

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 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: /Matt Kim/ 5/21/2010 **Art Unit** 2186

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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RUTGERS THE STATE UNIVERSITY
ATTN: VINCENT SMERAGLIA
ASB III, 3 RUTGERS PLAZA
NEW BRUNSWICK, NJ 08901

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JAN 2 5 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Nicholi Vorsa et al	:	
Application No. 10/985,471	:	
Filed: November 10, 2004	:	
Attorney Docket No. 03-144	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 17, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed December 16 ,2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. A five (5) month extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on July 17, 2005.

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

This matter is being referred to Technology Center AU 1614.

Wan Laymon
Petitions Examiner
Office of Petitions

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

Mail Date: 05/10/2010

Applicant	: Vladimir Novichkov	: DECISION ON REQUEST FOR
Patent Number	: 7617432	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/985,475	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1400** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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HANSEN HUANG TECHNOLOGY LAW GROUP, LLP
1725 EYE STREET, NW
SUITE 300
WASHINGTON DC 20006

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APR 24 2008

OFFICE OF PETITIONS

In re Application of
Warren P. HEIM et al
Application No. 10/985,483
Filed: 11/10/2004
Attorney Docket No. 1004-656

DECISION ON PETITION

This is a decision on the petitions filed 12/21/2007 under the unavoidable provisions of 37 CFR 1.137(a), or alternately under the unintentional provisions of 37 CFR 1.137(b), to revive the above-identified application.

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

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

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

The application became abandoned for failure to timely pay the issue and publication fees on or before 12/20/2007, as required by the Notice of Allowance and Fee(s) Due, mailed 9/20/2007, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on 12/21/2007.

<u>As to the petition under 37 CFR 1.137(a):</u>

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d). The instant petition lacks item (3).

Under to the "unavoidable" standard applied by the U.S Patent and Trademark Office, petitioner should note that decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

35 U.S. C. 133 and 151 each require a showing that the "delay" was "unavoidable." Which requires not only a showing that the delay which resulted in the abandonment of the application was unavoidable, but also a showing of unavoidable delay until the filing of a petition to revive. See *In re Application of Takao*, 17 USPQ2d 1155 (Comm'r Pat. 1990). The burden of continuing in the process of presenting a grantable petition in a timely manner likewise remains with the applicant until the applicant is informed that the petition is granted. *Id* at 1158. Thus, an applicant seeking to revive an "unavoidably" abandoned application must cause a petition under 37 CFR 1.137(a) to be filed without delay (i.e., promptly upon becoming notified, or otherwise becoming aware, of the abandonment of the application).

Therefore, there are three periods to be considered during the evaluation of a petition under 37 CFR 1.137:

(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 to revive the application; and

(3) The delay in filing a **grantable** petition pursuant to 37 CFR 1.137 to revive the application.

Petitioner asserts the incapacitation of the Surginetics manager ("Manager") as the cause of unavoidable delay. A showing of "unavoidable" delay based upon incapacitation must establish that Manager's incapacitation was of such nature and degree as to render Manager unable to conduct business (e.g., correspond with the petitioner) during the period between late October 2007 and 12/20/2007 (period (1)). Such a showing must be supported by a statement from the Manager's treating physician, and such statement must provide the nature and degree of Manager's incapacitation during this above-mentioned period.

Since the petition lacks an adequate showing that the delay was unavoidable, the petition under 37 CFR 1.137(a) is dismissed. However, such a showing that the delay was unavoidable is not required under 37 CFR 1.137(b).

Also, 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.

<u>As to the petition under 37 CFR 1.137(b):</u>

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $720 and the publication fee of $300, (2) the petition fee of $770; and (3) 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.

The $770 petition fee for the consideration of the petition under 37 CFR 1.137(b) has been charged to Deposit Account No. 50-3869, as authorized by Petitioner in the instant petition.

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

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

Chris Bottiglieri
for David A. Bucci
Petitions Examiner
Office of Petitions

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INTEL/BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 04/21/2010

Applicant	: Suresh K. Marisetty	: DECISION ON REQUEST FOR
Patent Number	: 7587639	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/985,502	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1001** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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MHKKG/Oracle (Sun)
P.O. BOX 398
AUSTIN, TX 78767

Mail Date: 04/20/2010

Applicant	: Robert E. Cypher	: DECISION ON REQUEST FOR
Patent Number	: 7606994	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/985,525	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **722** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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SANOFI-AVENTIS U.S. LLC
1041 ROUTE 202-206
MAIL CODE: D303A
BRIDGEWATER, NJ 08807

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OFFICE OF PETITIONS

In re Application of	:	
Youssef El-Ahmad	:	
Application No. 10/985,533	:	ON PETITION
Filed: November 10, 2004	:	
Attorney Docket No.: FRAV2003/0030 US NP	:	

This is a decision on the petition, filed February 11, 2008, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

It does not appear that the petition is signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Jennifer M. Woodside Wojtala appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that she is authorized to represent the particular party on whose behalf she acts. A courtesy copy of this decision is being mailed to Ms. Wojtala, the petitioner herein. However, if Ms. Wojtala desires to receive future correspondence regarding this file, the appropriate power of attorney documents must be submitted. All future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 16, 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 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 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.*

The application is being referred to Technology Center AU 1625 for processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: JENNIFER M. WOODSIDE WOJTALA
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOOMFIELD HILLS, MI 48303

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KLARQUIST SPARKMAN, LLP
121 S.W. SALMON STREET
SUITE 1600
PORTLAND OR 97204

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JUL 21 2009

OFFICE OF PETITIONS

In re Application of Cheng et al. Application Number: 10/985539 Filing Date: 11/09/2004 Attorney Docket Number: 1011-56451-02	: : : : : :	ON PETITION

This is a decision in reference to the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE NOTICE OF ALLOWANCE Pursuant to MPEP 711.03(c)II and 37 CFR § 1.181 (No Fee Required)," filed on June 16, 2009.

The petition is **dismissed**.

This application became abandoned on May 12, 2009, for failure to timely submit the issue and publication fees in response to the Notice of Allowance and Fee(s) Due mailed on February 11, 2009, which set a three (3) month statutory period for reply. Notice of Abandonment was mailed on June 8, 2009.

Petitioner asserts that the Notice of Allowance and Fee(s) Due mailed on February 11, 2009, was never received. In support, petitioner's registered patent practitioner, Robert F. Scotti, states in the petition that search of the file jacket and docket management system indicates that the Notice of Allowance was never received. Petitioners state that a screenshot of the docket record in the docket management system where the non-received Notice of Allowance would have been entered had it been received docketed is included with the petition. The screenshot is provided as an attachment therewith.

A review of the record indicates no irregularity in the mailing of the Notice of Allowance and Fee(s) Due mailed on February 11, 2009, and in the absence of any irregularity in the mailing, there is a strong presumption that the Notice of Allowance and Fee(s) Due mailed on February 11, 2009 was properly mailed to the address of record. This presumption may be overcome by a showing

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that the Notice of Allowance and Fee(s) Due mailed on February 11, 2009 was not in fact received.

MPEP 711.03(c) states, in pertinent part:

> In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).
>
> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> **A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the**

> **master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.**
>
> (emphasis added)

Petitioner has not provided a copy of the master docket for the firm, nor stated whether the docket record provided is a master docket.

A copy of the practitioner's record(s) required to show non-receipt of the Notice of Allowance and Fee(s) Due mailed on February 11, 2009 should include the master docket for the firm. That is, if a three (3) month period for reply was set in the nonreceived Notice, a copy of the master docket report showing all replies docketed for a date three (3) months from the mail date of the nonreceived Notice must be submitted as documentary proof of nonreceipt of the Notice. 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.

Accordingly, the petition is dismissed without prejudice to reconsideration pending submission of the information requested above.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. **This time period is not extendable.**[1]

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

---

[1] 37 CFR 1.181(f).

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

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

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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KLARQUIST SPARKMAN, LLP
121 S.W. SALMON STREET
SUITE 1600
PORTLAND OR 97204

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OCT 07 2009

OFFICE OF PETITIONS

In re Application of :
Cheng et al. :
Application Number: 10/985539 :
Filing Date: 11/09/2004 :
Attorney Docket Number: 1011-56451-02 :

ON PETITION

This is a decision in reference to the "REQUEST FOR RECONSIDERATION OF PETITION," filed on August 5, 2009, which is treated as a renewed petition under 37 CFR 1.181.

The petition is **granted**.

This application was held abandoned on May 12, 2009, for failure to timely submit the issue and publication fees in response to the Notice of Allowance and Fee(s) Due mailed on February 11, 2009, which set a three (3) month statutory period for reply. Notice of Abandonment was mailed on June 8, 2009. The petition to withdraw the holding of abandonment filed on June 16, 2009 was dismissed on July 21, 2009.

Petitioner again asserts that the Notice of Allowance and Fee(s) Due mailed on February 11, 2009, was never received. In support, petitioner's registered patent practitioner, Robert F. Scotti, states in the petition that a search of the file jacket and docket management system indicates that the Notice of Allowance was never received. Additionally, petitioners state that a copy of the master docket for the firm that sets forth all events due on May 11, 2009, which is a date three months from the mail date of the Notice of Allowance, is enclosed with the subject renewed petition. The copy of the master docket has been received.

A review of the record indicates no irregularity in the mailing of the Notice of Allowance and Fee(s) Due mailed on February 11, 2009, and in the absence of any irregularity in the mailing, there is a strong presumption that the Notice of Allowance and Fee(s) Due mailed on February 11, 2009 was properly mailed to the address of record. This presumption may be overcome by a showing

that the Notice of Allowance and Fee(s) Due mailed on February 11, 2009 was not in fact received.

MPEP 711.03(c) states, in pertinent part:

> In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).
>
> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the

> master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

Petitioner has made a sufficient showing that the Notice of Allowance and Fee(s) Due mailed on February 11, 2009 was not received.

Accordingly, there was no abandonment in fact. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is **GRANTED.**

The application is being referred to Technology Center Art Unit 2117 for remailing of the Notice of Allowance and Fee(s) Due mailed on August 5, 2008. The period for reply will be reset from the mailing date thereof.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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45 GROTON ROAD
SHIRLEY MA 01464

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FEB 19 2009

OFFICE OF PETITIONS

In re Application of	:	
Rajesh Pal et al	:	
Application No.10/985,546	:	DECISION ON PETITION
Filed: November 10, 2004	:	
Attorney Docket No. MAN-002	:	

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

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a previously filed amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal rejection mailed November 28, 2007, is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $555 extension of time fee submitted with the petition on December 24, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary.

Since petitioner submitted $270.00 for the petition fee instead of the required $810.00, a total of $540.00 from the extension of time fee will be applied towards the $270.00 petition fee submitted on December 24, 2008.

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

This application is being referred to Technology Center AU 2419 for appropriate action by the Examiner in the normal course of business.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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DLA PIPER US LLP
4365 EXECUTIVE DRIVE
SUITE 1100
SAN DIEGO CA 92121-2133

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JUN 18 2007

OFFICE OF PETITIONS

In re Application of :
BERLIN, Andrew A. et al. :
Application No. 10/985,547 : DECISION ON PETITION
Filed: November 09, 2004 : TO WITHDRAW
Attorney Docket No. **INTEL1560 (P15617)** : 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 06, 2007.

The request is **NOT APPROVED**.

A review of the file record indicates that MORRISON & FOERSTER LLP 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 Tredelle Jackson at 571-272-2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **RAJ S. DAVE, PH.D.**
DARBY & DARBY P.C.
1500 K STREET, N.W.
SUITE 250
WASHINGTON, DC 20005-1714

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JUN -3 2005

In re Application of:	:	
Andrew B. Jones et al.	:	
Application No. 10/985,564	:	DECISION ON PETITION
Filed: November 9, 2004	:	
For: GAME CONTROLLER PACKAGING WITH LIMITED CONSUMER ACCESS	:	

This is a decision on the petition to make special filed November 9, 2004. The petition is submitted pursuant to the practice established in MPEP § 708.02(II) "Infringement." The $130.00 petition fee has been received.

The petition is granted.

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

The Supervisory Patent Examiner of Patent Examining Art Unit 3728 will be notified of this decision, and will inform the assigned examiner to take action not inconsistent therewith.

PETITION GRANTED.

Richard A. Bertsch, Director
Technology Center 3700

MacLane C. Key
Bell, Boyd & Lloyd, LLC
P.O. Box 1135
Chicago, IL 60690-1135

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4 INDEPENDENCE WAY
PRINCETON, NJ 08540

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OFFICE OF PETITIONS

In re Application of :
Wang et al. :
Application No. 10/985,599 :
Filed: November 10, 2004 : ON PETITION
Attorney Docket No. 01011 :

This is a decision on the Petition Pursuant to 37 CFR §§ 1.53(e) and 1.181(f), filed March 25, 2005, requesting the above-identified application be accorded a filing date of November 10, 2004, including Figures 1A, 1B, 2, 3 and 4 described in the specification. The petition is properly treated under 37 CFR 1.53(e)[1].

The application was filed on November 10, 2004. However, on January 27, 2005, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application ("Notice"), noting, *inter alia*, that a filing date had been accorded the application; however, Figures 1A, 1B, 2, 3 and 4 described in the specification appeared to have been omitted from the application. The Notice set a two-month period for reply, with extensions of time available under 37 CFR §1.136(a).

Applicant responds with the instant petition wherein Applicant avers that drawing sheets 1-4, which included Figures 1A, 1B, 2, 3 and 4 described in the specification, were originally filed with the application on November 10, 2004, and were received by this Office as evidenced by the return-receipt postcard[2]. In support of this assertion, Applicant provides a copy of a return-receipt postcard acknowledging receipt of, *inter alia*, 10 sheets of drawings in the above-identified application by this Office on November 10, 2004.

A review of the return-receipt postcard reveals that Applicant is correct. The postcard acknowledges receipt of, *inter alia*, 10 sheet of drawings in the above-identified application by this Office on November 10, 2004.

---

1 Applicant is advised that a petition under 37 CFR 1.181 not filed within two (2) months of the action complained of will be dismissed as untimely.

2 Office records indicate that 6 sheets of drawings were deposited with the application on November 10, 2004.

"A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all items listed thereon by the PTO." MPEP § 503.

Accordingly, the petition is granted.

The copy of drawing sheets 1-4, which included Figures 1A, 1B, 2, 3 and 4, filed with the instant petition on March 25, 2005, will be used for examination purposes.

A refund of the petition fee has been credited to deposit account 14-0627, as authorized in the Fee Transmittal filed with the application on November 10, 2004.

The application will be returned to the Office of Initial Patent Examination for further processing with a filing date of November 10, 2004, and an indication that 10 sheet of drawings were present on filing, using the copy of drawing sheets 1-4, which included Figures 1A, 1B, 2, 3 and 4, filed with the instant petition on March 25, 2005.

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

Derek L. Woods
Petitions Attorney
Office of Petitions

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Robert E. Kerbs
Thelen Reid & Priest LLP
P.O. Box 640640
San Jose, CA 95164-0640

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In re Application of	:	
Turguy Goker et al.	:	
Application No. 10/985,624	:	DECISION ON PETITION
Filed: November 11, 2004	:	TO WITHDRAW
Attorney Docket No. 036263-444	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 24, 2006.

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

A review of the file record indicates that the power of attorney to Robert E. Krebs has been revoked by the assignee of the patent application on August 30, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

David Bucci
Petitions Examiner
Office of Petitions

cc: **Law Office of Mark J. Spolyar**
2200 Cesar Chavez Street
Suite 8
San Francisco, CA 94124

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/985,624	11/10/2004	Turguy Goker	036263-444

CONFIRMATION NO. 5668

OC000000020359004

OC000000020359004

Law Office of Mark J. Spolyar
2200 Cesar Chavez Street
Suite 8
San Francisco, CA 94124

Date Mailed: 09/08/2006

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/30/2006.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

T. Williams

TERRI S WILLIAMS
OP (571) 272-2991

ATTORNEY/APPLICANT COPY

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/985,624	11/10/2004	Turguy Goker	036263-444

CONFIRMATION NO. 5668

OC000000020358934

OC000000020358934

Robert E. Krebs
Thelen Reid & Priest LLP
P.O. Box 640640
San Jose, CA 95164-0640

Date Mailed: 09/08/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/30/2006.

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

T. Williams

TERRI S WILLIAMS
OP (571) 272-2991

FORMER ATTORNEY/AGENT COPY

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OFFICE OF PETITIONS

In re Application of Laurence Antony Brooks Application No. 10/985,632 Filed: November 10, 2004 Attorney Docket No. 14232-004US2	DECISION GRANTING PETITION AND WITHDRAWING THE HOLDING OF ABANDONMENT

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed December 8, 2006.

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

The holding of abandonment is **WITHDRAWN**.

The above-identified application was held abandoned for failure to timely file a response to the non-final Office action mailed May 10, 2006. This Office action set a shortened statutory period of three (3) months. A Notice of Abandonment was mailed on November 29, 2006.

A review of the application file reveals the presence of an amendment, filed November 15, 2006. The amendment was made timely by including a Certificate of Mailing under 37 CFR 1.8 dated November 13, 2006, by including a three month extension of time, and by the fact that November 10, 2006 fell on a federal holiday. See 37 CFR 1.7(a). Furthermore, Office records indicate that the fee for the three month extension of time was received on November 15, 2006.

In view of the above, the holding of abandonment is withdrawn.

The matter is being forwarded to Group Art Unit 3723 for consideration of the amendment filed November 15, 2006 (Certificate of Mailing dated November 13, 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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CANTOR COLBURN, LLP - PROTON
55 GRIFFIN ROAD SOUTH
BLOOMFIELD, CT 06002

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OFFICE OF PETITIONS

In re Application of :
David Earl Henderson :
Application No. 10/985,633 : DECISION ON PETITION
Filed: November 11, 2004 :
Attorney Docket No. PES-0217 :

This is a decision on the petition under 37 CFR 1.181, filed July 10, 2006, to withdraw the holding of abandonment for the above-identified application.

On September 14, 2005, the Office mailed a nonfinal Office Action, which set a three-month shortened statutory period for reply. In the absence of a timely filed response, the application was held abandoned on December 15, 2005. A Notice of Abandonment was mailed on April 27, 2006.

In the petition, the practitioner asserted that he did not receive the nonfinal Office Action or the Notice of Abandonment because the USPTO mailed both of the communications to an incorrect correspondence address, namely, Bennett Johnson, Dresden Johnson, 2637 Kavalier Drive, Palm Harbor, FL 34684. Additionally, the practitioner stated that he submitted a change of correspondence address to Customer No. 23462 with the USPTO on March 21, 2005, before the mailing of the nonfinal Office Action. Accordingly, petitioner requested that the Office withdraw the holding of abandonment, re-mail the nonfinal Office Action, and restart the period for reply.

A review of the record indicates that the practitioner filed a change of correspondence address to Customer No. 23462 with the USPTO on March 21, 2005. Inexplicably, the USPTO entered the incorrect correspondence address of Bennett Johnson, Dresden Johnson, 2637 Kavalier Drive, Palm Harbor, FL 34684, as the address of record for this application. Consequently, the nonfinal Office Action and the Notice of Abandonment were mailed to the wrong address. It is obvious from the record that the practitioner did not receive either the nonfinal Office Action of September 14, 2005, or the Notice of Abandonment.

The Office has corrected the correspondence address and made it of record. The petition under 37 CFR 1.181 is **GRANTED**. No petition fee is required.

Technology Center Art Unit 1745 has been advised of this decision. The matter is being referred to the Technology Center's technical support staff for mailing of a new nonfinal Office Action. The three (3) month shortened statutory time period for responding to the nonfinal Office Action will be set to run from the mailing date of the new nonfinal Office Action.

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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

In re Application of	:	
Nicholas William Anderson	:	
Application No. 10/985,638	:	DECISION ON PETITION
Filed: November 10, 2004	:	TO WITHDRAW
Attorney Docket No. 562492002700	:	FROM RECORD
	:	

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 31, 2009.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster, LLP has been revoked by the assignee of the patent application on September 21, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

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

cc: FITCH, EVEN, TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

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ROPES & GRAY LLP
PATENT DOCKETING 39/361
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NEW YORK NY 10036-8704

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OFFICE OF PETITIONS

In re Application of	:	
Roy et al.	:	DECISION ON PETITION TO
Application Number: 10/985641	:	WITHDRAW HOLDING OF
Filing Date: 11/10/2004	:	ABANDONMENT
Attorney Docket Number: 003681-	:	
0082-101	:	

This is a decision on the petition filed on April 16, 2009, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED TO THE EXTENT INDICATED.**

A Notice of Abandonment was mailed on April 9, 2009, stating that the application was abandoned for failure to response to the Office communication mailed on October 14, 2008.

Petitioner requests that the holding of abandonment be withdrawn in that the extendable period for filing an Appeal Brief in response to the Notice of Appeal filed on September 25, 2008 runs until April 25, 2009.

A review of the record reveals that On March 26, 2008, a final Office action was mailed, setting a three (3) month extendable period for reply.

On May 21, 2008, an amendment after final rejection was filed.

On June 26, 2008, an Advisory Action was mailed, stating the amendment filed on May 21, 2008 fails to place the application in condition for allowance.

On September 25, 2008, a Notice of Appeal was filed, along with a three (3) month extension of time and a second amendment after final rejection.

On October 14, 2008, an Advisory Action was mailed, stating that the reply filed on September 25, 2008 fails to place the application in condition for allowance, and that a brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal or any extension thereof.

On April 9, 2009, Notice of Abandonment was mailed.

On April 16, 2009, the subject petition was filed, accompanied by a five (5) month extension of time to reply to the Notice of Appeal.

Petitioners assert that the time for reply to the Notice of Appeal runs until April 25, 2009, and that the holding of abandonment was mailed in error.

A review of the record reveals that no Appeal Brief or other proper reply was filed in the subject application within the extendable period set by the Notice of Appeal mailed on September 25, 2008. Accordingly, the application became abandoned on April 26, 2009 for failure to timely file a reply to the Notice of Appeal.

However, a review of Office PALM records indicates a continuation application, No. 12/386,933 was filed on April 24, 2009.

Accordingly, the date of abandonment of the subject application is April 26, 2009. The petition is granted to the extent that the subject application has copendency with continuation Application No. 12/386,933.

The date of abandonment in PALM will be corrected to **April 26, 2009**.

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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Joseph F. Hetz
BRINKS HOFER GILSON & LIONE
P.O. Box 10395
Chicago, IL 60610

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TECHNOLOGY CENTER 2100

In re Application of:
Edward J. Franczek
Application No. 10/985,642
Filed: November 10, 2004
For: COMPUTER VIRUS SCREENING METHODS AND SYSTEMS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed June 14, 2005.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. ∋ 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. ∋ 402.06. 37 C.F.R. ∋ 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request filed June 14, 2005 meets all the requirements. Accordingly the request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

James R. Matthews

for Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
(571) 272-3613

cc: VERVE LLC
6300 Bridgepoint Parkway, Bldg. 1
Suite 410B
Austin, TX 78730

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P.O. Box 1450
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STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE NW
WASHINGTON, DC 20005

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OFFICE OF PETITIONS

In re Application of	:
Edward J. Franczek et al	:
Application No. 10/985,642	: DECISION GRANTING PETITION
Filed: November 10, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2222.5230006	:

This is a decision on the petition, filed October 30, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

This matter is being referred to Technology Center AU 2135 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

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STRATEGIC PATENT SERVICES, INC.
1096 TRESTLE GLEN
OAKLAND, CA 94610

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JUL 20 2007

OFFICE OF PETITIONS

In re Application of	:	
DECOMBE, Jean M.	:	
Application No. 10/985,644	:	DECISION ON PETITION
Filed: November 10, 2004	:	TO WITHDRAW
Attorney Docket No. **4418P001C**	:	FROM RECORD
	:	

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 18, 2006.

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

A review of the file record indicates that the power of attorney to *STRATEGIC PATENT SERVICES, INC.* has been revoked by the assignee of the patent application on January 12, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **BLAKELY SOKOLOFF TAYLOR & ZAFMAN**
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

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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 3 0 2010

OFFICE OF PETITIONS

In re Patent No. 7,592,177	:
Chen et al.	: DECISION ON REQUEST
Issue Date: 09/22/2009	: FOR RECONSIDERATION OF
Application No. 10/985645	: PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 11/10/2004	: and
Attorney Docket No.	: NOTICE OF INTENT TO ISSUE
014740-001010US	: CERTIFICAE OF CORRECTION

This is a decision on the petition filed on November 23, 2009, which is being treated as a petition under 37 CFR 1.705(d), requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by four hundred forty-three (443) 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 four hundred forty-three (443) 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 November 11, 2007 and ends on April 20, 2008, the day before the RCE was filed, and is 162 (not 163) days. See, 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 442, not 443 days.

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

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **four hundred forty-two (442)** days.

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

/Derek L. Woods/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,592,177 B2

DATED : **September 22, 2009**

INVENTOR(S) : Chen 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 280 days.

Delete the phrase "by 280 days" and insert – by 442 days--

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JACKSON & CO., LLP
6114 LA SALLE AVENUE
#507
OAKLAND CA 94611-2802

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APR 15 2008

OFFICE OF PETITIONS

In re Application of	:	
Eran Steinberg, et al.	:	
Application No. 10/985,650	:	DECISION ON PETITION
Filed: November 10, 2004	:	TO WITHDRAW
Attorney Docket No. FN109-B	:	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 17, 2007.

The request is **NOT APPROVED**.

A review of the file record indicates that Seong-Kun Oh 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.

April M. Wise
Petitions Examiner
Office of Petitions

cc: FOTONATION
IP DEPT.
800 AIRPORT BLVD
SUITE 522
BURLINGAME, CA 94010

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/985,650	11/10/2004	Eran Steinberg	FN109-B

CONFIRMATION NO. 4366

POA ACCEPTANCE LETTER

OC000000029328795

72104
FotoNation
IP Dept.
800 Airport Blvd.
Suite 522
Burlingame, CA 94010

Date Mailed: 04/10/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/22/2007.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/amwise/

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

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UNITED STATES DEPARTMENT OF COMMERCE
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Tessera/FotoNation
Patent Legal Dept.
3025 Orchard Parkway
San Jose, CA 95134

Mail Date: 04/21/2010

Applicant	: Eran Steinberg	: DECISION ON REQUEST FOR
Patent Number	: 7639888	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/985,650	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1107** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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PALO ALTO, CA 94304-1050

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JUN 09 2008

In re Application of :
DALE, Roderic M.K. :
Application No. 10/985,655 :
Filed: November 9, 2004 :
Attorney Docket No. **31249-716.302** :

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 31, 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 Albert P. Halluin 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.

The application became abandoned for failure to timely to the non-final office action mailed March 26, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **RODERIC M.K. DALE**
26761 SW 45TH DRIVE
WILSONVILLE, OR 97070

cc: **LOWENSTEIN SANDLER, PC**
65 LIVINGSTON AVENUE
ROSELAND, NJ 07068

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Tessera/FotoNation
Patent Legal Dept.
3025 Orchard Parkway
San Jose, CA 95134

Mail Date: 04/21/2010

Applicant	: Eran Steinberg	: DECISION ON REQUEST FOR
Patent Number	: 7636486	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/985,657	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1055** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Sheppard, Mullin, Richter & Hampton, LLP
333 South Hope Street, 48th Floor
Los Angeles, CA 90071

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JAN 27 2005

OFFICE OF PETITIONS

In re Application of	:	
Edwin C. Slagel, et al.	:	
Application No. 10/985,679	:	DECISION GRANTING
Filed: November 9, 2004	:	PETITION
Attorney Docket No. 07K8-114121	:	

This is a decision on the petition filed November 29, 2004, requesting that the above-identified application be accorded a filing date of November 9, 2004, rather than the presently accorded date of November 11, 2004. The petition is properly treated as a petition under 37 CFR 1.10(c).

The petition is **GRANTED**.

Petitioner alleges that the application was deposited in Express Mail Service on November 9, 2004. In support, the petition is accompanied by a copy of Express Mail receipt No. EV076324338US (the same Express Mail number found on the original application papers located in the official file) showing a "date in" of November 9, 2004.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "date-in" on the Express Mail label, MPEP 513. In view of the "date-in" on the Express Mail label, it is established that the package bearing Express Mail label No. EV076324338US was deposited with the United States Postal Service on November 9, 2004, and the filing date of the application is accorded as such.

This application file is being referred to the Office of Initial Patent Examination Division for further **processing with a filing date of November 9, 2004.** Thereafter, the application file will be referred to Technology Center 1700 for examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3223.

Marianne E. Jenkins

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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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
10/985,679	11/09/2004	1711	1348	07K8-114121	1	51	2

CONFIRMATION NO. 6627

CORRECTED FILING RECEIPT

OC000000015493057

30764
SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
333 SOUTH HOPE STREET
48TH FLOOR
LOS ANGELES, CA 90071-1448

Date Mailed: 03/17/2005

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

Applicant(s)

Edwin C. Slagel, Avondale, AZ;
Michael J. Slagel, Peoria, AZ;

Assignment For Published Patent Application

Younger Mfg. Co. dba Younger Optics

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of 10/373,607 02/24/2003

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 US10/985,679

Projected Publication Date: 04/21/2005

Non-Publication Request: No

Early Publication Request: No

Title

Polyurea/urethane optical material and method for making it

Preliminary Class

528

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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CANTOR COLBURN, LLP
20 CHURCH STREET, 22ND FLOOR
HARTFORD, CT 06103

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OFFICE OF PETITIONS

In re Application of :
PLETT, Gregory L. :
Application No. 10/985,703 :
Filed: November 11, 2004 :
Attorney Docket No. **PHI-0018** :

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 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 October 17, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2838 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Monica A. Graves
Petitions Examiner
Office of Petitions

---

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

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Paper No.

LEXMARK INTERNATIONAL, INC.
INTELLECTUAL PROPERTY
LAW DEPARTMENT
740 WEST NEW CIRCLE ROAD
BLDG. 082-1
LEXINGTON KY 40550-0999

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OFFICE OF PETITIONS

In re Application of	:	
Cornell et al.	:	DECISION ON
Application No. 10/985,708	:	PETITION
Filed: November 10, 2004	:	
Atty Docket No. 2004-0481.01	:	

This is a decision on the PETITION TO REVIVE PATENT APPLICATION—FAILURE TO PAY ISSUE FEE UNINTENTIONAL (37 CFR §§ 1.137(b) AND 1.316), filed July 27, 2007.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to pay the Issue Fee within three months of the mailing date, March 22, 2007, of the Notice of Allowance and Fee(s) Due. This Office action set a three-month nonextendable statutory period for reply. No reply having been received, the above-identified application became abandoned on June 23, 2007. A courtesy Notice of Abandonment was mailed on July 18, 2007.

The instant petition included the required reply[1] in the form of payment of the Issue Fee and Publication Fee, payment of the petition fee set forth in 37 CFR § 1.17(m), and the required statement of unintentional delay. No terminal disclaimer is required.

[1] There was no separate but concurrent requirement for drawings.

The Office of Patent Publication has been advised of this decision. The application is thereby forwarded for processing into a patent.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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TRANSPACIFIC LAW GROUP
617 NORTH DELAWARE STREET
SAN MATEO, CA 94401

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OFFICE OF PETITIONS

In re Application of	:	
Ing-Shouh HWANG, et al	:	
Application No. 10/985,717	:	DECISION ON PETITION
Filed: October 9, 2004	:	TO WITHDRAW
Attorney Docket No. N0150/PP/HH	:	FROM RECORD
	:	

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 26, 2007.

The request is **NOT APPROVED**.

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

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

There are no pending Office actions at the present time.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

cc: VENABLE LLP
RAYMOND J. HO
575 7TH STREET, NW
WASHINGTON, DC 20004-1601

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/985,729	11/10/2004	Shinako Matsuyama	S1459.70110US00	4769

7590 03/06/2008

Randy J. Pritzker
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston, MA 02210-2206

EXAMINER
HOFFMAN, BRANDON S

ART UNIT	PAPER NUMBER
2136	

MAIL DATE	DELIVERY MODE
03/06/2008	PAPER

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

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

The petition is dismissed.

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

1. ☐ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).
2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).
3. ☒ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.
4. ☐ The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

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

Patent Publication Branch
Office of Data Management

FORM PET651D (Rev. 08/07)

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PATRICK M. DWYER
MINDMATTERS TECHNOLOGIES, INC.
SUITE 114
1818 WESTLAKE AVENUE N
SEATTLE WA 98109

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AUG 0 4 2005

OFFICE OF PETITIONS

In re Application of :
Gabrick et al. :
Application No. 10/985,731 : ON PETITION
Filed: November 10, 2004 :
Attorney Docket No. MINMST.P01C13 :

This is in response to the petition under 37 CFR 1.47(a) filed on July 5, 2005 (certificate of mailing dated July 1, 2005).

With the present petition, petitioner submitted a petition fee of $130.00. However, effective December 8, 2004, the fee for a petition under 37 CFR 1.47(a) increased from $130.00 to $200.00. The rules and statutory provisions governing the operations of the USPTO require payment of a fee upon filing a petition. In this instance, the petition fee is deficient in the amount of $70.00. Therefore, the petition will not be treated on its merits, but rather will remain in the file until the Office receives a request for reconsideration of the petition under 37 CFR 1.47(a), as well as the balance of the fee due in the amount of $70.00.

Petitioner must file both a request for reconsideration and pay the balance due of $70.00 within **TWO (2) MONTHS** of this decision. No extensions of time are permissible.

Further correspondence with respect to this matter should be addressed as follows and **to the attention of Senior Petitions Attorney Christina Tartera Donnell:**

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

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

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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
MINDMATTERS TECHNOLOGIES, INC.
SUITE 114, 1818 WESTLAKE AVENUE N
SEATTLE WA 98109

COPY MAILED

SEP 0 6 2005

OFFICE OF PETITIONS

In re Application of	:	
Gabrick et al.	:	
Application No. 10/985,731	:	DECISION ACCORDING STATUS
Filed: November 10, 2004	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. MINMST.P01C13	:	
For: Systems for Automating and Managing an	:	
IP Environment	:	

This is in response to the petition under 37 CFR 1.47(a) filed on August 25, 2005.

The petition is granted.

Petitioner showed that Charles Monfradi, Mark Infantino, and Andrew Formica, the non-signing inventors, refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the Declarations of Facts of Patrick W. Dwyer and John J. Gabrick established that petitioner mailed the inventors the application papers, including the specification, claims and drawings, as well as contacted them by telephone; however, they did not respond to the requests that they sign the declaration.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the addresses 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 3621 for examination in due course.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
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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Andrew Formica
62 Carriage Lane
Bridgeport, WV 26330

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SEP 06 2005

OFFICE OF PETITIONS

LETTER

In re Application of :
Gabrick et al. :
Application No. 10/985,731 :
Filed: November 10, 2004 :
Attorney Docket No. MINMST.P01C13 :
For: Systems for Automating and Managing an :
IP Environment :

Dear Mr. Formica:

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

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

PATRICK M. DWYER
MINDMATTERS TECHNOLOGIES, INC.
SUITE 114, 1818 WESTLAKE AVENUE N
SEATTLE WA 98109

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

Mark Infantino
417 Independence Drive
Washington PA 15301

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SEP 06 2005

OFFICE OF PETITIONS

In re Application of :
Gabrick et al. :
Application No. 10/985,731 :
Filed: November 10, 2004 :
Attorney Docket No. MINMST.P01C13 :
For: Systems for Automating and Managing an :
IP Environment :

LETTER

Dear Mr. Infantino:

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

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

PATRICK M. DWYER
MINDMATTERS TECHNOLOGIES, INC.
SUITE 114, 1818 WESTLAKE AVENUE N
SEATTLE WA 98109

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

Charles Monfradi
106 Pine Avenue
Wheeling, WV 26003

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SEP 06 2005

OFFICE OF PETITIONS

In re Application of :
Gabrick et al. :
Application No. 10/985,731 :
Filed: November 10, 2004 :
Attorney Docket No. MINMST.P01C13 :
For: Systems for Automating and Managing an :
IP Environment :

LETTER

Dear Mr. Monfradi:

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

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

PATRICK M. DWYER
MINDMATTERS TECHNOLOGIES, INC.
SUITE 114, 1818 WESTLAKE AVENUE N
SEATTLE WA 98109

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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JUL 20 2005

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

In re Application of	:	
Joseph C. Cauthen	:	
Serial No.: 10/985,735	:	DECISION ON PETITION
Filed: November 10, 2004	:	
For: Spinal Disc Annulus Repair Device	:	

This is in response to applicants' petition filed April 18, 2005 to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

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

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

Should there be any questions with regard to this letter please contact 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

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

Allison Debonnett
47 West Polk. # 100-266
Chicago IL 60605

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FEB 03 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of
Allison Debonnett
Application No.10/985,744
Filed: November 10, 2004
Title of Invention: Method of Payment and Settlement of Goods and Services Via the Internet

This is a decision on the petition filed December 22, 2005 under 37 CFR 1.137(a).

The petition to revive under 37 C.F.R. § 1.137(a) 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 permitted. The reconsideration request 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.

This above-identified application became abandoned for failure to file a response to a Notice to File Corrected Application Papers which was mailed on January 26, 2005. The Notice to File Corrected Application Papers set an extendable two (2) month period for reply. No timely request for extension of time was obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on March 27, 2005. A Notice of Abandonment was mailed on October 4, 2005.

Petition to revive under 37 CFR 1.137(a)

A grantable petition under 37 C.F.R. § 1.137(a) must be accompanied by:

(1) the required reply,[1]

(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 if the application was filed on or before June 8, 1995 or if the application is a design application.

The instant petition lacks item (3).

As to item (3), the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable within the meaning of 37 C.F.R. § 1.137(a).

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

The general standard applied by the Office requires petitioner to establish that petitioner treated the patent the same as a reasonable and prudent person would treat

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[1] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

his or her most important business.[2] However, " The question of whether an applicant's delay in prosecuting an application was unavoidable [will] be decided on a case by case basis, taking all of the facts and circumstances into account."[3] Nonawareness of the content of, or misunderstanding of PTO statues, PTO rules, the MPEP or Official Gazette notices, do not constitute unavoidable delay.[4] The statue requires a "showing" by petitioner. Therefore, petitioner has the burden of proof.

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.[5]

Application of the unavoidable standard to the present facts

In the present case, petitioner argues submission of the corrected drawings in the above-identified application were unavoidably delayed due to the death of attorney Tyrone Davis' wife. Petitioner states that attorney Davis has abandoned his law practice. Petitioner asserts she was not aware that a Notice to File Corrected Application Papers was mailed until December 8, 2005. Petitioner request the revival of

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[2] The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard 35 U.S.C. 41(c)(1) states, "The Commissioner may accept the payment of any maintenance fee...at any time...if the delay is shown to the *satisfaction of the Commissioner* to have been unavoidable (emphasis added).

[3] Smith v. Mossinghoff, 671 F.2d 533,538, 213 U.S.P.Q. (BNA) 977 (1982).

[4] Id., 671 F.2d 533,538, 213 U.S.P.Q. (BNA) 977 (1982). (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawareness of PTO rules does not constitute unavoidable delay)); Vincent v. Mossinghoff, 1985 U.S. Dist. Lexis 23119, 13 230 U.S.P.Q. (BNA) 621 (D.D.C. 1985) (Plaintiffs through their counsel's actions or their own must be held responsible for having noted the MPEP section and Official Gazette notices expressly stating that the certified mailing procedures outlined in 37 CFR 1.8(a) do not apply to continuation applications).

[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 U.S.P.Q. 666, 167-68 (D.D.C. 1963), aff'd, 143 U.S.P.Q. 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

the above-identified application under 37 CFR 1.137(a) due to extraordinary circumstances.

The showing of record has been considered, but is not persuasive. The U.S. Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and the applicant is bound by the consequences of those actions or inactions.[6] Specifically, petitioner's delay caused by the mistakes or negligence of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 U.S.C. 133 or 37 CFR 1.137(a).[7] Furthermore, petitioner is reminded that the Patent and Trademark Office is not the proper forum for resolving a dispute between petitioner and petitioner's representative.[8]

In sum, petitioner has failed to provide sufficient evidence, to establish a finding of unavoidable delay.

Alternative Venue

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by the required reply, the required petition fee, and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional.

The filing of a petition under 37 C.F.R. § 1.137(b) cannot be intentionally delayed, and therefore, must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 C.F.R. § 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 C.F.R. § 1.137(b).

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

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[6] Link v. Wabash, 370 U.S. 626, 633-34 (1962).

[7] Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (D. Ind. 1987); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (Comm'r Pat. 1891).

[8] Ray v. Lehman, 55 F.3d 606, 608-09, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995).

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

By facsimile: (571) 272-3215

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 should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Allison Debonnett
47 West Polk. # 100-266
Chicago IL 60605

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MAR 0 6 2006

OFFICE OF PETITIONS

In re Application of
Allison Debonnett
Application No.10/985,744
Filed: November 10, 2004
Title of Invention: Method of Payment and Settlement of Goods and Services Via the Internet

ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed February 18, 2006, to revive the above-identified application.

This above-identified application became abandoned for failure to file a response to a Notice to File Corrected Application Papers which was mailed on January 26, 2005. The Notice to File Corrected Application Papers set an extendable two (2) month period for reply. No timely request for extension of time was obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on March 27, 2005. A Notice of Abandonment was mailed on October 4, 2005. A petition filed under 37 CFR 1.137(a) was dismissed on February 3, 2006.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

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

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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

CANON U.S.A. INC. INTELLECTUAL PROPERTY DIVISION
15975 ALTON PARKWAY
IRVINE CA 92618-3731

OCT 17 2007

In re Application of	:	
Iizuka	:	DECISION ON REQUEST TO
Application No. 10/985750	:	PARTICIPATE IN PATENT
Filed: November 9, 2004	:	PROSECUTION HIGHWAY
Attorney Docket No. 10003474US01	:	PILOT PROGRAM AND PETITION
	:	TO MAKE SPECIAL UNDER
	:	37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed September 13, 2007, to make the above-identified application special.

The request and petition are **GRANTED**.

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

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to John Peng at 571-272-7272.

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

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

John Peng
TC 2600
Quality Assurance Specialist

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

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

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JUN 21 2005

OFFICE OF PETITIONS

In re Application of :
Donald C. Abbott :
Application No. 10/985,757 :
Filed: November 9, 2004 :
Attorney Docket No. TI-38447 :

DECISION GRANTING PETITION

This is a decision on the petition filed April 4, 2005, requesting that the above-identified application be accorded a filing date of November 9, 2005, with 3 sheets of drawings included as part of the original disclosure.

On November 9, 2004, the above-identified application was filed. On February 10, 2005, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application " (the "Notice"), stating that the application had not been accorded a filing date because drawings were not found with the application papers, but were believed to be necessary to understand the invention claimed. The Notice allowed a non-extendable two-month period for reply beginning from the mailing date of the Notice.

In response, on April 4, 2005, applicant filed the present petition, a copy of the 3 sheets of drawings, and a copy of the Office date-stamped postcard receipt acknowledging receipt of 3 sheets of drawing, among other items, on November 9, 2004.

Upon review of the record, the drawings were not located among the original application papers. The evidence is convincing, however, that 3 sheets of drawings accompanied the original application papers. Therefore, the application was complete on filing and entitled to a filing date of November 9, 2004.

Accordingly, the petition is granted.

The application file is being returned to the Office of Initial Patent Examination for issuance of a corrected filing receipt and for further processing with the presently accorded filing date of November 9, 2004, using the 3 sheets of drawings first filed on that date.

Any inquiries related to 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

FAY SHARPE LLP
1100 SUPERIOR AVENUE, SEVENTH FLOOR
CLEVELAND OH 44114

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OCT 29 2007

OFFICE OF PETITIONS

In re Application of
Martin, et al.
Application No. 10/985,766
Filed: November 10, 2004
Attorney Docket No. NUKZ 2 00609

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed June 22, 2007, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on November 10, 2005.[1] However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

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

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

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

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of

[1] While petitioner states that PCT/US2004/040578 was filed on November 10, 2004, a review of Office records reveals that it was filed on November 10, 2005. It is assumed that petitioner typed "2004" by mistake.

such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing which sets forth the projected publication date of February 7, 2008 accompanies this decision on petition.

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

This application is being returned to Technology Center Art Unit 2853 for consideration of the amendment filed on May 2, 2007.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/985,766	11/10/2004	Thomas W. Martin	NUKZ 2 00609

CONFIRMATION NO. 6085

27885
FAY SHARPE LLP
1100 SUPERIOR AVENUE, SEVENTH FLOOR
CLEVELAND, OH 44114

NONPUBLICATION RESCISSION LETTER

OC000000026492037

Date Mailed: 10/29/2007

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 02/07/2008.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

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OFFICE OF PETITIONS

LEE HONG DEGERMAN KANG & WAIMEY
660 S FIGUEROA STREET
SUITE 2300
LOS ANGELES CA 90017

In re Application of	:	
Chun, et al.	:	
Application No. 10/985,774	:	ON PETITION
Filed: November 9, 2004	:	
Attorney Docket No. 2101-3076	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed June 29, 2009.

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 February 19, 2009. This Notice set a statutory period for reply of three months for issue fee transmittal. No issue fee having been received, the application became abandoned on May 20, 2009. A Notice of Abandonment was mailed on June 17, 2009.

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

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COOLEY GODWARD KRONISH, LLP
ATTN: PATENT GROUP
777-6TH STREET NW, SUITE 1100
WASHINGTON, DC 20001

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FEB 04 2008

OFFICE OF PETITIONS

In re Application of	:	
FINLEY, Kenneth W.	:	
Application No. 10/985,775	:	DECISION ON PETITION
Filed: November 10, 2004	:	TO WITHDRAW
Attorney Docket No. **ADEN-029/00US/AE2004044**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 6, 2007.

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

A review of the file record indicates that the power of attorney to **COOLEY GODWARD KRONISH. LLP** has been revoked by the assignee of the patent application on July 24, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **NEUGEBOREN LAW FIRM, PC**
1035 PEARL STREET, SUITE 400
BOULDER, CO 80302

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F. CHAU & ASSOCIATES, LLC
130 WOODBURY ROAD
WOODBURY, NY 11797

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APR 1 3 2009

OFFICE OF PETITIONS

In re Application of :
Yong-Kyu JANG, et al. :
Application No. 10/985,780 :
Filed: November 10, 2004 :
Attorney Docket No. **8054-11 CON(LW7045US-CON)** :

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 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 March 2, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

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

/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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SAWYER LAW GROUP, LLP
2465 E. Bayshore Road, Suite No. 406
PALO ALTO, CA 94303

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JUL 21 2008

In re Application of	:	
Michael Joseph Johnson	:	
Application No. 10/985,786	:	ON PETITION
Filed: November 9, 2004	:	
Attorney Docket No. RPS920040177US1/3315P	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 4, 2007, to revive the above-identified application.

The application became abandoned for failure to timely file a proper reply to the final Office action mailed April 19, 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 Kelvin M. Vivian 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.

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 a Notice of Appeal with the $510 fee; (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Office acknowledges receipt of an Appeal Brief and $510 fee submitted on February 1, 2008.

This application file is being referred to Technology Center Art Unit 2887 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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CONLEY ROSE, P.C.
P.O. BOX 3267
HOUSTON, TX 77253-3267

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OFFICE OF PETITIONS

In re Application of :
Shing Chuan Hooi :
Application No. 10/985,790 : ON PETITION
Filed: November 10, 2004 :
Attorney Docket No. 2333-00600 :

This is a decision on the petition under 37 CFR 1.53 filed May 6, 2005, requesting that the above-identified application be accorded a filing date of November 10, 2004, including sixteen (16) sheets of drawings.

The application was submitted on November 10, 2004. However, on May 2, 2005, the Office of Initial Patent Examination (OIPE) mailed a "Notice Of Incomplete Nonprovisional Application" (Notice) that stated the application had not been accorded a filing date, and that the application was deposited without drawings.

In response, on May 6, 2005, the instant petition was submitted. Petitioner argues that sixteen (16) sheets of drawings were filed on November 10, 2004. In support, the instant petition is accompanied by a copy of applicant's postcard receipt that acknowledges receipt of "Sixteen (16) Sheets of FORMAL Drawings (Figs. 1-15)" on November 10, 2004. A review of the application file indicates the presence of zero (0) sheets of drawings filed on November 10, 2004. It is assumed that the missing sheets of drawings were misplaced by the Office.

In view of the above, the petition is granted.

The $400.00 petition fee will be refunded to deposit account no. 03-2769.

This application will be returned to OIPE for further processing with a filing date of November 10, 2004, using the sixteen (16) sheets of drawings, supplied on May 6, 2005.

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

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

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OFFICE OF PETITIONS

Thomas R. FitzGerald, Esq.
Suite 210
16 E. Main Street
Rochester NY 14614-1808

In re Application of Craig Wilson and Thomas McGrain Application No.10/985,842 Filed: November 10, 2004 Attorney Docket No. 2001.000231 Title of Invention: BEVERAGE CONTAINER WITH RIGID INNER CONTAINER	DECISION GRANTING STATUS UNDER 37 CFR 1.47(A)

This is in response to the petition under 37 CFR 1.47(a) filed April 19, 2005.

The petition is GRANTED.

Petitioner has shown that non-signing inventor Wilson has refused to join in the filing of the above-identified application after having been presented with the application papers. The petition attest a copy of the application was sent to non-signing inventor's last known address. The non-signing inventor's failure to respond to the application mailing sufficiently establishes that he refuses to execute the application papers.

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

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

After this decision is mailed, the application will be forwarded to the Office of Initial Patent Examination for further processing.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

Craig N. Wilson
20 Lodge Pole Road
Pittsford, NY 14534-4550

In re Application of
Craig Wilson and Thomas McGrain
Application No.10/985,842
Filed: November 10, 2004
Attorney Docket No. 2001.000231
Title of Invention: BEVERAGE CONTAINER WITH RIGID INNER CONTAINER

LETTER

Dear Mr. Wilson:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (571) 272-3215. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant
Petitions Attorney
Office of Petitions

Thomas R. FitzGerald, Esq.
Suite 210
16 E. Main Street
Rochester NY 14614-1808

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Attention of Victor G. Cooper
Gates & Cooper LLP
Howard Hughes Center, Suite 1050
6701 Center Drive West
Los Angeles CA 90045

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MAR 2 2 2005

OFFICE OF PETITIONS

In re Application of
Dabrowski
Application No.: 10/985,856
Filed: November 12, 2004
Attorney Docket No. 31003.14-US-C1
For: METHOD AND APPARATUS FOR AUTONOMOUS VALIDATION OF ISSUED SCRIP MEDIA

: DECISION GRANTING
: PETITION

This is a decision on the petition entitled " PETITION UNDER 37 CFR 1.53(b)" filed February 16, 2005, requesting that the above-identified application be accorded a filing date of November 10, 2004, instead of the presently accorded date of November 12, 2004. The petition will be treated under 37 CFR 1.10(c).

Petitioner alleges that the application was deposited in Express Mail service with the U. S. Postal Service, on November 10, 2004. In support, petitioners provided a copy of the Express Mail label, receipt no. EV466874416US, showing a Date-In of "11 10 04.". The same Express Mail receipt number was referred to in the original Application Transmittal Letter submitted with the original filing. Petitioner requests that the application be accorded a filing date of November 10, 2004.

The Office considers the date the paper or fee is shown to have been deposited as Express Mail to be the "Date In" on the Express Mail label, MPEP 513. 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 U.S. Postal Service on November 10, 2004.

In view of the above, the petition is granted. As this is a feeless petition, no petition fee has been or will be charged.

The application will be returned to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of **November 10, 2004**. OIPE will mail a corrected filing receipt in due course.

Telephone inquiries concerning 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

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PULSE-LINK, INC.
1969 KELLOGG AVENUE
CARLSBAD CA 92008

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Ismail Lakkis :
Application No. 10/985,861 :
Filed: November 10, 2004 :
Attorney Docket No. 033CIP-153 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 5, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to submit formal drawings on or before October 9, 2007 in reply to the Notice of Allowability, mailed July 6, 2007, which set a period for reply of three (3) months. Accordingly, this application became abandoned on October 10, 2007. A Notice of Abandonment was mailed on October 29, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of replacement drawing Figure 34; (2) the petition fee of $770; and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the Notice of Notice of July 6, 2007 is accepted as being unintentionally delayed.

This application is being referred to the Office of Data Management for further processing in accordance with this decision reviving the application.

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

Frances Hicks
Petitions Examiner
Office of Petitions

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CLARK & BRODY
1090 VERMONT AVENUE, NW
SUITE 250
WASHINGTON DC 20005

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MAY 22 2009

OFFICE OF PETITIONS

In re Application of	:	
Sadamitsu et al.	:	
Application No. 10/985,880	:	ON PETITION
Filed: November 12, 2004	:	
Attorney Docket No. 12054-0031	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 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 Notice of Appeal, (2) the petition fee, and (3) a proper statement of unintentional delay.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1,110.00 extension of time fee 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 as authorized.

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

This matter is being referred to Technology Center AU 1792 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Liana Walsh
Petitions Examiner
Office of Petitions

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

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OFFICE OF PETITIONS

In re Patent No. 7304825 :
Issue Date: 12/04/2007 :
Application Number: 10/985886 : DECISION ON PETITION
Filing or 371(c) Date: 11/12/2004 :
Attorney Docket Number: 070120-0313057 :

This is a decision on the petition under 37 CFR 1.182, filed on January 22, 2009, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

The Publishing Division is directed to issue a duplicate Letters Patent.

As authorized, the $400 fee for the petition under 37 CFR 1.182 has been assessed to petitioner's deposit account.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3231. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to Niomi Farmer in the Office of Data Management at (703) 308-9250, Ext. 129.

A copy of this decision is being faxed to Publishing Division for issuance of a duplicate Letters Patent.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

cc: Niomi Farmer, South Tower, 8th Floor (Fax No. (571) 270-9753

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OFFICE OF PETITIONS

Foley & Lardner
Suite 500
3000 K Street NW
Washington DC 20007

In re Application of
Ohnishi et al.
Application No. 10/985,898
Filed: November 12, 2004
Attorney Docket No.

: DECISION GRANTING LETTER

This decision is in response to Applicant's "LETTER UNDER GENERAL OBLIGATION OF GOOD FAITH AND CANDOR IN PRACTICE BEFORE THE" filed on August 31, 2007 requesting that the USPTO review the PTA determination at the time of the mailing of the notice of allowance to see if the actual determination is 121 days.

Applicants' letter concerning PTA is **GRANTED.** The Office will adjust the PTA calculation at the time of the mailing of the notice of allowance to reflect a determination of **121 days** of PTA. A copy of the adjusted PTA calculation is provided with this determination.

Applicants assert that the USPTO may have granted too much PTA at the time of the notice of allowance. Applicants request review of the PTA determination but did not provide any assert any specific reason for the discrepancy.

A review of the record reflects that applicants are correct. The Office entered the improper date for the submission of the RCE. The RCE was filed on May 16, 2007, not April 4, 2007 as entered into the PALM record. Accordingly, because the correct date of submission was beyond three months from the mail date of the final rejection, applicants should have been assessed a 42-day reduction under 37 CFR 1.704(b). In addition, applicants correctly received an additional reduction of 32 days under 37 CFR 1.704(b) for the submission of the RCE filed on November 27, 2006. There was no error in the assessment of 195 days of USPTO delay under 37 CFR 1.702(a)(1). Overall, the amount of PTA is 121(195-32-42=121).

The USPTO acknowledges that any delays pursuant to 37 CFR 1.702(a)(4) and 1.702(b) will be added at the time of the issuance of the patent and will be reflected in the PTA determination provided to applicant in the issue notification letter.

After the mailing of this decision, the Office will forward this application to the Office of Publications for a prompt issuance of the patent.

If applicant believes that the Office erred in calculating the PTA for reasons other than provided in this decision, applicant may provide further clarification as to the inaccuracy of such calculation.

Because applicants were providing good faith and candor notice as to the amount of PTA, no fee is being assessed.

Any questions concerning this decision should be directed to Kery Fries, Office of Patent Legal Administration, Office of Deputy Commissioner for Patent Examination Policy, at 571-272-7757.

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

cc: Adjusted PAIR calculation

Day : Wednesday

PALM INTRANET

Date: 3/19/2008
Time: 15:08:22

PTA Calculations for Application: 10/985898			
Application Filing Date:	11/12/2004	PTO Delay (PTO):	195
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	32
Post-Issue Petitions:	0	Total PTA (days):	121
PTO Delay Adjustment:	-42		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
54	03/19/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		42	
46	06/13/2007	MAIL NOTICE OF ALLOWANCE			
45	06/12/2007	ISSUE REVISION COMPLETED			
44	06/12/2007	DOCUMENT VERIFICATION			
43	06/12/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
42	06/12/2007	CASE DOCKETED TO EXAMINER IN GAU			
41	06/11/2007	NOTICE OF ALLOWABILITY			
40	05/23/2007	DATE FORWARDED TO EXAMINER			
39	04/04/2007	RCE- AF PROCESSED			
38	05/23/2007	DATE FORWARDED TO EXAMINER			
37	04/04/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
36	05/23/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
35	05/16/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
34	04/18/2007	MAIL ADVISORY ACTION (PTOL - 303)			
29	04/16/2007	ADVISORY ACTION (PTOL-303)			
28	04/09/2007	DATE FORWARDED TO EXAMINER			
27	04/04/2007	AMENDMENT AFTER FINAL REJECTION			
26	01/04/2007	MAIL FINAL REJECTION (PTOL - 326)			
25	12/26/2006	FINAL REJECTION			
24	12/08/2006	DATE FORWARDED TO EXAMINER			
23	11/27/2006	RESPONSE AFTER NON-FINAL ACTION		32	21
22	11/27/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
21	07/26/2006	MAIL NON-FINAL REJECTION	195		-1

20	07/21/2006	NON-FINAL REJECTION			
19	11/12/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
18	07/21/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
17	05/16/2006	CASE DOCKETED TO EXAMINER IN GAU			
16	03/30/2006	CASE DOCKETED TO EXAMINER IN GAU			
15.7	07/21/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	07/21/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	03/19/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
13	03/19/2005	CASE DOCKETED TO EXAMINER IN GAU			
12	11/12/2004	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
11.7	11/12/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	11/12/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	12/15/2004	APPLICATION RETURN FROM OIPE			
9	12/15/2004	APPLICATION RETURN TO OIPE			
8	12/15/2004	APPLICATION RETURN FROM OIPE			
7	12/15/2004	APPLICATION IS NOW COMPLETE			
6	12/15/2004	APPLICATION RETURN TO OIPE			
5	12/15/2004	APPLICATION DISPATCHED FROM OIPE			
4	12/15/2004	APPLICATION IS NOW COMPLETE			
3	12/10/2004	CLEARED BY OIPE CSR			
2	11/25/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	11/12/2004	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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OFFICE OF PETITIONS

In re Application of	:	
Yasushi Okabe	:	
Application No. 10/985,903	:	DECISION GRANTING PETITION
Filed: November 12, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 115213.01	:	

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 22, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2852 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed 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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Microsoft Corporation
One Microsoft Way
Redmond, WA 98052

Mail Date: 04/21/2010

Applicant	: David A. Matthews	: DECISION ON REQUEST FOR
Patent Number	: 7657842	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/985,919	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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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DICKSTEIN SHAPIRO LLP
1825 EYE STREET NW
WASHINGTON, DC 20006-5403

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APR 15 2008

OFFICE OF PETITIONS

In re Application of

Erez Braun, et al.
Application No. 10/985,961
Filed: November 12, 2004
Attorney Docket No. I8363.0001/P001-A

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 October 10, 2007.

The request is **APPROVED**.

A review of the file record indicates that Dickstein Shapiro, 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, Dickstein Shapiro 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.

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

There is an outstanding Office action mailed June 29, 2007 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: VOLPE AND KOENIG, PC
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

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SEP 1 1 2008

Erez Braun
Hagail Street 96
Nevo Shannon, Haifa 32684 IL
Israel

In re Application	:	
Erez Braun et al.	:	
Application No. 10/985,961	:	DECISION ON PETITION
Filed: November 12, 2004	:	
Attorney Docket No. RCP-PTO10	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed June 29, 2007, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 30, 2007. A Notice of Abandonment was mailed on June 19, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election, (2) the petition fee of $770, and (3) a proper statement of unintentional delay. Accordingly the response is accepted as being unintentionally delayed.

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

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 Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 1631 for appropriate action by the Examiner in the normal course of business on the reply received June 24, 2008.

Carl Friedman
Petitions Examiner
Office of Petitions

cc: Douglas J. Bucklin
Volpe and Koenig, PC
United Plaza, Suite 1600
30 South 17th Street
Philadelphia, PA 19103

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KENYON & KENYON LLP
1500 K STREET NW
SUITE 700
WASHINGTON, DC 20005

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JAN 16 2007

OFFICE OF PETITIONS

In re Application of Masaharu Ichise et al Application No. 10/985,962 Filed: November 12, 2004 Attorney Docket No. 960/161	DECISION GRANTING PETITION UNDER 37 CFR 1.313(c)(2)

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 December 14, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3748 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

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Date : October 16, 2007

Patent No. :7,245,369
Inventor(s) :Sean Xiaoulu Wang et al.
Issued :July 17, 2007
Title :SPECTROSCOPIC APPARATUS USIN GSPECTRUM NARROWED AND STABILIZED
:LASER WITH BRAGG GRATTING
Docket No. :119574-00118

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;

B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and

C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.

See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.

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

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

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

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

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

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

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

Blank Rome LLP
600 New Hampshire Avenue, N.W.
Washington DC 20037

CBN/arg

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

Mail Date: 04/21/2010

Applicant	: Philippe Msika	: DECISION ON REQUEST FOR
Patent Number	: 7638149	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/985,988	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **161** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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SUGHRUE MION PLLC
USPTO CUSTOMER NO WITH IBM/SVL
2100 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, DC 20037

Mail Date: 04/21/2010

Applicant	: Cheryl A. Leone	: DECISION ON REQUEST FOR
Patent Number	: 7607176	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/985,989	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1043** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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John C. McMahon
PO Box 30069
Kansas City, MO 64112

Mail Date: 04/21/2010

Applicant	: Roger P. Jackson	: DECISION ON REQUEST FOR
Patent Number	: 7572279	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/985,992	: OF WYETH
Filed	: 11/10/2004	:
		:

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

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

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

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

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

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

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

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

or

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

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

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

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

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

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FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3800

In re Application of	:	
Tadashi Hagiuda	:	DECISION ON REQUEST TO
Application No. 10/986008	:	PARTICIPATE IN PATENT
Filed: 11/12/2004	:	PROSECUTION HIGHWAY
Attorney Docket No. 03500.102874.	:	PILOT PROGRAM AND PETITION
	:	TO MAKE SPECIAL UNDER
	:	37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed 10/30/2006, to make the above-identified application special.

The request and petition are **DISMISSED**.

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

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

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

A. Item 3 above. Specifically,

1) Claim 1 amended in the pre-amendment filed 10/30/06 recites "a first network group identifier acquiring step...or a network group identifier based on said group identifier" whereas claim 1 in the "Decision to Grant a Patent" of the JPO application recites "a first network group identifier acquiring step...or a network group identifier based thereon". Based on the translation of the JPO application from the Dossier Access System and the original filing of the US application, it indicates the underlined language should be "said installing step", not the "said group identifier".

2) The limitation of "a second network group identifier acquiring step for acquiring, in accordance with the printing request, a group identifier of the network to which the user is connected or a network group identifier" of claim 1 as amended in the pre-amendment filed 10/30/06 does not substantially correspond to the same limitation which recites "a second network group identifier acquiring step for acquiring, in accordance with the printing request, a group identifier of the network to which the user is connected or a network group identifier based thereon".

B. Item 6 above, Specifically,

The IDS filed on 10/30/06 with 2 non-U.S. patent documents, which stated that the documents were cited during prosecution of a Japanese application corresponding to the above-identified application, namely Japan 2003-385165. From the Dossier Access System, the Search Report, the Assessment on Search Report by Designated Searching Authority, and the Decision to Grant a Patent of the above JPO application did not show that the above 2 JPO documents cited in IDS were part of the prosecution.

Applicant is given a time period of **ONE MONTH or THIRTY DAYS**, whichever is longer, to correct the deficiencies. **NO EXTENSION OF TIME UNDER 37 CFR 1.136 IS PERMITTED.** If the deficiencies are not corrected with the time period given, the application will await action in its regular turn.

Response must be faxed to John Peng at 571-273-7272 (RightFax) or 571-273-0308.

Telephone inquiries concerning this decision should be directed to John Peng at 571-272-7272.

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

John Peng
TC 2600
Quality Assurance Specialist

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FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3800

In re Application of Tadashi Hagiuda Application No. 10/986008 Filed: November 12, 2004 Attorney Docket No. 03500.102874.	:	DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PILOT PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed December 1, 2006, to make the above-identified application special.

The request and petition are **GRANTED**.

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

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to John Peng at 571-272-7272.

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

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

John Peng
TC 2600
Quality Assurance Specialist

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

Mail Date: 04/21/2010

Applicant	: Yee Ling Cheung	: DECISION ON REQUEST FOR
Patent Number	: 7587181	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/986,020	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1335** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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	:
Harumi Okuno et al	:
Application No. 10/986,033	: DECISION GRANTING PETITION
Filed: November 12, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 12480-000075/US	:

This is a decision on the petition, filed August 11, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 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) 272-3218.

This matter is being referred to Technology Center AU 2824 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the 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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MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20004

Mail Date: 04/21/2010

Applicant	: Frederick William Cain	: DECISION ON REQUEST FOR
Patent Number	: 7611744	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/986,044	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1119** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Pearl Cohen Zedek Latzer, LLP
1500 Broadway
12th Floor
New York, NY 10036

Mail Date: 05/21/2010

Applicant	: Robert D. Rosenberg	: DECISION ON REQUEST FOR
Patent Number	: 7655445	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/986,058	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **894** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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Case 7408

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of :

Carlos Alberto Ignacio CINQUINI et al. :

Serial No. 10/986,079 :

Filed: November 12, 2004 :

For: HIGHLY ABSORBABLE TASTE AND ODOR FREE ORGANIC NUTRITIONAL SUPPLEMENT MADE FROM FOOD BY PRODUCTS AND MIXABLE WITH SOLIDS AND LIQUIDS, AND METHOD OF MAKING SUCH :

PETITION TO MAKE SPECIAL UNDER 37 C.F.R. §1.102(C) BASED ON MATERIALLY ENHANCING THE QUALITY OF THE ENVIRONMENT

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

Dear Sir:

Applicant hereby requestS that the above-identified patent application be made special both now and throughout the examination process under 37 C.F.R. 1.102(C) based on Applicant's invention materially enhancing the quality of the environment by contributing to the maintenance, and indeed, restoration of the natural elements of at least water and soil.

Applicant's claimed inventive process and product maintain and enhance the quality of the environment.

PETITION GRANTED

R Crispino

Richard Crispino
Special Program Examiner
TC 1700 APR 12 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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BENESCH, FRIEDLANDER, COPLAN & ARONOFF LLP
ATTN: IP DEPARTMENT DOCKET CLERK
2300 BP TOWER, 200 PUBLIC SQUARE
CLEVELAND OH 44114

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OCT 0 2 2006

OFFICE OF PETITIONS

In re Application of
Evelyna D. Cantwell et al
Application No. 10/986,101
Filed: November 10, 2004
Attorney Docket No. 28509-4

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 July 14, 2005.

The petition 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 because clarification is required in view of the letter received from applicant on July 15, 2005.

All communications from the Office will continue to be directed to the above address of record until otherwise properly notified by applicant/assignee.

This application is being referred to Technology Center AU 1615 for examination in due course.

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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CLEVELAND OH 44114-2378

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In re Application of	:	
Evelyna d. Cantwell, et al.	:	
Application No. 10/986,101	:	DECISION ON PETITION
Filed: November 10, 2004	:	
Attorney Docket No. 28509-4	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 9, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed October 16, 2007, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on November 17, 2007. The Notice of Abandonment was mailed June 5, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election, (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.

The Revocation Power of Attorney that was filed on December 5, 2005 was not accepted because it was filed by an assignee and the certificate required by 37 CFR 3.73(b) has not been received.

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

This application is being referred to Technology Center AU 1615 for appropriate action by the Examiner in the normal course of business on the reply received.

Terri Johnson
Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Norman E. Lehrer**
1205 North Kings Highway
Cherry Hill, NJ 08034

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NORMAN E. LEHRER, P.C.
1205 NORTH KINGS HIGHWAY
CHERRY HILL NJ 08034

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OFFICE OF PETITIONS

In re Application of	:	
Evelyna D. Cantwell et al.	:	
Application No. 10/986,101	:	DECISION ON PETITION
Filed: November 10, 2004	:	TO WITHDRAW
Attorney Docket No. 28509-4	:	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 June 22, 2010.

The request is **APPROVED**.

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

The request was signed by Vanitha M. Elgart, former attorney/agent associated with customer number 34678. Vanitha M. Elgart has been withdrawn. All other attorneys/agents will remain of record.

The correspondence address will remain the same until further notified by applicant.

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

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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NOV 21 2005

ROBERT F. DELBRIDGE
GOWLING LAFLEUR HENDERSON LLP
P.O. BOX 1045, LCD 1
560-120 KING STREET WEST
HAMILTON,
L8N 4R3
CANADA

In re application of	:	**DECISION ON PETITION**
Daniel D. Kewin	:	**TO MAKE SPECIAL**
Application No. 10/986,116	:	**(APPLICANT'S AGE)**
Filed: November 12, 2004	:	
For: METHOD OF REFURBISHING USED HOLLOW CYLINDRICAL CORE MEMBERS OF PAPERBOARD MATERIAL FOR ROLLS OF PAPER OR OTHER SHEET METERIAL		

This is a decision on the petition submitted on July 20, 2005 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

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

The evidence submitted with the petition is a signed declaration indicating Mr. Kewin is at least 65 years of age.

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

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

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

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(571) 272-6587

KJD/slb: 11/04/05

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BRAKE HUGHES BELLERMANN LLP
c/o CPA Global
P.O. Box 52050
Minneapolis, MN 55402

Mail Date: 04/20/2010

Applicant	: Meng-An Pan	: DECISION ON REQUEST FOR
Patent Number	: 7616931	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/986,141	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1223** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Application of :
Yoshida :
Application No. 10/986,142 : DECISION
Filed/Deposited: 12 November, 2004 :
Attorney Docket No. 1075.1308 :

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 8 October, 2008, with reply due absent extension of time on or before 8 January, 2009.

The application went abandoned by operation of law after midnight 8 January, 2009.

The Office mailed the Notice of Abandonment on 12 May, 2009.

On 1 June, 2009, Petitioner Aaron Walker (Reg. 59,921) (Petitioner) filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181 and an averment of non-receipt, with a copy of the due-date docket/calendar for the firm and a statement by Joseph Berry (Mr. Berry), the manager of the firm docket department. However, Petitioner made no showing to comply with the requirements expressly set forth in the guidance in the Commentary at MPEP §711.03(c)(I) requiring:

- a copy, *inter alia,* of the Petitioner's/firm due-date docket/calendar 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 in pertinent part:

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> 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 then seek to 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.

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

---

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).

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. 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.

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[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.))

[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).

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

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.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/986,142	11/12/2004	Toshio Yoshida	1075.1308	5395

21171 7590 10/08/2008
STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

EXAMINER
COLEMAN, ERIC

ART UNIT	PAPER NUMBER
2183	

MAIL DATE	DELIVERY MODE
10/08/2008	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)	
	10/986,142	YOSHIDA, TOSHIO	
	Examiner	Art Unit	
	Eric Coleman	2183	

– 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 June 2008.

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) 1,3-5,8,10-12,14-16 and 18-22 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) 1,3-5,8,10-12,14-16 and 18-22 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 _____ 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 _____.

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

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. 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.

. Claims 1, 3, 8,10,11,20 rejected under 35 U.S.C. 103(a) as being unpatentable over Olson (patent No. 7,216,216) in view of Nation (patent No. 6,233,599.

Olson taught the invention substantially as claimed including a data processing ("DP") system comprising:

a) Multi-threaded processor which carries out a plurality of thread in parallel through the use of one or more arithmetic units (e.g., see figs. 1,2, 3,6 and col. 2, lines 40-64);

b) A plurality of register windows each provided for each of the threads and made to store data to be used for instruction processing in the arithmetic unit (e.g., see fig. 4, 8 and col. 12, line 49-col. 13, line 3 and col. 11,lines 18-35);

c) Work register made to mutually transfer the data with respect to the plurality of register windows and the arithmetic unit (in registers 302, out registers 304) (e.g., see col. 13, lines 9-58 and col. 17, line 66-col. 18, line 20) the work register (in and out registers) shared by the plurality of register windows (e.g., see col. 14, lines 21-43) and occupied by one of the plurality of thread at a time (e.g., see 14, lines 4-col. 15, line 30); and

d) A multithread control unit (330) for controlling data transfer among the plurality of register windows, said work register and the arithmetic unit on the basis of an execution thread identifier for identifying the thread that is executed in the arithmetic unit (e.g., see fig. 7, col. 17 line 66-col. 18, line 20 and col. 16, line 8-27).[the register file has swap control interface that may include a thread ID, an old window pointer and new window pointer for use in swapping register indicating the states to be restored to active registers where the active registers are the registers used by the execution unit].

Olson also taught a multithread control unit carries out register data update at the completion of an instruction in the arithmetic unit with respect to said work register (e.g., see col. 16, lines 8-20) and said register window corresponding to said thread related to the instruction completion (e.g., see col. 14, lines 4-20 and col. 16, lines 28-49)[the execution results are used to update the registers of the register file including active registers which are registers in the current window)(e.g., see col. 13, lines 43-58 and col. 17, lines 17-39).

Olson did not expressly detail the mutual transfer of data comprised data identifying the thread to be executed. Nation however taught transfer from one register that stores thread ready to be executed status data for one thread to a second register that stores ready to be executed status data for another thread (e.g., see col. 11, lines 45-67 and col. 13, line 32-col. 14, line 64 and col. 9, lines 41-67) .

It would have been obvious to one of ordinary skill in the DP art to combine the teachings of Olson and Nation. Both references were directed toward the problems of switching threads in a DP system. One of ordinary skill would have been motivated to

incorporate the Nation teachings of a transferring data between the threads using a status register at least to ensure the thread status was properly conveyed to the next ready thread (e.g., see col. 9 lines 40-67 of Nation).

2. Olson taught the multithread control unit carries out register data update at the completion of an instruction in the arithmetic unit with respect to the work register and the register window corresponding to the thread related to the instruction completion (e.g., see col. 17, lines 16-39).

3. As to claim 3, Olson taught Olson taught when making the switching on the thread which is an object of processing in the arithmetic unit, the multithread control unit controls the data transfer so that the updated data is transferred from the register window corresponding to the thread, which becomes an object of execution after the switching, to the work register (e.g., see col. 13, lines 43-58 and col. 14, lines 21-43)[as understood the original thread (where the original thread is subsequently returned to) is the object of the of execution of the thread that is switched to].

4. As per claims 8,10-11 Olson taught a first register (304) made to store data on, of the plurality of threads an execution object thread to be executed by the arithmetic unit by the arithmetic unit; second register(302) (e.g., see col.13, lines 9-57) made to mutually transfer the data with respect to the first register and made to store data on of the plurality of threads, a halt thread other than execution object thread, with the second register being equal in number to the halt threads; and register control unit for controlling data transfer between the second register and the first register (e.g., see figs. 3,4, col. 5, lines 45-67).

5. As per claims 20, Olson taught Register control method for use in a multithreaded processor which carries out a plurality of threads in parallel through the use of one or more arithmetic units (e.g., see figs. 1,2, 3,6 and col. 2, lines 40-64); including a plurality of register windows each provided for each of the threads and made to store data to be used for instruction processing in the arithmetic unit (e.g., see fig. 4, 8 and col. 12, line 49-col. 13, line 3 and col. 11,lines 18-35); and a work register made to mutually transfer the data with respect to a plurality of register windows and the arithmetic unit (in registers 302, out registers 304) (e.g., see col. 13, lines 9-58 and col. 17, line 66-col. 18, line 20. Further as per claim 20, Olson taught register updating step of carrying out register update at the completion of an instruction in the arithmetic unit with respect to both the work register and the register window corresponding to the thread related to the instruction completion (e.g., see col. 17, lines 16-39); Further to claims 20,22, Olson taught Olson taught when making the switching on the thread which is an object of processing in the arithmetic unit, transferring the data, updated in the updating step, from the register window corresponding to the thread, which becomes an object of execution after the switching, to the work register (e.g., see col. 13, lines 43-58 and col. 14, lines 21-43)[as understood the original thread (where the original thread is subsequently returned to) is the object of the of execution of the thread that is switched to].

6. Olson also taught the work register (in and out registers) shared by the plurality of register windows (e.g., see col. 14, lines 21-43) and occupied by one of the plurality of thread at a time (e.g., see 14, lines 4-col. 15, line 30).

7. Olson did not expressly detail (claim 20) that the transfer was between the windows (i.e., window of plural threads). Nation however taught a thread status register for transferring status between threads (e.g., see col. 11, lines 45-67 and col. 13, line 32-col. 14, line 64 and col. 9, lines 41-67) .

It would have been obvious to one of ordinary skill in the DP art to combine the teachings of Olson and Nation. Both references were directed toward the problems of switching threads in a DP system. One of ordinary skill would have been motivated to incorporate the Nation teachings of a transferring data between the threads using a status register at least to ensure the thread status was properly conveyed to the next ready thread (e.g., see col. 9 lines 40-67 of Nation).

8. Claims 4,21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Olson (patent No. 7,216,216) and Nation as applied to claims 1,3 ,20above, and further in view of Bush (patent No. 6,842,853).

9. As to claim 4,21 Bush taught the stall step of making the switching on the thread which is an object of processing in the arithmetic unit, the multithread control unit stalls an execution pipeline in an instruction decoding stage until the transfer on the data from the register window corresponding to the thread, which becomes an object of execution after switching, to the work register reaches completion and the data becomes readable from the work register by the arithmetic unit (e.g., see col. 7, line 28-col. 8, line 21)[the pipeline is stalled so since the decoding portion is part of the pipeline then the decoding portion is stalled].

10. It would have been obvious to one of ordinary skill in the DP art to combine the teachings of Olson and Bush. Both references were directed to the problems controlling execution sequences and register file access in a multithreaded processor. One of ordinary skill would have been motivated incorporate the Bush teachings of stalling a current thread that for medication of register window parameters at least to ensure that the correct data is available during processing of a thread.

11. Claims 12,14-16,18,19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Olson(patent No. 7,216,216) and Nation, as applied to claims 1,3,8,10,11 above, and further in view of Rodgers (patent application publication No. 2003/0061258).

12. As per claim 12,14-15, Rodgers taught a register identification table (RAT e.g., see figs. 4,5), prepared in a state where the halt thread and the second register storing the data one the halt thread are associated with each other so that the register control controls the data transfer by referring to the register identification table (e.g., see paragraphs 0062-0064 and paragraphs 0116-0018).

13. As per claim 16,18,19 Rodgers taught Rodgers taught when making the switching on the thread which is an object of processing in the arithmetic unit, the register control unit refers to the register identification table to select the second register corresponding to the thread which becomes an object of execution after switching so that the data stored in the selected second register and the data stored in the first register are interchanged with each other and the register identification table is

updated on the basis of a result of the data interchange (e.g., see paragraphs 0116-0123 and paragraphs 0127-0132).

14. It would have been obvious to one of ordinary skill in the DP art to combine the teachings of Olson and Rodgers. Both references were directed toward the problems of controlling execution sequences a register file access in a multithreaded processor. One of ordinary skill would have been motivated to incorporate the Rodgers teachings a register identification table at least to facilitate the switching of data between threads when threads one thread would have access to data produced by another thread.

15. Claims 22 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Olson (patent No. 7,216,216) in view of Nation and Rodgers (patent application publication No. 2003/0061258).

16. As per claim 22, Olson taught Register control method for use in a multithreaded processor which carries out a plurality of threads in parallel through the use of one or more arithmetic units (e.g., see figs. 1,2, 3,6 and col. 2, lines 40-64). A first register made to store data on (304), of the plurality of threads, an execution object thread to be executed by the arithmetic unit and a second register(302) made to mutually transfer the data with respect to the first register made to store data on, of the plurality of threads) (e.g., see col.13, lines 9-57, a halt thread other than the execution object thread, with the second register being equal in number to the halt thread(e.g., see figs. 3,,4, col. 5, lines 45-67): , Olson did not expressly detail the quantity of halt thread registers was equal to the quantity of halt threads. Nation however taught this limitation (e.g., see col. 11, lines 45-67 and col. 13, line 32-col. 14, line 64 , and col. 9, lines 41-

67)[the overall status register comprises the same quantity of registers as the halt thread that is to be executed next].

17. It would have been obvious to one of ordinary skill in the DP art to combine the teachings of Olson and Nation. Both references were directed toward the problems of switching threads in a DP system. One of ordinary skill would have been motivated to incorporate the Nation teachings of a transferring data between the threads using a status register at least to ensure the thread status was properly conveyed to the next ready thread (e.g., see col. 9 lines 40-67 of Nation).

18. Olson did not expressly detail a register identification table Rodgers taught a register control method comprising a selection step, in making switching of the thread which is an object of processing in the arithmetic unit, selecting the second register corresponding to the thread which becomes an object of execution after the switching by referring to a register identification table prepared in a state where the halt thread and the second register storing the data on the halt thread are associated with each other (e.g., see paragraphs 0116-0123 and paragraphs 0127-0132). Olson taught an interchange step of interchanging the data stored in the second register selected in the selection step with the data stored in the first register (e.g., see col. 13, lines 43-58 and col. 14, lines 21-43); and Rodgers taught update step of updating the register identification table on the basis of a result of the interchange in the interchange step (e.g., see paragraphs 0116-0123 and paragraphs 0127-0132 and fig. 11a).

19. Rodgers also taught managing the thread number of said halt thread and a storage position of a halt processor status register related to said halt thread in association with each other (e.g., see paragraphs 0139-143, 0127-0132)

20. It would have been obvious to one of ordinary skill in the DP art to combine the teachings of Olson and Rodgers. Both references were directed toward the problems of controlling execution sequences a register file access in a multithreaded processor. One of ordinary skill would have been motivated to incorporate the Rodgers teachings a register identification table at least to facilitate the switching of data between threads when threads one thread would have access to data produced by another thread.

21. As to the limitations of claim 5, Rodgers taught a register identification table Rodgers also taught managing the thread number of said halt thread and a storage position of a halt processor status register related to said halt thread in association with each other (e.g., see paragraphs 0139-143, 0127-0132) prepared in a state where said halt thread and said second register storing said data on said halt thread are associated with each other so that said register control unit controls the data transfer by referring to said register identification table (e.g., see paragraphs 0145-0148) . Olson taught where in when making the switching on said thread which is an object of processing in said arithmetic unit said register control unit refers to said register identification to select said second register corresponding to said thread which becomes an object of execution after the switching so that said data stored in the selected second register and said data stored in said first register are interchanged with each other and said register identification is updated on the basis of a result on the data interchange). (e.g.,

see fig. 7, col. 17 line 66-col. 18, line 20 and col. 16, line 8-27)[the register file has swap control interface that may include a thread ID, an old window pointer and new window pointer for use in swapping register indicating the states to be restored to active registers where the active registers are the registers used by the execution unit]. Olson did not expressly detail a register identification was included in a table. Rodger however taught this limitation (e.g., see paragraphs 0139-0143 and 0127-0132).

Response to Arguments

Applicant's arguments filed 6/20/08 have been fully considered but they are not persuasive.

The rejection set forth in the last office action is hereby maintained and due to the changes in the claims the rejections have been correspondingly updated and clarified using the same art used in last office action.

The applicant argues in substance that the features of the claims were not taught by cited references as the Applicant details portions of the claimed claim language in the arguments. The Examiner contends that the cited references taught the claimed features as discussed in the rejections above.

The applicant argues in substance that Olson does not write the execution result into a register window and claim 1 does not limit itself to recording the execution results to save and restore instructions but allegedly writes execution results of any integer instruction into both the work register and the register window.

As to these limitations the Examiner contends that Olson does write execution results into a register window as detailed in the rejection above (e.g., see col. 14, lines 4-20 and col. 16, lines 28-49 of Olson)[the execution results are used to update the registers of the register file including active registers which are registers in the current window)(e.g., see col. 13, lines 43-58 and col. 17, lines 17-39). The Examiner contends that the Olson reference provides a system that does not limit the type of instruction that writes instruction results to the register window. The registers of the current window are the registers used to output the results of any instruction including arithmetic results.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hidaka, Y etal. , (IEEE article entitled Multiple Threads in Cyclic Register Windows).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Coleman whose telephone number is (571) 272-4163. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eddie Chan can be reached on (571) 272-4162. 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.

EC

/Eric Coleman/
Primary Examiner, Art Unit 2183

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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Application of :
Yoshida :
Application No. 10/986,142 : DECISION
Filed/Deposited: 12 November, 2004 :
Attorney Docket No. 1075.1308 :

This is a decision on the petition filed on 21 August, 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.

> **NOTE:** Petitioner appears to ignore the guidance in the Commentary at MPEP §711.03(c)(I), and places into the record, for a second time, documentation not required (i.e., "listing [of] all PTO mail received between October 8, 2008, and October 15, 2008."). The Office places limited requirements on the documentation required herein—to wit: a copy of the docket sheet for the application and a copy of the reply due date calendar for the firm.

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 (copy enclosed) mailed on 8 October, 2008, with reply due absent extension of time on or before 8 January, 2009.

The application went abandoned by operation of law after midnight 8 January, 2009.

The Office mailed the Notice of Abandonment on 12 May, 2009.

On 1 June, 2009, Petitioner Aaron Walker (Reg. 59,921) (Petitioner) filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181 and an averment of non-receipt, with a copy of the due-date docket/calendar for the firm and a statement by Joseph Berry (Mr. Berry), the manager of the firm docket department. However, Petitioner made no showing to comply with the requirements expressly set forth in the guidance in the Commentary at MPEP §711.03(c)(I) requiring:

- a copy, *inter alia,* of the Petitioner's/firm due-date docket/calendar <u>and</u> 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 21 August, Petitioner re-advanced his petition, and provided statements and supporting documentation consistent with the guidance in the Commentary at MPEP 711.03(c)(I). That guidance provides in pertinent part:

***

> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. <u>The statement should establish that the docketing system is sufficiently reliable</u>. 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 <u>was not received at the correspondence address of record</u>, and <u>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</u>. 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 and when it is to be made and supported.

Petitioner appears to have made the showing required.

CONCLUSION

Accordingly, the petition as considered under 37 C.F.R. §1.181 is **granted** and the 12 May, 2009, Notice of Abandonment is **vacated**.

The instant application is released to the Technology Center/AU 2183 for further processing in due course, to include the re-mailing of the Office action in question.

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.

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[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.

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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

COPY MAILED
MAR 12 2010

In re Application of	:	
Hiroshi Miyazaki	:	
Application No. 10/986,146	:	DECISION GRANTING PETITION
Filed: November 12, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1566.1011	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 3, 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 26, 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 concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2825 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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Staas & Halsey LLP
Suite 700
1201 New York Avenue, N. W.
Washington DC 20005

In re Application of:
Young-ran Son
Application No. 10/986,155
Filed: November 12, 2004
For: Method and Apparatus for Processing Large Amount of Cookies

DECISION ON PETITION UNDER 37 C.F.R. § 1.181

This is a decision on the petition filed November 09, 2009 under 37 CFR § 1.181 to invoke Supervisory Authority of the Commissioner and require the Examiner to withdraw the Finality of the rejection mailed September 9, 2009.

The petition is **DISMISSED AS MOOT**.

On November 09, 2009, applicant's counsel filed a petition to the Director under 37 CFR § 1.181 to seek relief from actions of the examiner in relation to the Final Office action mailed September 9, 2009. In the petition, applicant's counsel alleged that the amendment of May 12, 2009 would not necessitate a new grounds of rejection of claims 8, 15 and 20 under 35 U.S.C. § 103 including Hess (NPL document) as these claims were not amended and that Hess was additionally not cited on a IDS with a certificate and fee; thus rendering the Finality of Office action premature.

On November 24, 2009, an office action was mailed out indicating that the finality of the September 9, 2009 action is withdrawn.

Accordingly, the petition is **DISMISSED AS MOOT.**

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3612. A second point of contact is QAS Kim Huynh who can be reached at (571) 272-4147.

Tod Swann
Workgroup Quality Assurance Specialist
Technology Center 2400

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BANNER & WITCOFF
1001 G STREET N W
SUITE 1100
WASHINGTON, DC 20001

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AUG 09 2006

OFFICE OF PETITIONS

In re Application of:	:	
Kilgore et al.	:	
Application No. 10/986,166	:	DECISION GRANTING
Filed: November 12, 2004	:	PETITION UNDER
Title of Invention:	:	37 CFR 1.48
FOOTWEAR INCLUDING REPLACEABLE	:	
OUTSOLE MEMBERS	:	

This is a decision on the Petition under 37 CFR 1.182, filed July 6, 2005, to change the order of the names of the inventors.

The Petition is **granted**.

The order of the names of the inventors has been changed as follows:

1. Bruce J. Kilgore
2. Thomas Berend
3. Anthony Carl Dean
4. Anthony P. Daversa
5. Lawrence P. Eisenbach

This application is being referred to Technology Center 3728 for continued examination in due course.

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

Derek L. Woods
Attorney
Office of Petitions

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AUG 09 2006

OFFICE OF PETITIONS

In re Application of:	:	
Kilgore et al.	:	
Application No. 10/986,166	:	DECISION GRANTING
Filed: November 12, 2004	:	PETITION UNDER
Title of Invention:	:	37 CFR 1.48
FOOTWEAR INCLUDING REPLACEABLE	:	
OUTSOLE MEMBERS	:	

This is in response to the Petition to Change Inventorship Under 37 CFR 1.48(a), filed July 6, 2005, to change the inventive entity in the above application. The delay in treating this petition is regretted.

Applicant asserts that through error, and without deceptive intent, that inventors Anthony P. Daversa and Lawrence P. Eisenbach were not joined in the original application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.48(a).

The petition is **granted**.

Office records have been corrected to reflect the addition of inventor Ghassan E. Jabbour.

A Decision on the petition to change the order of inventors is being mailed on even date.

The application is being referred to Technology Center Art Unit 3728 for continued examination.

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

Derek L. Woods
Attorney
Office of Petitions

DECISION ON PETITION ROUTING SLIP

Application No.: 10986193

Art Unit: 2863

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 ____ and the decision in PALM
- ☑ Other

You can just enter the decision as a miscellaneous outgoing letter.

For TECH Support Staff:

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

SPRE No. 1:	SPRE No. 2:	SPRE No. 3:	SPRE No. 4:
Hien Phan SPRE Jeff-8D55 (571) 272-1606	Jose Dees SPRE Jeff-8D59 (571)272-1569	Clayton E. LaBalle SPRE Jeff-8D51 (571) 272-1594	Ed Westin SPRE Jeff-8D65 (571)272-1638

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/986,193	11/12/2004	Dana C. Fagerstrom	06502.0621	6843

60667 7590 11/16/2007
SUN MICROSYSTEMS/FINNEGAN, HENDERSON LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

EXAMINER
LAU, TUNG S

ART UNIT	PAPER NUMBER
2863	

MAIL DATE	DELIVERY MODE
11/16/2007	PAPER

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

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

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Sun Microsystems/Finnegan, Henderson LLP
901 New York Avenue, NW
Washington DC 20001-4413

NOV 16 2007

In re Application of:
Dana C. Fagerstrom
Serial No.: 10/986,193
Filed: November 12, 2004
Attorney Docket No.: 06502.0621

DECISION
ACCEPTING PAPERS

This is a decision accepting the response filed on March 14, 2007 for S.N. 10/986,196 into the file for S.N. 10/986,193.

In response to a telephone call from the examiner to check on the status of S.N. 10/986,193, applicant filed papers on September 26, 2007 which indicated that a response to the Restriction Requirement mailed on March 14, 2007 was filed on March 27, 2007 but had S.N. 10/986,196 on it instead of S.N. 10/986,193.

A review of the file for S.N. 10/986,196 revealed that the above-mentioned response to the Restriction Requirement was in the file. Although the response had the incorrect Serial Number and indicated a plurality of inventors while S.N. 10/986,193 only has one inventor, the rest of the information, such as the inventor's name, the filing date, the attorney docket number and the title, was correct. The combination of information should have been sufficient to match the response to S.N. 10/986,193.

Accordingly, the above-mentioned response will be transferred from the file for S.N. 10/986,196 into the file for S.N. 10/986,193 and the examiner will prepare an Office action based upon the response.

Any inquiries regarding this decision should be directed to Edward Westin at (571) 272-1638.

Edward Westin for

Janice A. Falcone, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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OFFICE OF PETITIONS

In re Application	:	
S. Brad Herner	:	
Application No. 10/986,196	:	DECISION ON APPLICATION
Filed: November 12, 2004	:	FOR PATENT TERM ADJUSTMENT
Atty Docket No. 035905-0140	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)", filed September 13, 2007. Applicant requests that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from two hundred seventy (270) days to two hundred ninety-two (292) days.

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

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **two hundred ninety-two (292) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On July 19, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above identified application. The Notice stated that the patent term adjustment

(PTA) to date is two hundred seventy (270) days. On September 13, 2007, Applicant timely[1] submitted the instant application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is two hundred ninety-two (292) days.

Applicant asserts entitlement to a patent term adjustment of two hundred ninety-two (292) days on the basis that the PTO improperly assessed Applicant a delay of twenty-two (22) days for responding to a February 6, 2007 non-final Office action by filing a Supplemental Response on April 18, 2007, after Applicant had already filed a response on March 27, 2007. Applicant asserts that his first reply was the April 18, 2007 response, and explains that the March 27, 2007 response was filed by another law firm, but because it included a typographical error in the serial number, was matched up with the instant application.

Applicant fails to state whether the patent issuing from the application is subject to a terminal disclaimer.

The Office initially determined a patent term adjustment of two hundred seventy (270) days based on an adjustment for PTO delay of two hundred ninety-two (292) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by Applicant's delay of twenty-two (22) days pursuant to 35 U.S.C. 154(b)(2)(C)(iii) and 37 C.F.R. § 1.704(c)(8). The adjustment of twenty-two (22) days is at issue.

The adjustment of twenty-two (22) days has been found to be incorrect. A review of the file reveals that the reply filed on March 27, 2007 was not filed by Applicant. Rather, it was filed by a different law firm and was intended for another application, but because of a typographical error in the serial number, was matched up with the instant application. Accordingly, Applicant should not have been assessed delay pursuant to 37 C.F.R. § 1.704(c)(8) for filing a response on April 18, 2007.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **two hundred ninety-two (292) days** (292 days of PTO delay and 0 days of applicant delay).

Receipt of the $200.00 fee set forth in 37 C.F.R. § 1.18(e) is acknowledged.

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[1] Applicant filed the application for patent term adjustment together with payment of the issue fee.

The matter is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Revised PAIR Screen

PALM INTRANET

Day : Sunday
Date: 1/6/2008
Time: 19:54:38

PTA Calculations for Application: 10/986196			
Application Filing Date:	11/12/2004	PTO Delay (PTO):	292
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	22
Post-Issue Petitions:	0	Total PTA (days):	292
PTO Delay Adjustment:	22		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
39	01/06/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	22		
32	07/19/2007	MAIL NOTICE OF ALLOWANCE			
31	07/19/2007	MAIL EXAMINER'S AMENDMENT			
30	07/18/2007	ISSUE REVISION COMPLETED			
29	07/10/2007	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
28	07/10/2007	DOCUMENT VERIFICATION			
27	07/10/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
26	07/09/2007	EXAMINER'S AMENDMENT COMMUNICATION			
25	07/09/2007	NOTICE OF ALLOWABILITY			
24	05/04/2007	DATE FORWARDED TO EXAMINER			
23	04/18/2007	SUPPLEMENTAL RESPONSE		22	21
22	04/06/2007	DATE FORWARDED TO EXAMINER			
21	03/27/2007	RESPONSE AFTER NON-FINAL ACTION			
20	02/06/2007	MAIL NON-FINAL REJECTION			
19	02/05/2007	NON-FINAL REJECTION			
18	08/12/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
17	12/01/2006	DATE FORWARDED TO EXAMINER			
16	11/20/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
15	10/31/2006	MAIL RESTRICTION REQUIREMENT	292		-1
14	10/30/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
13	03/27/2006	CASE DOCKETED TO EXAMINER IN GAU			
12	08/12/2005	REFERENCE CAPTURE ON IDS			
11.7	08/12/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
		INFORMATION DISCLOSURE STATEMENT (IDS)			

11	08/12/2005	FILED			
10	02/23/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
9	02/23/2005	CASE DOCKETED TO EXAMINER IN GAU			
8	02/16/2005	APPLICATION RETURN FROM OIPE			
7	02/16/2005	APPLICATION RETURN TO OIPE			
6	02/16/2005	APPLICATION DISPATCHED FROM OIPE			
5	02/16/2005	APPLICATION IS NOW COMPLETE			
4	02/10/2005	CLEARED BY L&R (LARS)			
3	12/07/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
2	11/29/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	11/12/2004	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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DALLAS, TX 75202

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OFFICE OF PETITIONS

In re Application of	:
Kenneth R. Johnson et al	:
Application No. 10/986,239	: DECISION GRANTING PETITION
Filed: November 11, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 45488-00004USPT	:

This is a decision on the petition, filed February 21, 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 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) 272-3218.

This matter is being referred to Technology Center AU 3618 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

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DINSMORE & SHOHL LLP
ONE DAYTON CENTRE
SUITE 1300
ONE SOUTH MAIN STREET
DAYTON OH 45402-2023

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FEB 15 2005

OFFICE OF PETITIONS

In re Application of	:
Luan Tran	:DECISION GRANTING FILING
Application No. 10/986,246	:DATE OF **November 10, 2004**
Filed: November 10, 2004	:
Attorney Docket No. MIO 0033 V4	:

This is a decision on the petition filed January 27, 2005, requesting that the above-identified application be accorded a filing date of November 10, 2004 rather than the presently accorded date of November 11, 2004.

Petitioner requests the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on November 10, 2004 pursuant to 37 CFR 1.10. In support, petitioner has submitted a copy of Express Mail label No. EV512507487US showing a stamped date of November 10, 2004. The same Express Mail receipt number appears on the original "Utility Patent Application Transmittal."

In view of the USPS receipt stamp of November 10, 2004, appearing on the same Express Mail label number as shown on the transmittal for the instant application, it is concluded that the application was deposited as "Express Mail" with the USPS on November 10, 2004.

The petition is **granted**.

Petitioner may request a refund of the petition fee by writing to the Office of Finance, Refund Section. A copy of this decision should accompany petitioner's request.

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

This matter is being referred to the Office of Initial Patent Examination for processing with a filing date of **November 10, 2004**, and for mailing of a corrected filing receipt.

Karen Creasy

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

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Robert E. Krebs
Thelen Reid & Priest LLP
P.O. Box 640640
San Jose, CA 95164-0640

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OFFICE OF PETITIONS

In re Application of

Patrick Henry McCormack et al.
Application No. 10/986,256
Filed: November 10, 2004
Attorney Docket No. 036263-000633

DECISION ON PETITION TO WITHDRAW FROM RECORD

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

The request is **NOT APPROVED**.

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

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

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

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

David Bucci
Petitions Examiner
Office of Petitions

cc: **Mark Spolyar, Esq.**
Spolyar Technology Law Group
2200 Cesar Chavez Street
San Francisco, CA 94124

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BEVER, HOFFMAN & HARMS, LLP
901 CAMPISI WAY
SUITE 370
CAMPBELL, CA 95008

Mail Date: 04/20/2010

Applicant	: Gary R. Janik	: DECISION ON REQUEST FOR
Patent Number	: 7606677	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/986,269	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **522** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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ALEXANDRIA, VA 22313-1450
www.uspto.gov

MAIL

MAR 14 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Boris Leschinsky
Patent Agent
P.O. Box 72
Waldwick, NJ 07463

In re Application of	:	
Armen P. Sarvazyan, et al.	:	
Application No. 10/986,272	:	DECISION ON PETITION
Filed: November 12, 2004	:	TO MAKE SPECIAL
For: BLOCKAGE MITIGATION TECHNIQUES	:	
FOR INFORMATION TRANSMISSION	:	

This is a decision on the petition under 37 C.F.R. §1.102 to make special filed November 12, 2004 which is considered as pursuant to MPEP §708.02 (IV), applicant's age.

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

The petition includes a statement by Armen P. Sarvazyan 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

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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PACESETTER, INC.
15900 VALLEY VIEW COURT
SYLMAR, CA 91392-9221

Mail Date: 04/21/2010

Applicant	: Xiaoyi Min	: DECISION ON REQUEST FOR
Patent Number	: 7590446	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/986,273	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **22** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/986,291	11/12/2004	Seung-joon Yang	102-1083	5639

7590 10/18/2007
STANZIONE & KIM, LLP
919 18TH STREET, N.W.
SUITE 440
WASHINGTON, DC 20006

EXAMINER
KASSA, YOSEF

ART UNIT	PAPER NUMBER
2624	

MAIL DATE	DELIVERY MODE
10/18/2007	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

Adjustment date: 10/22/2007 KKING1
11/15/2004 KBETEMA1 00000070 10986291
02 FC:1201 -88.00 OP

Repln. Ref: 10/22/2007 KKING1 0013324600
DA#:502827 Name/Number:10986291
FC: 9204 $88.00 CR

FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Terry M. Gernstein
1015 Salt Meadow Lane
McLean, VA 22101

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JUN 21 2005

OFFICE OF PETITIONS

In re Application of :
Figley, et al. :
Application No.10/986,294 :
Filed: March 18, 2005 :
Attorney Docket No. :

DECISION GRANTING PETITION

This is a decision on petition filed March 18, 2005, requesting that the pages 29-44 of the specification omitted from the original application papers be accepted and the filing date of the application be changed to the date the omitted items were filed.

The petition is **GRANTED**.

On November 12, 2004, the above-identified application was filed. On February 24, 2005, the Office of Initial Patent Examination mailed a "Notice of Missing Parts of Nonprovisional Application" (the "Notice"), stating, in pertinent part, that the application had been accorded a filing date of November 12, 2004, however, pages 29-44 of the specification appeared to have been omitted. Relative to the omitted item, the Notice allowed a non-extendable two-month period for reply beginning from the mailing date of the Notice.

In response, on March 18, 2005, applicants filed the instant petition along with pages 29-44 of the specification and a new declaration and requested that the application be accorded a filing date as of the date the omitted items were received.

Accordingly, the petition is **granted**; the application filing date is March 18, 2005. The Office of Initial Patent Examination will issue a corrected filing receipt reflecting the new filing date.

The application file is being returned to the Office of Initial Patent Examination for further processing with the presently accorded filing date of March 18, 2005.

Any inquiries related to 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
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Smart and Biggar
438 University Avenue
Suite 1500 Box 111
Toronto, Ontario M5G 2K8
CANADA

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MAR 1 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Behrouz Poustchi, et al.	:	
Application No. 10/986,297	:	ON PETITION
Filed: November 12, 2004	:	
Attorney Docket No. 93598-2	:	

This is in response to the petition under 37 CFR 1.47(a), filed February 11, 2005.

The petition is granted.

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

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

As provided in 37 CFR 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 referred to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3223.

Marianne E. Jenkins
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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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Ms. Natalie Ann Gagnon
165 Spruce Crescent, RR#1
Carleton Place, Ontario
Canada, K7C 3P1

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MAR 1 1 2005

OFFICE OF PETITIONS

In re Application of
Behrouz Poustchi; Natalie Ann Gagnon; and James Andrew Stelzig
Application No. 10/986,297
Filed: November 12, 2004
For: PEER DISCOVERY

Dear Ms. Gagnon:

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

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

Telephone inquiries regarding this communication should be directed to Marianne Jenkins at (571) 272-3223. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington, DC area).

Marianne E. Jenkins

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Smart and Biggar
438 University Avenue
Suite 1500, Box 111
Toronto, Ontario M5G 2K8
CANADA

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SMART AND BIGGAR
438 UNIVERSITY AVENUE
SUITE 1500 BOX 111
TORONTO ON M5G2K-8 CA CANADA

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DEC 13 2005

OFFICE OF PETITIONS

Applicant: Poustchi et al.
Appl. No.: 10/986,297
Filing Date: November 12, 2004
Title: PEER DISCOVERY
Attorney Docket No.: 93598-2
Pub. No.: US 2005/0117525 A1
Pub. Date: June 2, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on June 24, 2005, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error, as claim 1, line 3 has "sending an-existence notification" not "sending an existence notification" as contained in claim 1. Requester asserts the error is a material error because "an-existence notification" may be viewed as a coined term, which lacks any definition in the specification. Requester asserts that this error is exacerbated by the fact that it appears in claim 1.

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

The error noted by requestor in claim 1, wherein "sending an existence notification; receiving one or more existence notifications from one or more other network devices; and based on the received existence notification . . ." is misprinted as "sending an-existence notification; receiving one or more existence notifications from one or more other network devices; and based on the received existence notification . . ." is not a material Office error under 37 CFR 1.221. The error

[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).

noted by requestor with respect to the minor typographical error in this published application is due to the poor quality of the text in the application. The text in claim 1 has a stray mark which appears to be a hyphen. Even if the error were not due to the poor quality of the text submitted by applicant, the mistake is a minor typographical error, which is clearly understandable to one of ordinary skill in the art in reading the specification and the claims. The mistake is a minor typographical error, which is clearly understandable from reading the claim, as terms are not read in a vacuum. The mistake do not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

Applicant should 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.

Applicant is reminded of his duty to conduct a reasonable inquiry before filing a paper before the Office. See MPEP 410.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,095,756

APPLICATION NO.: 10986299

ISSUE DATE : August 22, 2006

INVENTOR(S) : Yehuda Binder

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

In claim 103, column 20, line 12, delete the word “the”.

In claim 103, column 20, line 33, the word “second” should read --third--.

In claim 103, column 20, line 34, the word “third” should read --second--.

In claim 103, column 20, line 50, the word “second” should read --third--.

In claim 103, column 20, line 51, the word “third” should read --second--.

"ok" to enter
AB, 6/23/2010.

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

BROWDY AND NEIMARK, P.L.L.C.
624 NINTH Street N.W. Suite 300
Washington, D.C. 20001-5303

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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LUMEN PATENT FIRM, INC.
2345 YALE STREET
SECOND FLOOR
PALO ALTO CA 94306

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SEP 25 2008

In re Application of	:
Sasahara et al.	:
Application No. 10/986322	: DECISION ON PETITIONS
Filed: 11/04/2004	: UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. HON-108/PCT/US	:

This is a decision on the "PETITION UNDER 37 CFR 1.78," filed on July 25, 2008, which is treated as a petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. §§120, 365(c) and 119(e) for the benefit of the prior-filed international and provisional applications set forth in the concurrently filed amendment.

The petitions are **GRANTED.**

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

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

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

All the above requirements having been satisfied, the late claim for benefit of priority under 35 U.S.C. §§ 120, 365(c), 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 365(c) and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should 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.

37 CFR §§ 1.78(a)(3) and (a)(6) requires a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and (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 (a)(6). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

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

Receipt is noted of the request to add an inventor under 37 CFR 1.48(a) filed on July 25, 2008. The request is forwarded to the Technology Center for processing.

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

This application is being forwarded to Technology Center Art Unit 1795 for consideration by the examiner of the claim under 35 U.S.C. §§ 120, 365(c), and 119(e) of the prior-filed nonprovisional and provisional applications.

Anthony Knight
Supervisor
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/986,322	11/04/2004	1795	1220	HON-108/PCT/US	11	3

CONFIRMATION NO. 7360

CORRECTED FILING RECEIPT

30869
LUMEN PATENT FIRM, INC.
2345 YALE STREET
SECOND FLOOR
PALO ALTO, CA 94306

OC000000032089335

Date Mailed: 09/24/2008

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)

Jun Sasahara, Kawagoe-shi, JAPAN;
Toshifumi Suzuki, Tokyo, JAPAN;
Tadahiro Kubota, Asaka-Shi, JAPAN;
Nariaki Kuriyama, Fujimi-Shi, JAPAN;

Power of Attorney:

Thomas McFarlane--39299
Marek Alboszta--39894
Katharina Schuster--50000
Ron Jacobs--50142
Kenneth Benderly--51453
Robert Lodenkamper--55399

Domestic Priority data as claimed by applicant

This application is a CON of PCT/JP03/05630 05/02/2003
which claims benefit of 60/379,524 05/09/2002

Foreign Applications

If Required, Foreign Filing License Granted: 03/03/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/986,322**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Fuel cell assembly and a separator therefor

Preliminary Class

429

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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SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN NSW 2-041 AU AUSTRALIA

COPY MAILED

JAN 10 2007

OFFICE OF PETITIONS

In re Application of	:
David William Jensen	:
Application No. 10/986,328	: DECISION ON PETITION
Filed: November 12, 2004	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. BAL109US	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed October 2, 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 previously filed amendment dated December 7, 2005.

The petition is **DISMISSED**.

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

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

The petition has **not** been reviewed on the merits because the petition provided has not been signed.

Pursuant to 37 CFR 1.33, amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:

(1) A registered attorney or agent of record appointed in compliance with §1.34(b);
(2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a);
(3) An assignee as provided for under § 3.71(b) of this chapter; or

(4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition properly executed and either an Application Data Sheet or an amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) are required.

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

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

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

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

Any questions concerning this matter may be directed to Charlema R. Grant at (571) 272-3215.

Nancy Johnson for

Ira Lazarus
Supervisory Petitions Examiner
Office of Petitions

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393 DARLING STREET
BALMAIN NSW 2-041 AUSTRALIA

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MAR 14 2007

OFFICE OF PETITIONS

In re Application of	:	
David William Jensen	:	
Application No. 10/986,328	:	DECISION ON PETITION
Filed: November 12, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. BAL109US	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed February 12, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

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

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

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

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

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

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

filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to Charlema Grant at (571) 272-3215. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3653 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Nancy Johnson for
Ira Lazarus
Supervisory Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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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	TOT CLMS	IND CLMS
10/986,328	11/12/2004	3653	790	BAL109US	6	1

CONFIRMATION NO. 5756

CORRECTED FILING RECEIPT

OC000000022825709

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

Date Mailed: 03/09/2007

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

Applicant(s)

David William Jensen, Balmain, AUSTRALIA;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of 10/693,873 10/28/2003 PAT 6,896,252
which is a CON of 10/309,226 12/04/2002 PAT 6,648,321
which is a CON of 10/052,424 01/23/2002 PAT 6,568,670

Foreign Applications

AUSTRALIA PR3153 02/19/2001

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

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/986,328.

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Feed mechanism for feeding sheets from a stack to a printer

Preliminary Class

271

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

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

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

NOT GRANTED

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

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JAN 31 2007

OFFICE OF PETITIONS

SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN NSW 2-041 AUSTRALIA

In re Application of
David William Jensen
Application No. 10/986,329
Filed: November 12, 2004
Attorney Docket No. BAL108US

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 9, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

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

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

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

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

filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A review of the record shows that a response to the non-final Office action mailed on March 22, 2006 has not been received. As stated in the Office action, the petition alone will not be considered a response to the Office action. Accordingly, the application is subject to abandonment for failure to file a timely and proper reply to the Office Action.

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

Any inquiries concerning this decision may be directed to Charlema Grant at (571) 272-3215. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3653 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Nancy Johnson for
Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/986,329	11/12/2004	3653	790	BAL108US	5	7	1

CONFIRMATION NO. 5748
CORRECTED FILING RECEIPT
OC000000021410226
OC000000021410226

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

Date Mailed: 11/30/2006

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)

David William Jensen, Balmain, AUSTRALIA;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of 10/693,875 10/28/2003 PAT 6,820,871
which is a CON of 10/309,226 12/04/2002 PAT 6,648,321
which is a CON of 10/052,424 01/23/2002 PAT 6,568,670

Foreign Applications

AUSTRALIA PR3153 02/19/2001

If Required, Foreign Filing License Granted: 01/25/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/986,329

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Printer with a picker assembly

Preliminary Class

271

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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Title 37, Code of Federal Regulations, 5.11 & 5.15

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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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Sawyer Law Group LLP
P.O. Box 51418
Palo Alto, CA 94303

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MAY 12 2008

In re Application of	:	
Panayiotis E. Nastou, et al.	:	
Application No. 10/986,342	:	DECISION ON PETITION
Filed: November 10, 2004	:	TO WITHDRAW
Attorney Docket No. 2989P	:	FROM RECORD
	:	

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 2, 2008.

The request is **APPROVED**.

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

The request was signed by Joseph A. Sawyer, Jr. on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is no outstanding Office action at this time.

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

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Panayiotis E. Nastou**
13-15, Adanon Str.,
GR-171 24 Nea Smyrni
Attiki
Greece

cc: **Schwegman, Lundberg & Woesnner/Atmel**
P.O. Box 2938
Minneapolis, MN 55402

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/986,342	11/10/2004	Panayiotis E. Nastou	2989P

CONFIRMATION NO. 5258

POWER OF ATTORNEY NOTICE

29141
SAWYER LAW GROUP LLP
P O BOX 51418
PALO ALTO, CA 94303

OC000000029868725

Date Mailed: 05/09/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/02/2008.

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

/tswilliams/

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

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SAWYER LAW GROUP LLP
P O BOX 51418
PALO ALTO, CA 94303

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MAR 17 2008

In re Application of	:	
FLOROS, Andreas et al.	:	
Application No. 10/986,344	:	DECISION ON PETITION
Filed: November 10, 2004	:	TO WITHDRAW
Attorney Docket No. **3078P**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 02, 2008.

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

A review of the file record indicates that the power of attorney to Sawyer Law Group LLP has been revoked by the assignee of the patent application on February 25, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **SCHWEGMAN, LUNDBERG & WOESSNER / ATMEL**
P.O. BOX 2938
MINNEAPOLIS, MN 55402

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090428

DATE : April 28, 2009

TO SPE OF : ART UNIT

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

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

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

Thank You For Your Assistance **Certificates of Correction Branch**

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

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

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

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

Comments:

/Janet L Andres/
Supervisory Patent Examiner.Art Unit 1625

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Duncan G. Byers, P.C.
500 East Main Street
Suite 1200
Norfolk VA 23510

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OCT 16 2006
OFFICE OF PETITIONS

In re Application of	:	
HOWARD	:	
Application No. 10/986,356	:	DECISION ON PETITION
Filed: November 12, 2004	:	TO WITHDRAW
Attorney Docket No. Howard-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 29, 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 Duncan G. Byers, 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.

A Review of the file discloses that a non-final Office action was mailed on April 05, 2006, which set forth a three month shortened statutory period for reply. Extensions of time under 37 CFR 1.136(a) were available. To date, there is no indication that a reply to the Office action of April 05, 2006 has been received.

Telephone inquiries concerning this decision should be directed to Patricia Volpe at 571-272-6825.

David Bucci
Petitions Examiner
Office of Petitions

cc: Robert W. Howard
244 Louise Drive
Newport News, VA 23601

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
10/986,356	11/12/2004	Robert W. Howard	Howard-7

CONFIRMATION NO. 5476

OC000000020749572

Duncan G. Byers, P.C.
Suite 1200
500 East Main Street
Norfolk, VA 23510

Date Mailed: 10/10/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/29/2006.

- 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.

PATRICIA A VOLPE
OP (571) 272-6825

FORMER ATTORNEY/AGENT COPY

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Silverbrook Research Pty Ltd
393 Darling Street
Balmain, 2041
Australia AIR MAIL

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OCT 2 0 2005

OFFICE OF PETITIONS

In re Application of	:	
Silverbrook et al.	:	DECISION DISMISSING PETITION
Application No. 10/986,364	:	UNDER 37 CFR 1.78(a)(3)
Filed: November 12, 2004	:	
Attorney Docket No. ZG041US	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 8, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional Application, No. 10/120,359, filed April 12, 2002.

The petition is **DISMISSED**.

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

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

The instant petition does not comply with item (1) above.

A reference to add the prior-filed nonprovisional application, No. 10/120,359, 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

nonprovisional application, No. 10/120,359, filed April 12, 2002. 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) 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.

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 inquiries concerning this decision may be directed to Senior Petitions Attorney Christina Tartera Donnell at (571) 272-3211.

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

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Balmain, 2041
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NOV 16 2005

OFFICE OF PETITIONS

In re Application of	:	
Silverbrook et al.	:	DECISION GRANTING PETITION
Application No. 10/986,364	:	UNDER 37 CFR 1.78(a)(3)
Filed: November 12, 2004	:	
Attorney Docket No. ZG041US	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed November 8, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional Application No. 10/120,359, filed April 12, 2002.

The petition is **granted**.

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

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

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

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional Application No. 10/120,359 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 an appropriate 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 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 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 No.10/120,359, filed April 12, 2002, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Christina Tartera Donnell at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 2853 for appropriate action on the amendment filed November 8, 2005, including consideration by the examiner of applicant's entitlement to claim benefit of priority to the prior-filed nonprovisional application.

Frances Hicks

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

ATTACHMENT: Corrected Filing Receipt

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JUN 04 2008

OFFICE OF PETITIONS

In re Patent No. 7,077,490 :
Issue Date: 07/18/2006 :
Application No. 10/986,364 : ON PETITION
Filed: 11/12/2004 :
Attorney Docket No. ZG041US :

This is in response to the communication filed on September 14, 2006, which is being treated as a request under 37 CFR 3.81(b)[1] to add the assignee on the front page of the above-identified patent by way of Certificate of Correction.

37 CFR 3.81(b) 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.

In the present request, petitioners stated that they did not submit any fee with the request because the no error was caused by petitioners. However, the Office notes that "[i]rrespective of whether the assignee participates in the prosecution of the application, the patent issues to the assignee if so indicated on the Fee(s) Transmittal form PTOL-85B." MPEP 307. "Unless an assignee's name and address are identified in item 3 of the Fee(s) Transmittal form PTOL-85B, the patent will issue to the applicant." Id.

In this instance, petitioners did not list the assignee's name on the Fee(s) Transmittal form PTOL-85B in accordance with MPEP 307. Consequently, the patent issued without the assignee's name

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

and address indicated on the front cover of the Letters Patent. As the instant request to add the assignee's name on the front cover of the Letters Patent by way of Certificate of Correction was caused by petitioners' error, petitioners are required to pay the requisite fees.

Accordingly, the request under 37 CFR 3.81(b) is **dismissed**. Petitioner must submit a renewed request under 37 CFR 3.81(b) within TWO MONTHS of the mail date of this decision, accompanied by the certificate of correction fee set forth in 37 CFR 1.20(a) and the processing fee set forth in 37 CFR 1.17(i) (currently $100.00 and $130.00 respectively).

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

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

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

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

Correspondence may also be submitted via the electronic filing system of the USPTO.

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10-4-06

TO SPE OF : ART UNIT 4700

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/986304 Patent No.: 7077490

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.

Can Assignee be Approved

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

E Young

Certificates of Correction Branch

703-308-9390 ext. 117

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

As to assignee name only

Comments: Petitioner's did not submit the required C of C fee or processing fee. As it is petitioner's error in failing to include the assignment information on the PTOL-85B, petitioners must pay the fees. The other correction sought should be raised with the TC - it is a matter outside of the Office of Petitions

CTD SPE Pet. Atty - 4700 Art Unit

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

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AUG 18 2008

In re Application of	
DIFIORE, Attilio E.	
Application No. 10/986,400	DECISION ON PETITION
Filed: December 12, 2003	TO WITHDRAW
Attorney Docket No. **1016720009P**	FROM RECORD

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 05, 2008.

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

A review of the file record indicates that the power of attorney to Morrison & Foester, LLP has been revoked by the assignee of the patent application on May 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 Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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

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OSHA LIANG LLP/Oracle
TWO HOUSTON CENTER
909 FANNIN, SUITE 3500
HOUSTON, TX 77010

Mail Date: 04/20/2010

Applicant	: David L. Detlefs	: DECISION ON REQUEST FOR
Patent Number	: 7636745	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/986,401	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/11/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **720** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE: M. Smith

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/9/07

TO SPE OF : ART UNIT 2823

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/986,415 Patent No.: 7094636

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

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

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

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

Thank You For Your Assistance

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

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

Comments: Approved

[signature]
SPE

2823
Art Unit

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

Mail Date: 04/21/2010

Applicant	: Lars Ivar Samuelson	: DECISION ON REQUEST FOR
Patent Number	: 7662706	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/986,438	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1445** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Weaver Austin Villeneuve & Sampson LLP
P.O. BOX 70250
OAKLAND, CA 94612-0250

Mail Date: 04/20/2010

Applicant	: Lutgard De Jonghe	: DECISION ON REQUEST FOR
Patent Number	: 7608178	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/986,441	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1355** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Byrne Poh LLP
11 Broadway, Ste 865
New York, NY 10004

Mail Date: 04/21/2010

Applicant	: Salvatore J. Stolfo	: DECISION ON REQUEST FOR
Patent Number	: 7639714	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/986,447	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1208** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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IRVINE CA 92614

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OFFICE OF PETITIONS

In re Patent No. 7,560,242	:
Ruoslahti et al.	:
Issue Date: July 14, 2009	:
Application No. 10/986,466	: DECISION ON REQUEST FOR
Filed: November 10 2004	: RECONSIDERATION OF
Attorney Dkt. No. BURNHAM.009A	: PATENT TERM ADJUSTMENT
Title: Metadherin Polypeptides,	:
Encoding Nucleic Acids and	:
Methods of Use	:

This is in response to the " Application For Patent Term Adjustment", filed September 11, 2009. This application is properly treated under 37 CFR §1.705(d). Patentees request that the patent term be adjusted from 481 days to 838 days.

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

On July 14, 2009, the above-identified application matured into US Patent No. 7,560,242 with a patent term adjustment of 481 days. This request for reconsideration of patent term adjustment (including the required fee) was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant to Wyeth, a PTO delay under 35 U.S.C. §154(b)(1)(A) overlaps with a delay under 35 U.S.C. §154(b)(1)(B) only if the delays "occur on the same day." Patentees maintain that the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), 357 of 401 days, does not overlap with the 481 day period of adjustment due to examination delay, pursuant to 37 CFR §1.702(a), as these periods do not occur on the same day.

Patentees submit that the total period of adjustment for Office delay is the sum of the period of three-year delay (401 days) and the period of examination delay (481 days) to the extent these periods do not overlap. As such, patentees assert entitlement to a patent term adjustment of 838 days (481 days *plus* 401 days less 44 days of overlap).

The Office finds that as of the day before the date of the filing of the request for continued examination (RCE) on December 15, 2008, the application was pending three years and 401 days after its filing date (November 10, 2007 to December 15, 2008). An entry of a period of adjustment of 481 days was entered for Office delay. At issue is whether patentee should accrue an additional 401 days of patent term adjustment for the Office taking in excess of three years to issue the patent as well as 481 days for Office failure to take a certain action within a specified time frame (or examination delay).

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

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

Likewise, 37 CFR 1.703(f) provides that:

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

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

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

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

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

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the filing date November 10, 2004 until the day before the filing of the RCE on December 15, 2008. Prior to the issuance of the patent, 481 days of patent term adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application.

The Office did not delay 481 days and then delay an additional 401 days. Accordingly, 481 days of patent term adjustment for Office delay (not 481 days and 401 days) was properly entered

because the entire period of delay of 401 days attributable to the delay under 37 CFR 1.702(b) overlaps with the 481 days attributable to grounds specified in §§ 1.702(a)(1) and (a)(2).

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

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent was 481 days.

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

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

/Kery A. Fries/

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

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

Mail Date: 04/20/2010

Applicant	: Erkki Ruoslahti	: DECISION ON REQUEST FOR
Patent Number	: 7560242	: RECALCULATION of PATENT
Issue Date	: 07/14/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/986,466	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **838** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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ROBERT M BAUER, ESQ.
MACDONALD ILLIG JONES & BRITTON LLP
SUITE 700
100 STATE STREET
ERIE PA 16507-1459

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SEP 26 2008

In re Application of	:	
OLRIK, Jakob C. et al.	:	
Application No. 10/986,468	:	DECISION ON PETITION
Filed: November 10, 2004	:	TO WITHDRAW
Attorney Docket No. **NOKIA.7010US**	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 22, 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 Robert Bauer on behalf of all attorneys of record who are associated with customer No. 43829. All attorneys/agents associated with the Customer Number 43829 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 or the assignee of the entire interest 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 August 05, 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: **JAKOB C. OLRIK**
LINDENOVSGADE 11, 4TH
2100 KOBENHAVN O
DENMARK

cc: **FOLEY & LARDNER LLP**
11250 EL CAMINO REAL
SUITE 200
SAN DIEGO CA 92130

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Merchant & Gould, PC
P.O. Box 2903
Minneapolis, MN 55402-0903

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OFFICE OF PETITIONS

In re Application of	:	
Jane Ann Chase et al.	:	
Application No. 10/986,474	:	DECISION ON PETITION
Filed: November 11, 2004	:	TO WITHDRAW
Attorney Docket No. 163.1572USC2	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 22, 2007.

The request is **APPROVED**.

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

The request was signed by Sarah M. Monfeldt, former attorney with the firm of Merchant & Gould, PC.

Sarah M. Monfeldt 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 Kimberly Inabinet at 571-272-4618.

Frances Hicks
Petitions Examiner
Office of Petitions

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ONE DAYTON CENTRE
SUITE 1300
ONE SOUTH MAIN STREET
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OFFICE OF PETITIONS

In re Application of :
W. Toriran Flint, et al. :
Application No. 10/986,491 :
Filed: November 10, 2004 :
Attorney Docket No. DAY 0812 PA/40195.897 :

ON PETITION

This is a decision in response to the petition, filed July 19, 2007, under the provisions of 37 CFR 1.181 to withdraw the holding of abandonment.

The petition is **DISMISSED**.

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

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed November 21, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 22, 2007. A Notice of Abandonment was mailed on July 9, 2007.

Petitioners argue that the abandonment should be withdrawn since a Notice of Appeal was timely filed before the mailing of the Advisory Action of June 12, 2007. It is noted that an Appeal Brief was subsequently filed on July 21, 2007.

Petitioners' argument is not well taken. The Notice of Appeal filed May 21, 2007 was untimely. The Notice of Appeal did not include an appropriate extension of time or a general authorization to charge any fee deficiencies to a deposit account. Since applicant failed to obtain an extension of time beyond the three month shortened statutory period set in the final Office action of November 21, 2006, the application became abandoned on February 22, 2007.

In view of the above, the request to withdraw the holding of abandonment cannot be granted.

Petitioner is strongly encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181 or a petition under 37 CFR 1.137(a).

Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $770 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:

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

Sherry D. Brinkley
Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
W. Toriran Flint, et al.	:	
Application No. 10/986,491	:	ON PETITION
Filed: November 10, 2004	:	
Attorney Docket No. DAY 0812 PA/40195.897	:	

This is a decision in response to the renewed petition, filed December 28, 2007, under the provisions of 37 CFR 1.181 to withdraw the holding of abandonment.

The petition is **DISMISSED**.

Petitioners again argue that the Notice of Appeal should be considered timely, since "applicants were obligated on June 12, 2007 (the mailing date of the Advisory Action), to file a further appropriate response." Petitioners cite MPEP 706.07(f) and suggest that the filing of the Notice of Appeal was timely "as it was done on a date prior to the expiration of the 3-month shortened statutory period, the expiration of which was not until June 12, 2007, the mailing date of the Advisory Action." Accordingly, petitioners request that the abandonment be withdrawn.

Petitioners' argument is not persuasive. A review of the record discloses that a final Office action was mailed on November 21, 2006, setting a shortened statutory period for reply of three (3) months, i.e., February 21, 2007. Extensions of time under the provisions of 37 CFR 1.136(a) were available up to and including May 21, 2007, which was the maximum six-month period set by statute for a response. However, on May 21, 2007, petitioner submitted a response in the form of a Notice of Appeal, without an appropriate extension of time. Consequently, the application became abandoned by operation of law on February 22, 2007.

Thereafter, on June 12, 2007 an Advisory Action was mailed stating that the period for reply expires on the mailing date of this Advisory Action, or the date set forth in the final rejection, whichever is later. It further states that **"[i]n no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing of the final rejection."** In other words, since the maximum period for response is set by statute to expire no later than six-months from the mailing date of the final Office action of November 21, 2006, no further response could be made to the Advisory Action beyond May 21, 2007, provided that the application was pending on May 21, 2007. The application was not pending beyond the three-month shortened statutory period set in the Office action mailed November 21, 2006.

Clearly, the Advisory Action was mailed after the six-month statutory period, not within the three-month shortened statutory period petitioners cite in MPEP 706.07(f). While a response was already filed on May 21, 2007, the application was not pending on that date. Petitioner is reminded that extensions of time under 37 CFR 1.136 are available only if asked for prior to or with the response. 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, i.e. after midnight February 21, 2007.

The petition has been reconsidered as requested, but the result is the same. The request to withdraw the holding of abandonment cannot be granted.

Again, petitioner is strongly encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181 or a petition under 37 CFR 1.137(a).

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

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
W. Toriran Flint, et al.
Application No. 10/986,491
Filed: November 10, 2004
Attorney Docket No. DAY 0812 PA/40195.897

ON PETITION

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

The petition is **GRANTED.**

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 21, 2006. A Notice of Abandonment was mailed on July 9, 2007. On July 19, 2007, a petition to withdraw the abandonment under the provisions of 37 CFR 1.181 was filed; however, the petition was dismissed in a decision mailed December 19, 2007. The petition was again dismissed on February 22, 2008 in response to a renewed petition filed December 28, 2007. On March 4, 2008, the present petition was filed requesting revival under the provisions of 37 CFR 1.137(b).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the May 21, 2007 Notice of Appeal, including appeal fee; (2) the petition fee of 1,540; and (3) an adequate statement of unintentional delay.

It is noted that an Appeal Brief was subsequently filed on July 20, 2007. Accordingly, the application is being referred to Technology Center AU 2854 for further prosecution.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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MATTINGLY, STANGER & MALUR, P.C.
ATTORNEYS AT LAW
SUITE 370
1800 DIAGONAL ROAD
ALEXANDRIA VA 22314

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OFFICE OF PETITIONS

In re Application of	:	
Atsuya Kumagai et at.	:	
Application No. 10/986,496	:	DECISION ON PETITION
Filed: September 12, 2004	:	
Attorney Docket No. ASA-1202	:	

This is a decision on the petition, filed July 31, 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 **DISMISSED**.

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. No response was received. Accordingly, the application went abandoned on April 12, 2008. A notice of abandonment was mailed July 21, 2008.

Petitioner states that a timely reply was mailed via certificate of transmission on April 11, 2008, which included the following papers: transmittal and amendment. Petitioner has submitted a copy of the previously transmitted correspondence, which bears a certificate of transmission dated April 11, 2008. However, the certificate of transmission has the wrong serial number. The certificate references application SN 10/986,495 whereas the proper application number is 10/986,496. It is noted the transmittal sheet likewise has the wrong serial number.

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 is missing items (2) and (3). In regard to item (2), as noted the certificate has the wrong serial number. Item (3) is missing.

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 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:

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Telephone inquiries concerning this decision should be directed to Carl Friedman at (571) 272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Atsuya Kumagai et at.	:	
Application No. 10/986,496	:	DECISION ON PETITION
Filed: September 12, 2004	:	
Attorney Docket No. ASA-1202	:	

This is a decision on the renewed petition, filed October 9, 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 **DISMISSED**.

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. A reply was due on or before April 11, 2008. No response was received. Accordingly, the application went abandoned on April 12, 2008. A notice of abandonment was mailed July 21, 2008.

Petitioner states that a timely reply was mailed via certificate of transmission on April 11, 2008, which included the following papers: transmittal and amendment. However, the certificate of transmission has the wrong serial number. The certificate references application SN 10/986,495 whereas the proper application number is 10/986,496. It is noted the transmittal sheet likewise has the wrong serial number.

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:

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(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 decision mailed September 30, 2008 dismissed the petition filed July 31,2008 because items (2) and (3) were missing.

The renewed petition is missing item (3). As noted in the previous decision, the certificate of transmission does not have the correct serial number, the last digit of the serial number being "5" rather than "6". Thus the certificate does not identify the instant application.

Petitioner argues that if the Office accepted the serial number identifier as 10/986,495 and the paper was proper for that application, the Office should have followed the procedure in MPEP 508.02 and returned the submission to applicant since that application was patented. It is alleged, this would have provide petitioner ample time to resubmit a properly identified response. If the Office determined that the serial number on the certificate was in error based on the mismatch of other identifiers, the papers would have been filed in the instant application in a timely manner. It is not the responsibility of the Office to determine what application a response is meant for when the identifiers do not match. It is not known from the record of either application, SN 10/986,496 or 10/986, 495, how the April 11, 2008 response was handled since it does not appear in either application. The only issue to be resolved here is whether petitioner can provide a certificate of transmission with the proper application serial number as required by 37 CFR 1.8(b)(2). Petitioner has been unable to meet this requirement and for this reason the petitions is <u>dismissed</u>.

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 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 Carl Friedman at (571) 272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MATTINGLY, STANGER & MALUR, P.C.
ATTORNEYS AT LAW
SUITE 370
1800 DIAGONAL ROAD
ALEXANDRIA VA 22314

COPY MAILED

DEC 0 4 2008

OFFICE OF PETITIONS

In re Application of :
Atsuya Kumagai et al. :
Application No. 10/986,496 : ON PETITION
Filed: November 12, 2004 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 10, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely respond to the non-final Office action mailed January 11, 2008, which set a shortened statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on April 14, 2008 (April 12, 2008 being a Saturday).

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 of $1,620; and (3) the required statement of unintentional delay have been received. Accordingly, the amendment 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 Technology Center Art unit 2616 for consideration of the amendment in due course.

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CHEVRON PHILLIPS CHEMICAL COMPANY
5601 Granite Parkway, Suite 750
PLANO, TX 75024

Mail Date: 04/21/2010

Applicant	: Benjamin M. Shaw	: DECISION ON REQUEST FOR
Patent Number	: 7598327	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/986,503	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **822** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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JAN 0 4 2008

OFFICE OF PETITIONS

In re Application of	:	
Peter MATTSON, et al	:	
Application No. 10/986,517	:	DECISION ON PETITION
Filed: November 10, 2004	:	TO WITHDRAW
Attorney Docket No. 578572000100	:	FROM RECORD

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, 2007.

The request is **APPROVED**.

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

The request was signed by Michael R. Ward on behalf of all attorneys/agents of record.

All attorneys/agents of record have been withdrawn.

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

The 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.

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

There is an outstanding Office action mailed September 12, 2007 that requires a reply by the applicant.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: NECTARINE ADMINISTRATIVE COMMITTEE
975 I STREET
REEDLEY, CA 93654

cc: STEPHEN S. FABRY
BAKER & HOSTETLER LLP
WASHINGTON SQUARE, SUITE 1100
1050 CONNECTICUT AVENUE, N.W.
WASHINGTON, DC 20036-5304

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/986,517	11/10/2004	Peter Mattson	578572000100

CONFIRMATION NO. 6299

POWER OF ATTORNEY NOTICE

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

OC000000027508447

Date Mailed: 01/02/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/03/2007.

- 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.

/dcgoodwyn/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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APR 25 2008

OFFICE OF PETITIONS

In re Application of	:	
Pier S., Paolucci, et al.	:	
Application No.: 10/986,528	:	ON PETITION
Filed: November 10, 2004	:	
Attorney Docket No.: 2800.010US1	:	

This is a decision on the petition, filed April 23, 2008, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 14, 2008, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The application is being referred to Technology Center AU 2111 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.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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JACKSON & CO., LLP
6114 LA SALLE AVENUE
SUITE 507
OAKLAND CA 94611-2802

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APR 10 2007

OFFICE OF PETITIONS

In re Application of	:	
CHRISTOPHER V. REGIARDO	:	
Application No. 10/986,542	:	DECISION GRANTING PETITION
Filed: November 10, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. TS-02-05	:	

This is a decision on the petition, filed January 15, 2007, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on April 14, 2005. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

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

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of June 14, 2007 was mailed on March 7, 2007.

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

This application is being forwarded to Technology Center Art Unit 3735.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LAW OFFICES OF JAMES TROSINO
92 NATOMA STREET, SUITE 211
SAN FRANCISCO, CA 94105

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JAN 18 2006

OFFICE OF PETITIONS

In re Application of	:
Laura A. Kiefer	:
Application No. 10/986,561	: DECISION ON PETITION
Filed: November 10, 2004	: UNDER 37 CFR 1.182
Attorney Docket No. VUT-015	:

This is a decision on the petition under 37 CFR 1.182, filed November 18, 2005, to change the inventor's name from "Laura A. Kiefer-Liptak" to -- Laura A. Kiefer -- .

The petition is **GRANTED**.

Office records have been updated to reflect the inventor's change of name. A corrected Filing Receipt with the inventor's change of name accompanies this decision on petition.

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

This matter is being referred to Technology Center AU 1711 for examination in due course.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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www.uspto.gov

Jackson & Co., LLP
6114 La Salle Avenue
#507
Oakland, CA 94611-2802

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FEB 27 2008

OFFICE OF PETITIONS

In re Application of	:	
Eran Steinberg et al.	:	
Application No. 10/986,562	:	DECISION ON PETITION
Filed: November 10, 2004	:	TO WITHDRAW
Attorney Docket No. FN109-C	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 17, 2007.

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

A review of the file record indicates that the power of attorney to Jackson & Co., LLP has been revoked by the assignee of the patent application on October 22, 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: **FotoNation**
IP Dept.
800 Airport Blvd.
Suite 522
Burlingame, CA 94010

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Tessera/FotoNation
Patent Legal Dept.
3025 Orchard Parkway
San Jose, CA 95134

Mail Date: 04/21/2010

Applicant	: Eran Steinberg	: DECISION ON REQUEST FOR
Patent Number	: 7639889	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/986,562	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1081** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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DARBY & DARBY P.C.
P.O. BOX 770
CHURCH STREET STATION
NEW YORK NY 10008-0770

MAILED

APR 0 9 2009

OFFICE OF PETITIONS

In re Application of	:	
Shmarak et al.	:	
Application No. 10/986,567	:	DECISION GRANTING PETITION
Filed: November 10, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 02649/100F631-US4	:	

This is a decision on the petition, filed March 25, 2009, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant non-provisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on October 31, 2005. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

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

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

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of July 16, 2009 accompanies this decision on petition.

This application is being forwarded to Technology Center Art Unit 3768 for examination in due course.

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

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication

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
10/986,567	11/10/2004	Itzhak Shmarak	02649/100F631-US4

CONFIRMATION NO. 5367

7278
DARBY & DARBY P.C.
P.O. BOX 770
Church Street Station
New York, NY 10008-0770

NONPUBLICATION RESCISSION LETTER

OC000000035407724

Date Mailed: 04/09/2009

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 07/16/2009.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

/jolszewski/

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
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Alexandria, VA 22313-1450
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JUN 13 2007

OFFICE OF PETITIONS

FRANK C. EYMARD
ADAMS AND REESE LLP
4500 ONE SHELL SQUARE
NEW ORLEANS, LA 70139

In re Application of

CAMPBELL, Tony
Application No. 10/986,593
Filed: November 12, 2004
Attorney Docket No. **9727-2**

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 02, 2007.

The request is **APPROVED**.

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

The request was signed by Frank Eymard on behalf of all attorneys of record who are associated with Adams and Reese LLP. 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 Tony Campbell at the address indicated below.

There is an outstanding Office action mailed May 24, 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: **Tony Campbell**
E-LINE RENTALS, INC.
108 MIDLAND DRIVE
HOUMA, LA 70360

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/986,593	11/12/2004	Tony Campbell	9727-2

CONFIRMATION NO. 9199

OC000000024307691

FRANK C. EYMARD
ADAMS AND REESE LLP
4500 ONE SHELL SQUARE
NEW ORLEANS, LA 70139

Date Mailed: 06/11/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/02/2007.

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

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

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/986,596	11/11/2004	3644	505	52388/297980	7	25	3

CONFIRMATION NO. 9182

UPDATED FILING RECEIPT

OC000000015423654

23370
JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
ATLANTA, GA 30309

Date Mailed: 03/11/2005

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

Applicant(s)

C. Rivers Stone, Greenville, SC;
Chad Richardson, Lawrence, KS;
Grant Wittenborn, Olathe, KS;
William A. Anemaat, Lawrence, KS;

Power of Attorney: The patent practitioners associated with Customer Number **23370**.

Domestic Priority data as claimed by applicant

Foreign Applications

Projected Publication Date: To Be Determined - pending completion of Security Review

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Propulsion and attitude control systems for aircraft

Preliminary Class
244

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

GRANTED

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date Mailed : April 11, 2008

Patent No. :7,055,905
Inventor :Spey, et al.
Patent Issued :June 6, 2006
Title :MOTOR VEHICLE SEAT WITH ADJUSTABLE RECLINING BACKREST

Re: Request for Certificate of Correction

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

Inspection of the application for the patent reveals, that in connection with the alleged error pertaining to Title page, item (30) Foreign Application Priority Data; the German priority data as presented in the Letters patent is in accordance with standards and recommended abbreviated form of presenting German Priority data. There being no fault on the part of the Patent and Trademark Office, it has no authority to a issue certificate of correction under the provisions of 35 U.S.C. 254 and Rule 322 of the Rules of Practice of the United States Patent and Trademark Office in Patent Cases.

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

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

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 or (703) 308- 9380 Ext. 123

Synnestvedt & Lechner LLP
P.O. Box 592
Princeton, NJ 08542

CBN/arg

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/986,628	11/12/2004	Gunther Stuhec	24307-017001/2003P00584US	1244

32864 7590 01/20/2010
FISH & RICHARDSON, P.C.
PO BOX 1022
MINNEAPOLIS, MN 55440-1022

EXAMINER
BUCKINGHAM, KELLYE DEE

ART UNIT	PAPER NUMBER
2165	

NOTIFICATION DATE	DELIVERY MODE
01/20/2010	ELECTRONIC

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

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

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATDOCTC@fr.com

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

Matthew K. Wernli
FISH & RICHARDSON, P.C.
P.O. Box 1022
Minneapolis, MN 55440-1022

In re Application of: Gunther STUHEE Appl. No.: 10/986,628 Filed: November 12, 2004 For: TRACKING USAGE OF DATA ELEMENTS IN ELECTRONIC BUSINESS COMMUNICATIONS	DECISION ON PETITION UNDER 37 CFR 1.59

This is a decision on the petition under 37 CFR 1.59(b), filed on 01 July 2009 to expunge information submitted pursuant to MPEP § 724.05.

The petition is **GRANTED**.

Petitioner requests that the document submitted on 01 July 2009 be expunged from the record if found not to be important to a reasonable examiner in deciding whether to allow the application to issue as a patent. The petition fee set forth in 37 CFR 1.17(g) has been previously paid.

Applicant is required to retain the expunged documents for the life of any patent, which issues on the above-identified application.

The expunged documents have been removed from the official file and will not be returned to the applicant. The petitions and support documents have been closed from public view.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

/Vincent N. Trans/
Vincent N. Trans, SPRE/QAS
Technology Center 2100
Computer Architecture and Software

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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GRAYBEAL, JACKSON, HALEY LLP
155 - 108TH AVENUE NE
SUITE 350
BELLEVUE WA 98004-5973

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SEP 2 5 2007

OFFICE OF PETITIONS

In re Application of	:	
Linden et al.	:	
Application No. 10/986,635	:	ON PETITION
Filed: November 12, 2004	:	
Attorney Docket No. 1788-045-09	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 20, 2007, to revive the above-identified application.

The petition is **GRANTED.**

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

This matter is being referred to Technology Center 2800 for further examination on the merits.

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

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DANIEL J. MEANEY, JR.
P. O. BOX 22307
SANTA BARBARA, CA 93121-2307

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FEB 14 2007

OFFICE OF PETITIONS

In re Application of
SANCHEZ, Alphonoso V.
Application No. 10/986,648
Filed: November 12, 2004
Attorney Docket No. 5652 413459/010

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 25, 2006.

The request is **APPROVED**.

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

The request was signed by Daniel J. Meaney, Jr., the sole attorney of record. Daniel J. Meaney, Jr. has been withdrawn as attorney or agent of record. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the sole named inventor Alphonoso V. Sanchez at the address indicated below.

There is an outstanding Office action mailed September 15, 2006 that requires a reply from the applicant.

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **ALPHONOSO V. SANCHEZ**
710 ALAMEDA PADRE SERRA
SANTA BARBARA, CA 93103

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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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

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DEC 15 2009

OFFICE OF PETITIONS

In re Application of	:	
Zhi Zhou, et al.	:	
Application No. 10/986,649	:	DECISION GRANTING PETITION
Filed: November 12, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 054788/347532	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, December 15, 2009 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 20, 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 Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 2621 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed .

Terri Johnson

Terri Johnson
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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GREENBLUM & BERNSTEIN PLC
1950 ROLAND CLARKE PLACE
RESTON, VA 20191

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DEC 14 2006

OFFICE OF PETITIONS

In re Application of
Christian Hunt et al
Application No. 10/986,657
Filed: November 12, 2004
Attorney Docket No. P27321.A08

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 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). Further, a proper reason for the withdrawal as enumerated in 37 C.F.R. § 10.40(b) or subsection (1)-(6) of 37 C.F.R. § 10.40(c) must be provided.

The request was signed by Mr. Andrew M. Calderon, who was 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 to the first named inventor at the address provided by petitioner herein. Future correspondence regarding this file will be mailed to the address indicated below.

A petition to revive this application was received on June 16, 2006. As soon as the examiner has indicated whether or not the amendment places the application in condition for allowance, a decision will be forthcoming on the petition to revive. It is noted that the petition is signed by Christian Hunt as CEO of Care Rehab and Othorpadic Products. However, the petition must be signed by all of the applicants, a registered practitioner, or, if signed by an assignee, compliance with 37 CFR 3.73(b) must be satisfied. *Note* 37 CFR 1.33(b). It is further noted that the amendment accompanying the petition to revive is signed by Mr. Andrew Calderon, the party now

requesting withdrawal from representation in this application. If Mr. Calderon wishes to represent applicant and receive future correspondence regarding this application, the appropriate power of attorney documents must now be submitted in view of the approval of the request to withdraw as attorney.

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

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Christian Hunt
c/o Josh Witmer
Care Rehab & Orthopedic Products
P O Box 580
McLean, VA 22101

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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CHRISTIAN HUNT
C/O JOSH WITMER
CARE REHAB & ORTHOPEDIC PRODUCTS
P O BOX 580
McLEAN VA 22101

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NOV 29 2007

OFFICE OF PETITIONS

In re Application of	:	
Christian Hunt et al	:	
Application No. 10/986,657	:	DECISION ON PETITION
Filed: November 12, 2004	:	
For: CERVICAL TRACTION DEVICE	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 16, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed October 31, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 1, 2006. A Notice of Abandonment was mailed on May 18, 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 items (1) and (3).

DISCUSSION AS TO ITEM (1)

As noted above, this application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of October 31, 2005. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). *See* MPEP 711.03(c)(III)(A)(2). It is noted that, on December 27, 2006, a non-final Office action was mailed, which set a three month shortened statutory period for reply. No reply was received to this Office action and this application was again held abandoned in a Notice of Abandonment mailed on July 13, 2007. As this application became abandoned prior to the mailing of the December 27, 2006 Office action and no petition to revive had been granted, the Examiner had no procedural authority with respect to this abandoned application. Lorenz v. Finkl, 333 F.2d 885, 891 142 USPQ 26, 30 (CCPA 1964). Therefore, as the examiner had no procedural authority to act on this abandoned application, the Office action of **December 27, 2006** was mailed in error and is hereby **vacated**.

Nevertheless, in view of the rejections made in the improperly mailed December 27, 2006 Office action, it is apparent that this application is not in condition for allowance. Therefore, since this application is *prima facie* not in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b).

As to the indication in the Notice of Abandonment mailed May 18, 2006 that this application was expressly abandoned, a review of the file record fails to disclose that a letter of express abandonment was ever filed. Accordingly, it appears that the box marked on the Notice of Abandonment indicating that this application was expressly abandoned was in error.

DISCUSSION AS TO ITEM (3)

Lastly, as noted in the decision approving the withdrawal of attorney mailed on December 14, 2006, the statement of unintentional delay in the petition to revive is not acceptable. In this regard, 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 attorney or agent of record appointed in compliance with § 1.34(b);
> (2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a);
> (3) An assignee as provided for under § 3.71(b) of this chapter; or
> (4) **All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.**

An unsigned amendment (or other paper) or one not properly signed is not entered. As it appears that Mr. Hunt is signing on behalf of an assignee, compliance with 37 CFR 3.73(b) must be satisfied. In this regard, 37 CFR 3.73(b) provides:

> (1) In order to request or take action in a patent or trademark matter, the assignee must establish its ownership of the patent or trademark property of paragraph (a) of this section to the satisfaction of the Director. The establishment of ownership by the assignee may be combined with the paper that requests or takes the action. Ownership is established by submitting to the Office a signed statement identifying the assignee, accompanied by either:
>
> (i) Documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment * * * For patent matters only, the submission of the documentary evidence must be accompanied by a statement affirming that the documentary evidence of the chain of title from the

original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or

(ii) A statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number).

(2) The submission establishing ownership must show that the person signing the submission is a person authorized to act on behalf of the assignee by:

(i) Including a statement that the person signing the submission is authorized to act on behalf of the assignee; or

(ii) Being signed by a person having apparent authority to sign on behalf of the assignee, *e.g.*, an officer of the assignee.

(c) For patent matters only:

(1) Establishment of ownership by the assignee must be submitted prior to, or at the same time as, the paper requesting or taking action is submitted.

(2) If the submission under this section is by an assignee of less than the entire right, title and interest, such assignee must indicate the extent (by percentage) of its ownership interest, or the Office may refuse to accept the submission as an establishment of ownership.

In view of the above, and as it appears that Mr. Hunt is signing the statement of unintentional delay as an assignee, then compliance with 37 CFR 3.73(b) must be satisfied. A blank certificate under 37 CFR 3.73(b) is enclosed with this decision for petitioner's convenience.

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.**

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

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

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Blank Form for Statement under 37 CFR 3.73(b) - Form No. PTO/SB/96

PTO/SB/96 (11-07)
Approved for use through 11/30/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: _____

Application No./Patent No.: _____ Filed/Issue Date: _____

Entitled:

_____, a _____
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☐ the assignee of the entire right, title, and interest; or

2. ☐ an assignee of less than the entire right, title and interest
(The extent (by percentage) of its ownership interest is _____%)

in the patent application/patent identified above by virtue of either:

A. ☐ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

OR

B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

2. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

3. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

☐ As required by 37 CFR 3.73(b)(1)(i), the documentary evidence of the chain of title from the original owner to the assignee was, or concurrently is being, submitted for recordation pursuant to 37 CFR 3.11.

[NOTE: A separate copy (*i.e.*, a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

_____	_____
Signature	Date
_____	_____
Printed or Typed Name	Telephone Number
_____	
Title	

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

Privacy Act Statement

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

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

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

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MAY 13 2005

BORIS LESCHINSKY
30 WEST SADDLE RIVER ROAD
WALDWICK NJ 07463

In re Application	:	
Sarvazyan et al	:	
Serial No.: 10/986.662	:	DECISION ON PETITION
Filed: November 12, 2004	:	
For: Colonscope Handgrip With Force and Torque Monitor	:	

This is in response to applicants' petition filed November 29, 2004 to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

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

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

Should there be any questions with regard to this letter please contact Richard Bertsch by letter addressed to the Director, Technology Center 3700, P.O. Box 1450 Alexandria, VA 22313-1450, or by telephone at (571) 272-3750 or by facsimile transmission at (703) 872-9306.

Richard A. Bertsch

Richard A. Bertsch, Director
Technology Center 3700

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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F. CHAU & ASSOCIATES, LLC
130 WOODBURY ROAD
WOODBURY, NY 11797

COPY MAILED
FEB 05 2010

In re Application of :
Chun-Gi You :
Application No. 10/986,672 :
Filed: November 12, 2004 :
Attorney Docket No.: 8071-153T :

ON PETITION

This is a decision on the petition, filed February 2, 2010, under 37 CFR 1.313(a) to withdraw the above-identified application from issue.

The petition is **DISMISSED**.

37 CFR 1.313(a) states in part:

> "Applications may be withdrawn from issue for further action at the initiative of the Office or upon petition by the applicant. To request that the Office withdraw an application from issue, applicant must file a petition under this section including the fee set forth in 1.17(h) and a showing of good and sufficient reason why withdrawal of the application from issue is necessary."

While the petition includes the requisite petition fee, it does not set forth good and sufficient reasons as to why withdrawal of the application from issue is necessary. Petitioner states that the examiner's amendment was entered without approval of the proposed set of claims by the applicant. However, it is noted that the examiner's amendment states "Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312." Petitioner may wish to consider filing an amendment under 37 CFR 1.312.

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

/SDB/

Sherry D. Brinkley
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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F. CHAU & ASSOCIATES, LLC
130 WOODBURY ROAD
WOODBURY, NY 11797

MAILED
MAY 04 2010
OFFICE OF PETITIONS

In re Application of	:	
Chun-Gi You	:	
Application No.: 10/986,672	:	ON PETITION
Filed: November 12, 2004	:	
Attorney Docket No.: 8071-153T	:	

This is a decision on the petition, filed May 3, 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 12, 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2812 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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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

Cindy S. Kaplan
P.O. BOX 2448
SARATOGA, CA 95070

Mail Date: 05/13/2010

Applicant	: Suresh Katukam	: DECISION ON REQUEST FOR
Patent Number	: 7616584	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/986,675	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1171** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE WA 98101-2347

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JUL 2 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Marvin R. HLYNKA	:	
Application No. 10/986,678	:	DECISION ON PETITION
Filed: November 12, 2004	:	
Attorney Docket No. **WWWI123091**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 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, January 19, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 20, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $770, and (3) a proper statement of unintentional delay. Accordingly, the Non-final Office action of January 19, 2007 is accepted as having been unintentional delay.

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

This application is being referred to Technology Center AU 3711 for appropriate action on the concurrently filed amendment.

David Bucci
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE WA 98101-2347

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JUN 04 2009

OFFICE OF PETITIONS

In re Application of	:	
Hlynka, Marvin R.	:	
Application No. 10/986,678	:	DECISION GRANTING PETITION
Filed: November 12, 2004	:	UNDER 37 CFR 1.78(a)(3) AND
Attorney Docket No. WWWI123091	:	UNDER 37 CFR 1.78(a)(6)

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed April 10, 2009, 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 and Application Data Sheet (ADS).

The petitions are **GRANTED**.

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

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

The instant application was filed on November 12, 2004 and was pending at the time of filing of the instant petition. A reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii).

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. Application No. 60/579,720 was referenced in the first sentence of the specification upon filing, and the amendment submitted with the instant petition reference Application Nos. 10/782,517,

10/299,585 and 60/334,474. Therefore, the incorporation by reference sentence included in the amendment is not proper for Application Nos. 10/782,517, 10/299,585 and 60/334,474. However, the Office will accept the priority claims as shown in the ADS filed concurrently with the instant petition.

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center Art Unit 3711 for appropriate action on the amendment submitted April 10, 2009, including consideration by the examiner of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) for the benefit of the prior-filed applications, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional applications.

Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/986,678	11/12/2004	3711	592	WWWI123091	37	4

CONFIRMATION NO. 1853

CORRECTED FILING RECEIPT

26389
CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE, WA 98101-2347

OC000000036287968

Date Mailed: 06/03/2009

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Marvin R. Hlynka, Richmond, CANADA;

Assignment For Published Patent Application

Whitewater West Industries, Ltd., Richmond, CANADA

Power of Attorney: The patent practitioners associated with Customer Number 26389

Domestic Priority data as claimed by applicant

This application is a CIP of 10/782,517 02/18/2004 PAT 6,945,873
which is a CON of 10/299,585 11/18/2002 PAT 6,729,963
which claims benefit of 60/334,474 11/16/2001
This application 10/986,678
claims benefit of 60/576,720 06/02/2004

Foreign Applications

If Required, Foreign Filing License Granted: 12/16/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/986,678**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

Waterslide amusement device

Preliminary Class

472

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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ORRICK, HERRINGTON & SUTCLIFFE, LLP
IP PROSECUTION DEPARTMENT
4 PARK PLAZA
SUITE 1600
IRVINE CA 92614-2558

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SEP 0 1 2005

OFFICE OF PETITIONS

In re Application of	:
Smith, Michaelis, and Ormne-	: DECISION REFUSING STATUS
Marmarelis	: UNDER 37 CFR 1.47(a)
Application No. 10/986,683	:
Filed: 12 November, 2004	:
Atty Docket No. 703538.4066	:

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

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 12 November, 2004, without an executed oath or declaration. Accordingly, on 2 February, 2005, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, requiring an executed oath or declaration, the statutory basic filing fee, and a surcharge for its late filing. A two (2) month period for reply was set.

In response, on 3 August, 2005 (certificate of mailing date 1 August, 2005), a petition under 37 CFR 1.47(a), the statutory basic filing fee, surcharge, and a four (4) month extension of time and fee were filed. A declaration naming Robert F. Smith, Brian Matthew Michaelis, and Melissa A. Orme-Marmarelis, signed

by all inventors except Smith on behalf of themselves and non-signing joint inventor Smith, was also filed.

Petitioners assert that joint inventor Smith has failed to sign the declaration. Petitioners, in the declaration of Mary L. Smith, state that the declaration and an assignment have been sent to the non-signing inventor, but that he has failed to return a signed declaration.

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

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

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

(3) the petition fee;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks item (1).

In regards to item (1), petitioners have not shown that joint inventor Smith was sent or presented with a copy of the application as filed (specification, including claims, drawings, if any, and the declaration).[1] Specifically, the declaration of Mary L. Smith states only that the declaration and an assignment were sent to the non-signing inventor.

Petitioners may show proof that a copy of the application was sent or given to the non-signing inventor for review by providing a copy of the cover letter transmitting the application papers (specification, including claims, drawings, if any, and the declaration) to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Likewise, before a *bona fide* refusal to sign the declaration can be alleged, petitioners must show that a copy of the application was sent or given to the inventor. If the inventor refuses in writing, petitioners must submit a copy of that written refusal

[1] MPEP 409.03(d).

with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of fact.

In regards to item (2), the declaration contains is defective in that it contains non initialed and/or non-dated alterations.[1] Specifically, there is an uninitialed and/or undated alteration in the signature block(s) for joint inventor Orme-Marmarelis. A new oath or declaration in compliance with 37 CFR 1.63 and 1.67, signed by the inventor to whom the error or deficiency relates is required.[2]

The petition fee of $200.00 will be charged to counsel's deposit account, No. 15-0665, as authorized in the present petition.

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

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

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

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

---

[1] See 37 CFR 1.52(c).

[2] 37 CFR 1.67(a)(2).

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

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

In re Application of	:	
Michael F. Taras et al	:	
Application No. 10/986,685	:	ON PETITION
Filed: November 12, 2004	:	
Attorney Docket No. 210 _ 697	:	

This is a decision on the petition, filed January 30, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on January 4, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 3744 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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Parks & Associates, P.C.
Suite 101
3131 West Alabama
Houston TX 77098

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OCT 2 3 2007

OFFICE OF PETITIONS

In re Application of	:	
Allen Wagley et al.	:	
Application No. 10/986,694	:	ON PETITION
Filed: November 12, 2004	:	
Attorney Docket No. 7049.2	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 2, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 2, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on January 3, 2007. The Notice of Abandonment was mailed April 17, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $ 1080 extension of time fee submitted with the petition on May 2, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

The application file is being referred to Technology Center 3672 to appropriate action on the concurrently filed amendment.

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

WILLIAM H. HOLLIMON
215 SOUTH MONROE STREET
2ND FLOOR
TALLAHASSEE FL 32301

COPY MAILED

APR 10 2007

OFFICE OF PETITIONS

In re Application of
Dennis Tipton
Application No. 10/986,696
Filed: November 12, 2004
Attorney Docket No. 20-362-01

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 26, 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 November 1, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed August 1, 2006. Accordingly, the date of abandonment of this application is November 2, 2006.

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

There is no indication that petitioner has submitted a Part B-Fee(s) Transmittal form (PTOL-85). Accordingly, if petitioner desires to have the information normally found thereon printed on the patent, the attached blank Fee(s) Transmittal form should be completed and returned to the Publishing Division at the address indication on the Part B-Fee(s) Transmittal form (PTOL-85) within **ONE MONTH** from the mail date of this decision.

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.

Irvin Dingle
Petitions Examiner
Office of Petitions

Attachment: Copy of Part B-Fee(s) Transmittal form (PTOL-85)

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail Mail Stop ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (571)-273-2885

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

28736 7590 08/01/2006

WILLIAM H. HOLLIMON
MOYLE, FLANIGAN, KATZ, RAYMOND & SHEEHAN, P.A.
118 N. GADSDEN STREET
TALLAHASSEE, FL 32301

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/986,696	11/12/2004	Dennis Tipton	20-362-01	7946

TITLE OF INVENTION: TRANSPORTABLE STORAGE CONTAINER

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	$700	$300	$0	$1000	11/01/2006

EXAMINER	ART UNIT	CLASS-SUBCLASS
COLLADO, CYNTHIA FRANCISCA	3618	280-655100

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list

(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,

(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 _____
2 _____
3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE (B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent) : ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

☐ Issue Fee
☐ Publication Fee (No small entity discount permitted)
☐ Advance Order - # of Copies _____

4b. Payment of Fee(s): **(Please first reapply any previously paid issue fee shown above)**

☐ A check is enclosed.
☐ Payment by credit card. Form PTO-2038 is attached.
☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. **Change in Entity Status** (from status indicated above)

☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date _____

Typed or printed name _____ Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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BANNER & WITCOFF, LTD.
TEN SOUTH WACKER DRIVE
SUITE 3000
CHICAGO, IL 60606

Mail Date: 04/26/2010

Applicant	: Stephen Neal Hardy	: DECISION ON REQUEST FOR
Patent Number	: 7635068	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/986,701	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **267** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Alexandria, VA 22313-1450
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BOYLE FREDRICKSON NEWHOLM STEIN & GRATZ, S.C.
250 E. WISCONSIN AVENUE
SUITE 1030
MILWAUKEE, WI 53202

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JUN 16 2006

OFFICE OF PETITIONS

In re Application of	:	DECISION ON REQUEST
Carletto Tonutti	:	TO WITHDRAW FROM
Application No. 10/986,702	:	RECORD
Filed: November 12, 2004	:	
Attorney Docket No. 372.032	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed on January 30, 2006.

The request 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.

This application file is being referred to Technology Center Art Unit 3671 for review of the response to the Office action filed May 12, 2006.

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

Andrea Smith
Petitions Examiner
Office of Petitions

Conferee:

cc: TIBERIU WEISZ
Gottlieb Rackman & Reisman, PC
270 Madison Ave
New York, NY 10016

UNITED STATES PATENT AND TRADEMARK OFFICE

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BAKER & DANIELS LLP
111 E. WAYNE STREET
SUITE 800
FORT WAYNE, IN 46802

Mail Date: 04/21/2010

Applicant	: Dan M. Manole	: DECISION ON REQUEST FOR
Patent Number	: 7617696	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/986,704	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **673** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

OIPE IAP60
DEC 19 2005
PATENT & TRADEMARK OFFICE

PTO/SB/83(09-04)
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REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	10/986,705
Filing Date	November 12, 2004
First Named Inventor	Michael L. Bell
Art Unit	2856
Examiner Name	Not Yet Assigned
Attorney Docket Number	12858-11

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

Approved 4-20-06
Jacqueline M. Stone, Director
Technology Center 1700/2900

Please withdraw me as attorney for the above identified 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
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 client/assignee has acquiesced in our withdrawal based on circumstances that may effect the attorney-client relationship.

CHANGE OF 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**	Russ Fowler Maginot, Moore & Beck LLP				
Address	Chase Tower, 111 Monument Circle, Suite 3250				
City	Indianapolis	**State**	IN	**Zip**	46204-5115
Country	United States				
Telephone	~~(317) 618-2344~~	**Fax**	(317) 638-2139		
Signature					
Name	Robert B. Polit	**Registration No.**	33,993		
Date	December 9, 2005	**Telephone No.**	(312) 245-5309		

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 37CFR 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 Inforamtion 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.

OIPE IAP60
DEC 19 2005
PATENT & TRADEMARK OFFICE

IFW

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8
I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, with sufficient postage, in an envelope addressed to: Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450, on the below date:
Date: December 13 2005 Name: Robert B. Polit, Reg. No. 33,993 Signature:

BRINKS HOFER GILSON & LIONE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Appln. of: Michael L. Bell

Appln. No.: 10/986,705

Filed: November 12, 2004

For: IMPROVED SAMPLE PREPARATION SYSTEM FOR A LABORATORY APPARATUS

Attorney Docket No: 12858-11

Examiner: Not Yet Assigned

Art Unit: 2856

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

TRANSMITTAL

Sir:

Attached is/are:

☒ Request for Withdrawal as Attorney or Agent and Change of Correspondence Address.

☒ Return Receipt Postcard.

Fee calculation:

☐ No additional fee is required.

☐ Small Entity.

☐ An extension fee in an amount of $_____ for a _____-month extension of time under 37 C.F.R. § 1.136(a).

☐ A petition or processing fee in an amount of $_____ under 37 C.F.R. § 1.17(_____).

☐ An additional filing fee has been calculated as shown below:

						Small Entity			Not a Small Entity	
	Claims Remaining After Amendment		Highest No. Previously Paid For	Present Extra		Rate	Add'l Fee	or	Rate	Add'l Fee
Total		Minus				x $25=			x $50=	
Indep.		Minus				x 100=			x $200=	
First Presentation of Multiple Dep. Claim						+$180=			+ $360=	
						Total	$		Total	$

Fee payment:

☐ A check in the amount of $_____ is enclosed.

☐ Please charge Deposit Account No. 23-1925 in the amount of $. A copy of this Transmittal is enclosed for this purpose.

☐ Payment by credit card in the amount of $_____ (Form PTO-2038 is attached).

☒ The Director is hereby authorized to charge payment of any additional filing fees required under 37 CFR § 1.16 and any patent application processing fees under 37 CFR § 1.17 associated with this paper (including any extension fee required to ensure that this paper is timely filed), or to credit any overpayment, to Deposit Account No. 23-1925.

12/13/05
Date

Respectfully submitted,

Robert B. Polit (Reg. No. 33,993)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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JJGJr: 03-06

Paper No: __

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MAR 3 1 2006
OFFICE OF PETITIONS

STRASBURGER & PRICE, LLP
SUITE 4300
901 MAIN ST.
DALLAS TX 75202

In re Application of
Morris :
Application No. 10/986,706 : ON PETITION
Filed: 12 November, 2004 :
Attorney Docket No.: 12732.0102 USPT :

This is a decision on the petition filed on 6 March, 2006, alleging unintentional delay under 37 C.F.R. §1.137(b), and–almost as an aside–submitting a statement which must be considered as a request to withdraw of the holding of abandonment under 37 C.F.R. §1.181.

For the reasons set forth below, the petition as considered under 37 C.F.R. §1.181 is **DISMISSED**, and the petition under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

It appears that:

- Petitioner failed to reply timely and properly to the Notice of Allowance and Fees Due and Notice of Allowability on 20 October, 2005 (as to the Drawing Requirement) with reply due under a non-extendable deadline on or before 20 January, 2006;
- the instant application went abandoned after midnight 20 January, 2006;
- the Office mailed the Notice of Abandonment on 21 February, 2005;

- Petitioner filed, *inter alia*, the instant petition to revive on 6 March, 2006, with fee authorization and a reply in the form of drawings, and indicated that he previously had submitted drawings–in August 2005–and the Office clearly ignored the fact that there was not need to reply to the 20 October drawings requirement, for which reason the holding of abandonment should be withdraw and his petition fee should be returned.

Notably, Petitioner does not suggest that he–at any time after the mailing of the Notice of Allowance–replied to the drawing requirement set forth by the Examiner in that 20 October, 2005, Office action.

And, of course, Petitioner did not.

As one registered to practice before the Office, Petitioner is aware that an Office action mailed by the Examiner requires a reply, and whether that reply was simply to direct the Examiner's attention to a previously filed paper or to provide an additional copy of that paper–with or without an inquiry as to whether additional action was required of the Petitioner so as to demonstrate a *bona fide* effort to reply to the drawings requirement following the Examiner's Amendment (see: *inter alia*, MPEP §1302.03)–a reply was required.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[2]

---

[1] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

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

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4] And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[7]

The commentary at MPEP §711.03(c) provides:

* * *

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

---

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

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

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

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

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

"Express Mail" date.

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

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

37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the

> correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP § 512.
>
> * * *

Thus, Petitioner appears not to have satisfied the showing requirements described above because Petitioner failed to reply.

Thus, Petitioner has failed to carry his burden in this matter so as to obtain relief under the provisions of 37 C.F.R. §1.181 and relief cannot be granted under the provisions of 37 C.F.R. §1.181.

Allegations as to
Unintentional Delay

The requirements for relief under the provisions of 37 C.F.R. §1.137(b) are: petition, fee, reply, showing of unintentional delay, and–where appropriate–a terminal disclaimer and fee.

It appears that Petitioner has satisfied the requirements of the regulation.

CONCLUSION

Because Petitioner has not satisfied the burdens set forth in Delgar v. Schulyer and within the regulation, the petition under 37 C.F.R. §1.181 hereby is **dismissed**, and the 8 September, 2004, Notice of Abandonment is maintained.

However, the petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to Publications Branch to be processed into a patent in due course.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JJGJr. 04-06

Paper No: __

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OFFICE OF PETITIONS

STRASBURGER & PRICE, LLP
SUITE 4300
901 MAIN ST.
DALLAS TX 75202

In re Application of		
Morris	:	
Application No. 10/986,706	:	ON PETITION
Filed: 12 November, 2004	:	
Attorney Docket No.: 12732.0102 USPT	:	

This is a revised decision on the petition filed on 6 March, 2006, alleging unintentional delay under 37 C.F.R. §1.137(b), and–almost as an aside–submitting a statement which must be considered as a request to withdraw of the holding of abandonment under 37 C.F.R. §1.181.

For the reasons set forth below:

- in light of the Examiner's review of the drawings submitted, the decision of 31 March, 2006, is **VACATED**; and further,
- the petition as considered under 37 C.F.R. §1.181 is **DISMISSED**; and
- the petition under 37 C.F.R. §1.137(b) is **DISMISSED**.

NOTES:

(1) Any petition (and fee) for reconsideration of this decision under 37 C.F.R. §1.137(b)[1] (as to unintentional delay) must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(b)."

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

BACKGROUND

It appears that:

- Petitioner failed to reply timely and properly to the Notice of Allowance and Fees Due and Notice of Allowability on 20 October, 2005 (as to the Drawing Requirement) with reply due under a non-extendable deadline on or before 20 January, 2006;
- the instant application went abandoned after midnight 20 January, 2006;
- the Office mailed the Notice of Abandonment on 21 February, 2005;
- Petitioner filed, *inter alia*, the instant petition to revive on 6 March, 2006, with fee authorization and a reply in the form of drawings, and indicated that he previously had submitted drawings–in August 2005–and the Office clearly ignored the fact that there was not need to reply to the 20 October drawings requirement, for which reason the holding of abandonment should be withdraw and his petition fee should be returned.

Notably, Petitioner does not suggest that he–at any time after the mailing of the Notice of Allowance–replied to the drawing requirement set forth by the Examiner in that 20 October, 2005, Office action.

---

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

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

(2) the petition fee as set forth in 37 C.F.R. §1.17(m);

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

(4) any terminal disclaimer (and fee set forth in 37 C.F.R. §1.20(d)) required pursuant to 37 C.F.R. §1.137(c). (Emphasis supplied.)

And, of course, Petitioner did not.

As one registered to practice before the Office, Petitioner is aware that an Office action mailed by the Examiner requires a reply, and whether that reply was simply to direct the Examiner's attention to a previously filed paper or to provide an additional copy of that paper–with or without an inquiry as to whether additional action was required of the Petitioner so as to demonstrate a *bona fide* effort to reply to the drawings requirement following the Examiner's Amendment (see: *inter alia*, MPEP §1302.03)–a reply was required. Moreover, Petitioner also is aware that all applicants and particularly all practitioners practicing before the Office owe to the Office a continuing duty of candor and duty to investigate the accuracy of the representations made to the Office.

The Examiner has reviewed the drawings submitted with Petitioner's petition and indicated that the drawings submitted by the Petitioner still fail to respond to the 20 October, 2006, drawings requirement.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[3]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing

---

[2] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] 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.

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

that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5] And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[8]

The commentary at MPEP §711.03(c) provides:

* * *

> **B. Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed**
>
> 37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), * (e), or (g) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.
>
> Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP §

---

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

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

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

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

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

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

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

* * *

Thus, Petitioner appears not to have satisfied the showing requirements described above because Petitioner failed to reply.

Thus, Petitioner has failed to carry his burden in this matter so as to obtain relief under the provisions of 37 C.F.R. §1.181 and relief cannot be granted under the provisions of 37 C.F.R. §1.181.

Allegations as to
Unintentional Delay

The requirements for relief under the provisions of 37 C.F.R. §1.137(b) are: petition, fee, reply, showing of unintentional delay, and–where appropriate–a terminal disclaimer and fee.

It appears that Petitioner has not satisfied the requirements of the regulation.

CONCLUSION

Because Petitioner has not satisfied the burdens set forth in Delgar v. Schulyer and within the regulation, the petition under 37 C.F.R. §1.181 hereby is **dismissed**, and the 21 February, 2006, Notice of Abandonment is maintained.

Further, the petition under 37 C.F.R. §1.137(b) is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:[9]

By mail: Commissioner for Patents[10]
P.O. Box 1450
Alexandria, VA 22313-1450

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No: __

STRASBURGER & PRICE, LLP
SUITE 4300
901 MAIN ST.
DALLAS TX 75202

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OFFICE OF PETITIONS

In re Application of
Morris :
Application No. 10/986,706 : ON PETITION
Filed: 12 November, 2004 :
Attorney Docket No.: 12732.0102 USPT :

This is a decision on the renewed petition filed on 9 May, 2006, alleging unintentional delay under 37 C.F.R. §1.137(b).

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

NOTE:

The Office has accepted Petitioner's representation that Petitioner's effort as to the drawings requirement were *bona fide*. However, Petitioner is cautioned that, should the Examiner conclude that the reply once again is insufficient and once again abandon the case, such would constitute a new abandonment, for which Petitioner will have to file a new petition and fee under 37 C.F.R. §1.137(b).

BACKGROUND

It appears that:

- Petitioner failed to reply timely and properly to the Notice of Allowance and Fees Due and Notice of Allowability on 20 October, 2005 (as to the Drawing Requirement) with reply due under a non-extendable deadline on or before 20 January, 2006;

- the instant application went abandoned after midnight 20 January, 2006;

- the Office mailed the Notice of Abandonment on 21 February, 2006;

- Petitioner filed, *inter alia*, the instant petition to revive on 6 March, 2006, with fee authorization and a reply in the form of drawings, and represented that he previously had submitted drawings (in August 2005), and further argues that the Office clearly ignored the fact that there was not need to reply to the 20 October drawings requirement, for which reason the holding of abandonment should be withdrawn and his petition fee should be returned; however, the petition was dismissed on 6 April, 2006, because Petitioner had not replied to the drawing requirement set forth in the Examiner's 20 October, 2005, Office action, which in fact addressed one or more other issues with the drawings;

- Petitioner now represents that he has submitted with the instant petition a proper reply, and the Office looks back to Petitioner's submission of the petition and fee and statement of unintentional delay on 6 March, 2006, for completion of the regulatory requirements herein.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[2]

---

[1] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

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

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4] And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

Allegations as to
Unintentional Delay

The requirements for relief under the provisions of 37 C.F.R. §1.137(b) are: petition, fee, reply, showing of unintentional delay, and–where appropriate–a terminal disclaimer and fee.

It appears that Petitioner has satisfied the requirements of the regulation.

CONCLUSION

Because Petitioner appears to have satisfied the regulatory requirements, regulation, the petition under 37 C.F.R. §1.137(b) is **granted**.

The application is released to the Examiner in Technology Center 2800 for review of the drawings before being forwarded to Publications Branch.

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DORITY & MANNING
PA & MICHELIN NORTH AMERICA, INC
P.O. BOX 1449
GREENVILLE, SC 29602-1449

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SEP 1 2 2008

OFFICE OF PETITIONS

In re Application of :
Jack Thiesen :
Application No. 10/986,709 : ON PETITION
Filed: November 12, 2004 :
Attorney Docket No. MIC-108 (P50-0171)

This is a decision on the petition, filed September 10, 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 5, 2008 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2857 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DORITY & MANNING, PA & MICHELIN NORTH AMERICA, INC
P O BOX 1449
GREENVILLE, SC 29602-1449

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In re Application of	:	
Jack Thiesen	:	
Application No.: 10/986,709	:	ON PETITION
Filed: November 12, 2004	:	
Attorney Docket No.: MIC-108 (P50-0171)	:	

This is a decision on the petition, filed December 10, 2008, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 9, 2008, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The application is being referred to Technology Center AU 2857 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.*

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

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JUN 24 2008

OFFICE OF PETITIONS

In re Application of	:	
TESSMER, et al.	:	
Application No. 10/986,714	:	DECISION ON PETITION
Filed: November 12, 2004	:	TO WITHDRAW
Attorney Docket No. **1016750038P**	:	FROM RECORD

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

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to **MORRISON & FOERSTER, LLP** has been revoked by the assignee of the patent application on June 4, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **C.R. BARD, INC.**
BARD PERIPHERAL VASCULAR
1625 W. 3RD STREET
P.O. BOX 1740
TEMPE, AZ 85280-1740

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Alexandria, VA 22313-1450
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RATNERPRESTIA
P.O. BOX 980
VALLEY FORGE PA 19482

MAILED
JUL 09 2010
OFFICE OF PETITIONS

In re Patent No. 7,720,527	:	
Application No. 10/986,719	:	
Filed: November 12, 2004	:	ON PETITION
Issued: May 18, 2010	:	
Attorney Docket No. MTS-3538US	:	

This is a decision on the petition filed June 14, 2010, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-7751. Inquiries regarding the certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Joan Olszewski
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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MAR 1 7 2008

OFFICE OF PETITIONS

Andre Hinckson
114-47
196th Street
Queens NY 11412

In re Application of	:
Hinckson	: DECISION ON PETITION
Application No. 10/986,722	:
Filed: November 12, 2004	:
For: ELECTRIC POWER KING	:

This is a decision on the petition under 37 CFR 1.137(a), filed February 1, 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 mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." This is not a final agency decision.

This application became abandoned June 20, 2007 for failure to submit a proper reply to the final Office action mailed March 19, 2007. The final Office action set a three month shortened statutory period of time for reply. Replies were submitted June 19, 2007, August 3, 2007, and September 28, 2007. No petition for extension of time for reply accompanied the supplies submitted August 3, 2007 and the September 28, 2007. Notice of Abandonment was mailed January 301, 2008.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The present petition fails to satisfy requirement (3) set forth above. Petitioner has failed to present 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.

The Office may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to have been "unavoidable." See, 37 CFR 1.137(a)(3). Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). A petition to revive an application as unavoidably abandoned cannot be granted where petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

Petitioner attributes the failure to timely submit a proper reply to the final Office action to "a chronic sickness." Petitioner has failed to submit any supporting documentation to support his contention of a chronic sickness.

A showing of "unavoidable" delay based upon incapacitation, or, petitioner's chronic illness, must establish that petitioner's incapacitation was of such nature and degree as to render petitioner unable to conduct business (*e.g.*, correspond with the Office) during the period between March 19, 2007, the date the final Office action was mailed, and September 19, 2007, the maximum period of time allowed for reply. Such a showing must be supported by a statement from petitioner's treating physician, and such statement must provide the nature and degree of petitioner's incapacitation during this above-mentioned period.

Petitioner has failed to draw a nexus between the alleged chronic sickness and the failure to timely submit a proper reply to the final Office action. To this end, petitioner was obviously able to correspond with the Office during the time period at issue. While petitioner purports to have been in

"intense pain and hospitalized" at an unspecified time, petitioner nonetheless was able to reply to the final Office action on three occasions (June 19, 2007, August 3, 2007, and September 28, 2007). Accordingly, at this time, it cannot be found petitioner was unavoidably delayed in submitting a proper reply to the final Office action due to a chronic sickness.

Any renewed petition must be accompanied by evidence that sufficiently establishes that the failure to timely reply to the Notice was unavoidable.

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.

ALTERNATE VENUE

Petitioner may wish to consider filing a petition stating that the delay was unintentional. Petitioner's attention is directed to 37 CFR 1.137(b) which provides for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable". An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required petition fee and reply.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a

statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

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

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure

PTO/SB/64 (01-08)
Approved for use through 03/31/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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
www.uspto.gov

Andre Hinckson
114-47
196th Street
Queens NY 11412

COPY MAILED
JUN 20 2008

In re Application of :
Hinckson : DECISION ON PETITION
Application No. 10/986,722 :
Filed: November 12, 2004 :
For: ELECTRIC POWER KING :

This is a decision on petition under 37 CFR 1.137(b) filed March 31, 2008 and the renewed petition under 37 CFR 1.137(a), filed April 21, 2008, to revive the above-identified application.

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

This application became abandoned June 20, 2007 for failure to submit a proper reply to the final Office action mailed March 19, 2007. The final Office action set a three month shortened statutory period of time for reply. Replies were submitted June 19, 2007, August 3, 2007, and September 28, 2007. No petition for extension of time for reply accompanied the supplies submitted August 3, 2007 and the September 28, 2007. Notice of Abandonment was mailed January 30, 2008. A petition under 37 CFR 1.137(a) was filed February 1, 2008 and dismissed March 17, 2008.

DECISION UNDER 37 CFR 1.137(b)

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(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(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition fails to satisfy requirement (2) set forth above. Accordingly ,the petition under 37 CFR 1.137(b) has not been reviewed on the merits because submission of the required petition fee is a prerequisite prior to treatment on the merits of any petition submitted pursuant to 37 CFR 1.137(b).

Petitioner has submitted $515.00 with the petition under 37 CFR 1.137(b), filed March 31, 2008. The current small entity petition fee due under 37 CFR 1.137(b) is $770.00. Any petition renewed under 37 CFR 1.137(b) must include the remaining fee due, $255.00.

DECISION UNDER 37 CFR 1.137(a)

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The present petition fails to satisfy requirement (3) set forth above. Petitioner has failed to present 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.

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

his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

Petitioner continues to attribute the failure to timely submit a proper reply to the final Office action to a medical condition. The instant renewed petition is not accompanied by any supporting documentation of the supposed medical condition.

Accordingly, petitioner has failed to draw a nexus between the alleged medical condition and the failure to timely submit a proper reply to the final Office action. Petitioner submitted replies in response to the final Office action on June 19, 2007, August 3, 2007, and September 28, 2007. Accordingly, it cannot be found petitioner was unavoidably delayed in submitting a proper reply to the final Office action due to a medical condition.

Any renewed petition must be accompanied by evidence that sufficiently establishes that the failure to timely reply to the Notice was unavoidable.

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

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

By facsimile: (571) 273-8300

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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SEP 02 2008

Andre Hinckson
114-47
196th Street
Queens NY 11412

In re Application of Hinckson Application No. 10/986,722 Filed: November 12, 2004 For: ELECTRIC POWER KING	DECISION ON PETITION

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

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

This application became abandoned June 20, 2007 for failure to submit a proper reply to the final Office action mailed March 19, 2007. The final Office action set a three month shortened statutory period of time for reply. Replies were submitted June 19, 2007, August 3, 2007, and September 28, 2007. No petition for extension of time for reply accompanied the supplies submitted August 3, 2007 and the September 28, 2007. Notice of Abandonment was mailed January 30, 2008.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The petition has been carefully reviewed and found in compliance with the above set forth requirements under 37 CFR 1.137(b).

This application is being directed to Technology Center 2800 for processing of the request for continued examination submitted February 1, 2008.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

TraskBritt / Battelle Energy Alliance, LLC
PO Box 2550
Salt Lake City, UT 84110

Mail Date: 04/20/2010

Applicant	: Daniel M. Ginosar	: DECISION ON REQUEST FOR
Patent Number	: 7592282	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/986,742	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/11/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **872** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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TraskBritt / Battelle Energy Alliance, LLC
PO Box 2550
Salt Lake City, UT 84110

Mail Date: 05/17/2010

Applicant : Daniel M. Ginosar
Patent Number : 7592282
Issue Date : 09/22/2009
Application No : 10/986,742
Filed : 11/11/2004

: 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 **940** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LSI CORPORATION
1621 BARBER LANE
MS: D-105
MILPITAS, CA 95035

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AUG 18 2008

In re Application of :
Ramya Subramanian et al :
Application No. 10/986,751 : ON PETITION
Filed: November 12, 2004 :
Attorney Docket No. 04-1931 :

This is a decision on the petition filed May 6, 2008 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and Publication fee in a timely manner in reply to the Notice of Allowance mailed January 8, 2008, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on April 9, 2008.

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

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210. This matter is being referred to the Office of Data Management for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Daniel N. Fishman
1526 Spruce Street, Suite 302
Boulder, CO 80302

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SILVERBROOK RESEARCH PTY LTD.
393 DARLING STREET
BALMAIN
2041
AUSTRALIA

COPY MAILED

OCT 0 5 2005

OFFICE OF PETITIONS

In re Application of	:
Kia Silverbrook	:
Application No. 10/986,759	: DECISION ON PETITION
Filed: November 15, 2004	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. XMB026US	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed May 26, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 09/662,210, as 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 items (1) and (2) above.

As to item (2) above, the petition states that the surcharge fee as required by 37 CFR 1.17(t) is enclosed. However, Office finance records fail to disclose receipt of this fee.

As to 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 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) can be granted, a substitute amendment[1] deleting the incorporation by reference statement and the surcharge fee of $1,370, along with a renewed petition under 37 CFR 1.78(a)(3), are required.

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

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

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

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

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

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

---

[1] *Note* 37 CFR 1.121

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SILVERBROOK RESEARCH PTY LTD.
393 DARLING STREET
BALMAIN
2041
AUSTRALIA

COPY MAILED

JAN 18 2006

OFFICE OF PETITIONS

In re Application of	:
Kia Silverbrook	:
Application No. 10/986,759	: DECISION ON PETITION
Filed: November 15, 2004	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. XMB026US	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed October 24, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 09/662,210, as set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional 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).

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

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

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a proper 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 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 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 this 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.

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

This matter is being referred to Technology Center Art Unit 2861 for appropriate action on the amendment filed October 24, 2005, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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Clifford W. Vermette
Vermette & Co.
Suite 320
1177 West Hastings
Vancouver BC V6E 2K3 CA
CANADA

COPY MAILED
DEC 0 8 2008

In re Application of	:	
Thomas M. Taylor et al.	:	
Application No. 10/986,769	:	DECISION ON PETITION
Filed: November 15, 2004	:	TO WITHDRAW
Attorney Docket No. 2587-104	:	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 November 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. 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 Clifford W. Vermette sole attorney of record. Clifford W. Vermette has been withdrawn.

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

The correspondence address has been changed to the first signing inventor, since no assignee has properly intervened in this application. If an assignee would like to intervene in this application and receive future correspondence then the proper power of attorney documents and a statement under 37 CFR 3.73(b) must be submitted. The new address is copied below.

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

Kimberly Inabinet
Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Robert M. Taylor
5432 Lakeshore Road
Kelowna, Britsh Columbia
CANADA V1W 4S5

cc: QM Technologies – Kevin O'Neill
Box 91430 – 1427 Bellevue Avenue
West Vancouver, British Columbia
CANADA V7V 3P1

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/986,769	11/15/2004	Thomas M. Taylor	2404-104

CONFIRMATION NO. 8150

POWER OF ATTORNEY NOTICE

CLIFFORD W. VERMETTE
VERMETTE & CO.
SUITE 320
1177 WEST HASTINGS
VANCOUVER, BC V6E 2K3
CANADA

OC000000033486434

Date Mailed: 12/08/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/13/2008.

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

/kainabinet/

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

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

Clifford W. Vermette
Vermette & Co.
Suite 320
1177 West Hastings
Vancouver BC V6E 2K3 CA
CANADA

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DEC 15 2008

In re Application of	:	
Thomas M. Taylor et al.	:	CORRECTED
Application No. 10/986,769	:	DECISION ON PETITION
Filed: November 15, 2004	:	TO WITHDRAW
Attorney Docket No. 2587-104	:	FROM RECORD
	:	

This is a corrected 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 November 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. 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 Clifford W. Vermette sole attorney of record. Clifford W. Vermette has been withdrawn.

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

The correspondence address has been changed to the first signing inventor, since no assignee has properly intervened in this application. If an assignee would like to intervene in this application and receive future correspondence then the proper power of attorney documents and a statement under 37 CFR 3.73(b) must be submitted. The new address is copied below.

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

Kimberly Inabinet
Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Thomas M. Taylor
5432 Lakeshore Road
Kelowna, Britsh Columbia
CANADA V1W 4S5

cc: QM Technologies – Kevin O'Neill
Box 91430 – 1427 Bellevue Avenue
West Vancouver, British Columbia
CANADA V7V 3P1

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CONNOLLY BOVE LODGE & HUTZ LLP
IBM MICROELECTRONICS DIVISION
1990 M STREET NW, SUITE 800
WASHINGTON, DC 20036-3425

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MAR 2 3 2005

OFFICE OF PETITIONS

In re Application of
Robert J. Devins, Paul J. Ferro, Peter D. LaFauci, Kenneth A. Mahler and David W. Milton
Application No. 10/986,773
Filed: November 15, 2004
Title: METHOD AND SYSTEM FOR LOGIC VERIFICATION USING MIRROR INTERFACE

DECISION GRANTING PETITION UNDER 37 CFR 1.47(a)

This is in response to the "Petition Under 37 CFR 1.47(a)," filed March 14, 2005.

The petition is **granted**.

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

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

The file is being forwarded to Technology Center 2800 for examination *in due course*.

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

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

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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PETER D. LAFAUCI
5001 SUNSET FOREST CIRCLE
HOLLY SPRINGS, NC 27540

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MAR 2 3 2005

OFFICE OF PETITIONS

In re Application of
Robert J. Devins, Paul J. Ferro, Peter D. LaFauci,
Kenneth A. Mahler and David W. Milton
Application No. 10/986,773
Filed: November 15, 2004
Title: METHOD AND SYSTEM FOR LOGIC VERIFICATION
USING MIRROR INTERFACE

Dear PETER D. LAFAUCI:

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

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

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

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

CONNOLLY BOVE LODGE & HUTZ LLP
IBM MICROELECTRONICS DIVISION
1990 M STREET NW, SUITE 800
WASHINGTON, DC 20036-3425

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393 DARLING STREET
BALMAIN 2041
AUSTRALIA

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OCT 30 2007

OFFICE OF PETITIONS

In re Application of	:	
Kia Silverbrook	:	DECISION ON PETITION
Application No. 10/986,785	:	UNDER 37 CFR 1.78(a)(3)
Filed: November 15, 2004	:	
Attorney Docket No. XMB029US	:	

This is a decision on the Petition to Accept an Unintentionally Delayed Claim under 35 U.S.C. 120 filed December 13, 2006. This petition is properly being treated under 37 C.F.R. § 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § 120 and 365(c) for the benefit of priority to prior-filed nonprovisional application No. 10/636,258 and No. 10/129,435, which is a 371 of PCT/AU01/00216. This petition was recently forwarded to the undersigned for consideration.

The petition is **GRANTED**.

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

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

(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

A reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

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

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3219. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center Art Unit 2853 for consideration by the examiner of the claim for benefit

of priority under 35 U.S.C. § 120 of the prior-filed application as set forth in the amendment filed December 13, 2006.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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393 DARLING STREET
BALMAIN 2041 AU AUSTRALIA

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OFFICE OF PETITIONS

In re Application of Kia Silverbrook Application No. 10/986,788 Filed: November 15, 2004 Attorney Docket No. XMB032US	DECISION ON PETITION UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 27, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed December 4, 2006.

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.

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

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

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

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

This application is being forwarded to Technology Center Art Unit 2854, for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Any inquiries concerning this decision may be directed to 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.

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
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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
10/986,788	11/15/2004	2854	790	XMB032US	9	2

CONFIRMATION NO. 1940

CORRECTED FILING RECEIPT

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

OC000000027612124

Date Mailed: 01/09/2008

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)

Kia Silverbrook, Balmain, AUSTRALIA;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of 10/636,209 08/08/2003 PAT 7,021,843
which is a CON of 09/662,210 09/15/2000 PAT 6,612,240

Foreign Applications

If Required, Foreign Filing License Granted: 12/20/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/986,788**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Printhead assembly

Preliminary Class

400

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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CRYSTAL CENTER 2, SUITE 522
2461 SOUTH CLARK STREET
ARLINGTON, VA 22202-3843

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MAY 29 2007

OFFICE OF PETITIONS

In re Application of	:	
Dido Boni, et. al.	:	
Application No. 10/986,790	:	ON PETITION
Filed: November 14, 2004	:	
Attorney Docket No. A-10151	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on December 12, 2006, to revive the above-identified application.

The application became abandoned for failure to timely respond to the Notice of Allowance and Fee(s) Due mailed September 7, 2006.

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

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

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

EMPK & Shiloh, LLP
c/o Landon IP, Inc.
1700 Diagonal Road
Suite 450
Alexandria VA 22314

COPY MAILED

AUG 03 2009

OFFICE OF PETITIONS

In re Application of	:	
Alexander Kushnarenko et al.	:	
Application No. 10/986,799	:	DECISION ON PETITION
Filed: November 15, 2004	:	
Attorney Docket No. P-6273-US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 28, 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 25, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 26, 2007.

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

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

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

This application is being referred to Technology Center AU 2838 for appropriate action by the Examiner in the normal course of business.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: Vladimir Sherman
22 Maskit St.
HERZELIYA, 46105 ISRAEL

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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BANNER & WITCOFF, LTD.
1001 G Street, N.W.
Eleventh Floor
Washington, D.C. 20001-4597

MAILED

SEP 02 2005
Director's Office
Group 3700

In re Application of	:	
Douglas J. Hohlbein, et al.	:	
Serial No. 10/986,809	:	DECISION ON PETITION
Filed: November 11, 2004	:	TO MAKE SPECIAL
For: ORAL CARE IMPLEMENT	:	

Applicant's petition, filed March 18, 2005, seeks to have this application made special pursuant to the Accelerated Examination Program. The petition is GRANTED.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(VIII) of the Manual of Patent Examining Procedures (MPEP).

Applicant is advised that the examiner's search will be restricted to the subject matter encompassed by the claims. In the event that the application receives a first action rejection, applicant is encouraged to arrange for an interview with the examiner, and to provide the examiner with a working copy of any proposed amendment one working day prior to the interview. Any amendment filed in response to a first action rejection, which would require broadening of the field of search will be treated as an improper response.

PETITION GRANTED.

Richard A. Bertsch, Director
Technology Center 3700
571-272-3750

rt/ 9/01/05

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN NSW 2-041
AUSTRALIA AIR MAIL

COPY MAILED

OCT 01 2007

OFFICE OF PETITIONS

In re Application of	:	
Kia Silverbrook	:	
Application No. 10/986,813	:	DECISION ON PETITION
Filed: 11/15/2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. XMB028US	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed May 31, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

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

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

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

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

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

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2861 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/986,813	11/15/2004	2861	790	XMB028US	9	1

CONFIRMATION NO. 7629

CORRECTED FILING RECEIPT

OC000000026086777

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

Date Mailed: 10/01/2007

Receipt is acknowledged of this nonprovisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Kia Silverbrook, Balmain, AUSTRALIA;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of 10/804,048 03/19/2004
which is a CON of 10/636,286 08/08/2003 PAT 6,739,701
which is a CON of 10/129,433 05/06/2002 PAT 6,672,707
which is a 371 of PCT/AU01/00217 03/02/2001

Foreign Applications

AUSTRALIA PQ5957 03/02/2000

If Required, Foreign Filing License Granted: 12/15/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/986,813

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Alignment mechanism for a printhead module

Preliminary Class

347

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

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393 DARLING STREET
BALMAIN 2041 AU
AUSTRALIA

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MAR 23 2009
OFFICE OF PETITIONS

In re Application of	:	
Silverbrook	:	
Application No. 10/986,813	:	DECISION
Filed: 15 November, 2004	:	
Attorney Docket No. XMB028US	:	

This is a decision on the petition filed on 10 December, 2008, to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

The petition as considered under 37 C.F.R. §1.137(b) is **GRANTED**.

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

BACKGROUND

The record reflects that:

Petitioner failed to reply timely and properly to the non-final Office action mailed on 14 May, 2008, with reply due absent extension of time on or before 14 August, 2008.

The application went abandoned by operation of law after midnight 14 August, 2008.

The Office mailed the Notice of Abandonment 25 November, 2008.

On 10 December, 2008, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.137(b) averring unintentional delay, a reply in the form of an amendment, and made the statement of unintentional delay.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]
The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

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.[3]))

As to Allegations of Unintentional Delay

It appears that the requirements under 37 C.F.R. §1.137(b) have been satisfied.

CONCLUSION

Accordingly, The petition under 37 C.F.R. §1.137(b) is **granted**.

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[2] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

The instant application is released to the Technology Center/AU 2861 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[4] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Fujitsu Patent Center
C/O CPA Global
P.O. Box 52050
Minneapolis, MN 55402

Mail Date: 04/21/2010

Applicant	: Akihiro Wakabayashi	: DECISION ON REQUEST FOR
Patent Number	: 7593571	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/986,846	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1284** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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

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SEP 3 0 2008

OFFICE OF PETITIONS

In re Application of
Inui
Application No. 10/986,853
Filed: November 15, 2004
Atty. Dkt. No.: Q 84580

: DECISION ON PETITION

This is also a decision on the petition to revive under 37 CFR 1.137(b) filed September 17, 2008.

This application became abandoned July 29, 2008 for failure to timely submit a proper reply to the Notice of Allowance and Issue Fee Due (Notice) mailed April 28, 2008. The Notice set a three month statutory period of time for reply. Notice of Abandonment was mailed August 22, 2008.

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 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 set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The required petition fee, publication fee, and issue fee have been charged to petitioners' deposit account, as authorized.

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely submit a proper reply to the Notice is accepted as having been unintentionally delayed.

There is no indication that petitioner has submitted a Part B-Fee(s) Transmittal form (PTOL-85). Accordingly, if petitioner desires to have the information normally found thereon printed on the patent, the attached blank Fee(s) Transmittal form should be completed and returned to the Publishing Division within **ONE MONTH** from the mail date of this decision.

It is noted that petitioners allege that the failure to respond to the Notice was "unavoidable."

Petitioners have not made a showing of unavoidable within the meaning of 37 CFR 1.137(a) and, further, have not submitted a proper petition under 37 CFR 1.137(a).

It is further noted that petitioners herein allege that the Notice mailed April 28, 2008 was not received and have provided a copy of a docket report. Petitioners request withdrawal of the holding of abandonment.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. Petitioners have failed to overcome this presumption.

As set forth at MPEP 711.03(c), the showing required to establish non-receipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response. Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required. A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the non-received Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of non-receipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

This, the petition is accordingly granted under 37 CFR 1.137(b).

This application will be forwarded to the Office of Data Management for further processing.

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure

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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NOTICE OF ALLOWANCE AND FEE(S) DUE

23373 7590 04/28/2008

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

EXAMINER	
TRAN, MY CHAU T	
ART UNIT	PAPER NUMBER
2629	

DATE MAILED: 04/28/2008

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/986,853	11/15/2004	Fuyuki Inui	Q 84580	8105

TITLE OF INVENTION: ELECTRONIC APPARATUS

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	$1440	$300	$0	$1740	07/28/2008

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PTOL-85 (Rev. 08/07) Approved for use through 08/31/2010.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail **Mail Stop ISSUE FEE**
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (571)-273-2885

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

23373 7590 04/28/2008

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)

(Signature)

(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/986,853	11/15/2004	Fuyuki Inui	Q 84580	8105

TITLE OF INVENTION: ELECTRONIC APPARATUS

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	$1440	$300	$0	$1740	07/28/2008

EXAMINER	ART UNIT	CLASS-SUBCLASS
TRAN, MY CHAU T	2629	345-156000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list

(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,

(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1_____

2_____

3_____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE (B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent) : ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

☐ Issue Fee

☐ Publication Fee (No small entity discount permitted)

☐ Advance Order - # of Copies _____

4b. Payment of Fee(s): **(Please first reapply any previously paid issue fee shown above)**

☐ A check is enclosed.

☐ Payment by credit card. Form PTO-2038 is attached.

☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. **Change in Entity Status** (from status indicated above)

☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date _____

Typed or printed name _____ Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/986,853	11/15/2004	Fuyuki Inui	Q 84580	8105

23373 7590 04/28/2008

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

EXAMINER
TRAN, MY CHAU T

ART UNIT	PAPER NUMBER
2629	

DATE MAILED: 04/28/2008

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)
(application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 580 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 580 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (http://pair.uspto.gov).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

PTOL-85 (Rev. 08/07) Approved for use through 08/31/2010.

Notice of Allowability	Application No.	Applicant(s)	
	10/986,853	INUI, FUYUKI	
	Examiner	Art Unit	
	MY-CHAU T. TRAN	2629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to *01/22/2008*.

2. ☒ The allowed claim(s) is/are *1,2,4 and 5*.

3. ☒ 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 the:
      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)).

   * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
   (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
   (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

   Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date 01/22/08
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____ .
7. ☐ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

/MY-CHAU T. TRAN/
Primary Examiner, Art Unit 2629

OIPE IAP58
NOV 09 2009
PATENT & TRADEMARK OFFICE

OK TO ENTER: /E.E./

cofC

Attorney Docket No. 2028.1001C3 (FORMERLY 0122.1481C3)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Takeshi NISHINO et al.

Application No.: 10/986,858

Confirmation No.: 8078

Filed: November 15, 2004

U.S. Patent No.: 7,595,712

Issued: September 29, 2009

For: POINTING DEVICE

ATTENTION

CERTIFICATE OF CORRECTION

BRANCH

REQUEST FOR CERTIFICATE OF CORRECTION

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

Patentees respectfully requests that a Certificate of Correction be issued in the subject patent, pursuant to 35 U.S.C. §254 and 37 C.F.R. §1.322, to correct the mistakes shown on the attached Form PTO-1050.

Since the mistakes are Patent Office mistakes, it is believed that no fee is required.

Respectfully submitted,

STAAS & HALSEY LLP

Date: 11/6/9

By: _____
J. Randall Beckers
Registration No. 30,358

1201 New York Ave, N.W., 7th Floor
Washington, D.C. 20005
Telephone: (202) 434-1500
Facsimile: (202) 434-1501

Certificate
NOV 13 2009
of Correction

OK TO ENTER: /E.E./
OK TO ENTER: /E.E./

PTO/SB/ 44 (08-00)
Approved for use through 09/30/2000. 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 : 7,595,712

DATED : September 29, 2009

INVENTOR(S) : Takeshi NISHINO et al.

First Page, Column 1, under
"(65) **Prior Publication Data**

US 2005/0068134 A1 Mar. 31, 2005" insert
--(30) **Foreign Application Priority Data**

Jan. 19, 2001 (JP) 2001-12082
Oct. 16, 2001 (JP) ..... 2001-318509--.

MAILING ADDRESS OF SENDER:
STAAS & HALSEY LLP
1201 New York Ave., N.W.
7th Floor
Washington, DC 20005

PATENT NO. 7,595,712

No. of add'l copies
@ 50¢ per page

⇒

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 12/1/09 **Paper No.:** —

TO SPE OF : ART UNIT 2832

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/986 858 Patent No.: 7595712 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ 1 **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: MISSING DATES ARE SUPPLIED. 2

/Elvin Enad/ SPE AU2832 3 06/09/2010

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **4/21/09**

TO SPE OF : ART UNIT **2834 (2800)**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/986,859** Patent No.: **7,489,296**

Attn: Pedro Cuevas

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
South Tower - 9A22
Palm Location 7580

Ernest C. White, LIE
Certificates of Correction Branch
703-308-9390 ext.122

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** /P.C./ — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

/Quyen Leung/ — **SPE**

2834 — **Art Unit**

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

Clifford W. Vermette
Vermette & Co.
Box 40, Granville Square
200 Granville Street, Suite 230
Vancouver, BC V6C 1S4
Canada

MAILED

AUG 14 2009

OFFICE OF PETITIONS

In re Application of	:	
Thomas M. Taylor, et al.	:	
Application No. 10/986,861	:	DECISION ON PETITION
Filed: November 15, 2004	:	TO WITHDRAW
Attorney Docket No. 2404-103	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 16, 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 Clifford W. Vermette 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 Thomas M. Taylor at the address indicated below.

There is an outstanding Office action mailed April 1, 2009 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: **Thomas M. Taylor**
5432 Lakeshore Road
Kelowna, British Columbia
Canada, V1W 4S5

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/986,861	11/15/2004	Thomas M. Taylor	2404-103

CONFIRMATION NO. 8052

POWER OF ATTORNEY NOTICE

Clifford W. Vermette
Vermette & Co.
Box 40, Granville Square
200 Granville Street, Suite 230
Vancouver, BC V6C 1S4
CANADA

OC000000037371173

Date Mailed: 08/14/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/16/2009.

- 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.

/tswilliams/

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
www.uspto.gov

FINNEGAN, HENDERSON, FARABOW
GUNNER & DUNNER, LLP
1300 "I" STREET, N.W.
WASHINGTON, D.C. 20005

MAIL

MAY 1 9 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
David WEEKES
Application No. 10/986,864
Filed: November 15, 2004
For: SYSTEMS AND APPARATUS FOR SECURE SHIPPING

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the Petition To Make Special under MPEP 708.02, XI: Invention for Countering Terrorism, filed April 20, 2005.

A grantable petition to make an application special under 37 C.F.R. § 1.102(d), and in accordance with MPEP 708.02, XI, for an invention which contributes to the countering of terrorism must be accompanied by a statement explaining how the invention contributes to countering terrorism. Examples of the types of technology for countering terrorism are set forth in MPEP 708.02, XI as including, but not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.

The petition meets the requirements set forth above.

Accordingly, the petition is **GRANTED**.

The application file is being forwarded to the examiner for expedited action in its turn.

Kristy Zele
Special Program Examiner
Technology Center 2600
Communications

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

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

Mail Date: 04/21/2010

Applicant	: Tzu-Jian Yang	: DECISION ON REQUEST FOR
Patent Number	: 7574742	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/986,865	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1067** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

DICKSTEIN SHAPIRO LLP
1825 EYE STREET NW
Washington, DC 20006-5403

Mail Date: 04/21/2010

Applicant	: Tatsuya Imai	: DECISION ON REQUEST FOR
Patent Number	: 7574147	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/986,898	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1145** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

Clifford W. Vermette
Vermette & Co.
Suite 320
1177 West Hastings
Vancouver BC V6E 2K3 CA
CANADA

COPY MAILED
DEC 15 2008

In re Application of	:	
Thomas M. Taylor et al.	:	
Application No. 10/986,903	:	DECISION ON PETITION
Filed: November 15, 2004	:	TO WITHDRAW
Attorney Docket No. 2404-105	:	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 November 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. 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 Clifford W. Vermette sole attorney of record. Clifford W. Vermette has been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address has been changed to the first signing inventor, since no assignee has properly intervened in this application. If an assignee would like to intervene in this application and receive future correspondence then the proper power of attorney documents and a statement under 37 CFR 3.73(b) must be submitted. The new address is copied below.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Thomas M. Taylor
5432 Lakeshore Road
Kelowna, British Columbia
CANADA V1W 4S5

cc: QM Technologies – Kevin O'Neill
Box 91430 – 1427 Bellevue Avenue
West Vancouver, British Columbia
CANADA V7V 3P1

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/986,903	11/15/2004	Thomas M. Taylor	2404-105

CONFIRMATION NO. 8275

POWER OF ATTORNEY NOTICE

CLIFFORD W. VERMETTE
VERMETTE & CO.
SUITE 320
1177 WEST HASTINGS
VANCOUVER, BC V6E 2K3
CANADA

OC000000033618821

Date Mailed: 12/15/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/13/2008.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11-13-08

TO SPE OF : ART UNIT 2853

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/986911 Patent No.: 7281790

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Certificates of Correction Branch
703-308-9390 ext. 123

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: Enter

STEPHEN MEIER
SUPERVISORY PATENT EXAMINER

SPE 2853 **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

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET, SUITE 1800
ARLINGTON VA 22209-3873

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JAN 0 2 2008

OFFICE OF PETITIONS

In re Application of
TAKAI, et al.
Application No. 10/986,913
Filed: November 15, 2004
Attorney Docket No. **1204.44457X00**

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 27, 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 December 4, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 1775 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Frances Hicks for
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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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

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SEP 27 2005

OFFICE OF PETITIONS

In re Application of	:	
Fukutani et al.	:	
Application No. 10/986,939	:	ON PETITION
Filed: November 15, 2004	:	
Attorney Docket No. 03500.000018.1	:	

This is a decision on the petition under 37 CFR 1.182, filed February 18, 2005, to change the order of the names of the inventors.

The petition is **GRANTED**.

The order of the names of the inventors will be changed as follows:

1. Kazuhiko Fukutani
2. Tohru Den
3. Hirokatsu Miyata

This matter is now being referred to the Office of Initial Patent Examination for further processing.

Telephone inquiries may be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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DICKSTEIN SHAPIRO LLP
1633 Broadway
NEW YORK, NY 10019

Mail Date: 04/20/2010

Applicant	: Fumiyuki Inagaki	: DECISION ON REQUEST FOR
Patent Number	: 7583954	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/986,992	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **539** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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DICKSTEIN SHAPIRO LLP
1825 EYE STREET NW
Washington, DC 20006-5403

Mail Date: 04/21/2010

Applicant	: Paul Lesso	: DECISION ON REQUEST FOR
Patent Number	: 7583774	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/986,994	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1163** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 04/21/2010

Applicant	: David G. Reed	: DECISION ON REQUEST FOR
Patent Number	: 7571296	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/987,022	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/11/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **286** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

Mail Date: 04/20/2010

Applicant	: Michael C. Chen	: DECISION ON REQUEST FOR
Patent Number	: 7606926	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/987,030	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **145** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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APPLIED MATERIALS, INC.
C/O SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION, SEARS TOWER
CHICAGO IL 60606-1080

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JUN 12 2007

OFFICE OF PETITIONS

In re Application of	:	
Elyasaf et al.	:	
Application No. 10/987,083	:	DECISION ON PETITION
Filed: November 12, 2004	:	
Attorney Docket No. PDC/WF/8936	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 27, 2006 to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice), mailed December 16, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 17, 2004.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a corrected drawings, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay.

Attorney Tarek Fahmi signed the petition. Fahmi was not an attorney or agent of record at the time the application became abandoned. Therefore, it appears Fahmi was not in a position to have firsthand or direct knowledge of the facts and circumstances of the delay. Nevertheless, the statement by Fahmi that the entire delay was unintentional is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.[1] In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that a portion of the delay from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

---

[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).

This application is being referred to the Office of Initial Patent Examination for further processing with the drawings filed December 27, 2006.

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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DIW May-06

RODEY, DICKASON, SLOAN, AKIN & ROBB, PA
P.O. BOX 1888
ALBUQUERQUE NM 87103

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OFFICE OF PETITIONS

In re Application of	:	
Otten et al.	:	DECISION ON PETITION TO
Application No. 10/987,095	:	WITHDRAW HOLDING OF
Filed: 12 November, 2004	:	ABANDONMENT
Attorney Docket No. 11732-41599	:	
(45484)	:	

This is a decision on the petition filed on 22 February, 2006, which is treated as a petition to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

A review of the record reveals that a non-final Office action was mailed on 20 June, 2005, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. As such, the application became for failure to timely reply to the Notice mailed on 20 June, 2005. Notice of Abandonment was mailed on 31 January, 2006.

Petitioners assert that a reply to the non-final Office action was timely filed. In support, petitioners have supplied a copy of a transmittal letter itemizing the filing of a response, including authorization to charge the fee for a two (2) month extension of time, which contains a Certificate of Mailing or Transmission dated 1 November, 2005, stating that the correspondence was deposited in first class mail, and signed by Dinah Hooke. The petition includes a statement by Ms. Hooke in which she states she personally deposited the reply with the USPS in first class mail on 1 November, 2005.

A review of the documents submitted reveals that the transmittal letter filed in response to the Office action mailed on 20 June, 2005, miscaptions the application number as "***78***/987,095." Under current Office procedure, a response that has an incorrect serial number is handled in accordance with MPEP 508.03. If a paper having an incorrect serial number contains sufficient information to identify the correct application and was timely received at the PTO, the holding of abandonment will be withdrawn.

The inventors' names, title of invention, filing date, Examiner's name, and Art Unit are correctly stated on the transmittal letter. In reviewing the papers which were submitted, it is therefore concluded that there was sufficient information thereon to associate the papers with the instant application file.

As petitioners have provided convincing evidence that an amendment was transmitted to the USPTO on 1 November, 2005, the showing of record is that a response was timely filed, and there is no abandonment in fact. Any inconvenience caused to applicant is regretted.

Counsel's deposit account will be charged the fee for a two (2) month extension of time, as authorized in the papers filed with a certificate of mailing dated 1 November, 2005.

The application is being referred to Technology Center Art Unit 3762 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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PANITCH SCHWARZE BELISARIO & NADEL LLP
ONE COMMERCE SQUARE
2005 MARKET STREET, SUITE 2200
PHILADELPHIA, PA 19103

Mail Date: 04/20/2010

Applicant	: Tetsuya Hosoi	: DECISION ON REQUEST FOR
Patent Number	: 7609394	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/987,097	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1354** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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.
10/987,112	11/12/2004	Matthew James Evert	200406043-1	8435

7590 04/09/2008
HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER
CHOUDHURY, AZIZUL Q

ART UNIT	PAPER NUMBER
2145	

NOTIFICATION DATE	DELIVERY MODE
04/09/2008	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 Farmer

Patent Publication Branch
Office of Data Management

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Adjustment date: 04/08/2008  KKING1
11/16/2004 SZEWDIE1 00000082 082025   10987112
02 FC:1201        352.00 CR
03 FC:1202        378.00 CR
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FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

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H.C. PARK & ASSOCIATES, PLC
8500 LEESBURG PIKE
SUITE 7500
VIENNA, VA 22182

Mail Date: 05/20/2010

Applicant	: Seong-Joon Jeon	: DECISION ON REQUEST FOR
Patent Number	: 7656889	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/987,119	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1447** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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RATNERPRESTIA
P.O. BOX 980
VALLEY FORGE, PA 19482

Mail Date: 04/21/2010

Applicant	: Takumi Tanabe	: DECISION ON REQUEST FOR
Patent Number	: 7599962	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/987,122	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **910** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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1070 GREEN ST., #1402
SAN FRANCISCO, CA 94133-5418

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DEC 2 3 2005

OFFICE OF PETITIONS

In re Application of	:	
Sadlier, Claus E.	:	
Application No. 10/987,139	:	DECISION GRANTING PETITION
Filed: November 12, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. SADLIDVALVECIP	:	

This is a decision on the petition, filed November 13, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant non-provisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on August 12, 2005. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of March 30, 2006, accompanies this decision on petition.

This matter is being referred to Technology Center Art Unit 3727 for examination in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

Liana Chase
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

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ROBERT K. TENDLER
65 ATLANTIC AVENUE
BOSTON MA 02110

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FEB 05 2008

OFFICE OF PETITIONS

In re Application of	:	
Diane G. Mills	:	
Application No. 10/987,140	:	DECISION GRANTING PETITION
Filed: November 12, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. D-4607 C	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 20, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of corrected drawing; (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 of March 14, 2007, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to the Office of Data Management and to oversee review of the drawing submitted on July 20, 2007.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

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JUN 14 2007

OFFICE OF PETITIONS

In re Application of	:	
Steven A. Sunshine	:	
Application No. 10/987,159	:	DECISION ON APPLICATION
Filed: November 15, 2004	:	FOR
Atty Docket No. 041358-0423	:	PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)," filed November 17, 2006, which is properly treated as a petition under 37 CFR 1.705(b). Applicant requests correction of the patent term adjustment from zero (0) days to forty-nine (49) days.

The application for patent term adjustment is **GRANTED.**

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **forty-nine (49) days.** A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On August 24, 2006, 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 0 days. Applicant timely filed the instant application for patent term adjustment[1]. Applicant

[1] PALM Records indicate that the Issue Fee payment was received on November 17, 2006.

disputes the reduction of 122 days for applicant delay in responding to the non-final Office action mailed December 6, 2005. Applicant states that the response was filed on March 6, 2006, and thus, the reduction pursuant to § 1.704(b) should be zero (0) days. Further, applicant asserts that given receipt of the response on March 6, 2006, a period of adjustment of 49 days should be entered for Office delay in not mailing an Office action in response until August 24, 2006. In support thereof, applicant submits a copy of their itemized and date-stamped return postcard, associated with the filing of the amendment.

Consideration of applicant's evidence is unnecessary. A review of the application file confirms that the amendment was filed on March 6, 2006. A clean copy of the amendment, presumably at the examiner's request, was faxed to the Office on July 6, 2006. Under these circumstances, the date of receipt of the response on March 6, 2006, should be properly used for purposes of calculating compliance with 37 CFR 1.704(b). The response was complete and proper and was filed within the three-month period under § 1.704(b). Thus, the Office should have assessed applicant a delay of 0 days.

Applicant is also correct that a period of adjustment of 49 days should be entered for Office delay. The reply under § 1.111 was filed on March 6, 2006; however, the Office did not respond with the mailing of the Notice of Allowance until August 24, 2006, four months and 49 days later. See §§ 1.702(a) and 1.703(a)(2).

In view thereof, the patent term adjustment at the time of the mailing of the Notice of Allowance is 49 days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

This matter is being referred to the Office of Patent Publication for issuance of the patent. The patent term adjustment shown on the patent (and in the Issue Notification mailed approximately three weeks prior to issuance) will include any additional patent term accrued pursuant to sections 1.702(a)(4) and 1.703(b).

Telephone inquiries specific to this matter should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen

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OCT 15 2008

Elizabeth Mata
HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

In re Application of	:
VANCE et al	:
Serial No.: 10/987,174	:Decision on Petition
Filed : November 12, 2004	:
Attorney Docket No.: 1818.2004-001	:

This letter is in response to the Petition under 37 C.F.R. 1.144 filed on June 20, 2008 requesting reconsideration of the restriction requirement. The delay in acting upon this petition is regretted.

BACKGROUND

On April 5, 2007, the examiner mailed a restriction requirement in which the original claims 1-27 were divided into 22 groups. The examiner further indicated that if applicant wished to instead elect a specific combination of polymorphisms/mutation, applicants could.

On May 10, 2007, Applicants elected Group V (methods of detecting a mutation/polymorphism in the mitofusion 2 gene of an individual, in which the mutation is at nucleotide position 281) with traverse.

On July 24, 2007 the examiner considered the traversal, rejoined a second mutation at codon 94, namely 280C>T and made the restriction requirement FINAL. The claims were rejected under 35 U.S.C. 112, 2nd paragraph; 35 U.S.C. 112, 1st paragraph for lack of enablement; and under 35 U.S.C. 103(a).

On October 26, 2007, Applicants filed a response to the outstanding Office action.

On February 6, 2008, the examiner mailed a subsequent non-final Office action.

On June 20, 2008, applicants filed this petition to request that the Office reconsider or modify the restriction requirement.

On July 31, 2008, Applicants filed a response to the outstanding Office action.

DISCUSSION

The file history and petition have been considered carefully.

The petition explains the claimed invention relates to methods of screening individuals at risk for Charcot-Marie-Tooth disease by analyzing mutations within the mitofusin 2 gene. The petition correctly acknowledges the methods recited in Claims 1-3, 8-12, 18 and 23-24 and newly added Claim 31 are linking claims.

The petition cites the OG Notice published March 2007 and states the notice is directed to polynucleotide molecules and not method claims. This argument has been reviewed but is not convincing. The initial 1996 OG Notice provided a limited waiver for polynucleotide molecules and the March 2007 OG notice rescinded the waiver. The March 2007 Notice indicated that the standard of independence and distinctness would be applied to polynucleotide claims filed in an application under 35 USC 111(a). 35 U.S.C. 121.sets forth the appropriate means for restriction which permits, "If two or more independent and distinct inventions are claimed in one application, the Director may require the application to be restricted to one of the inventions."

MPEP 802.01 helps define the terms independent and distinct. The term "independent" (i.e., unrelated) means that there is no disclosed relationship between the two or more inventions claimed, that is, they are unconnected in design, operation, and effect. Related inventions are distinct if the inventions as claimed are not connected in at least one of design, operation, or effect (e.g., can be made by, or used in, a materially different process) and wherein at least one invention is PATENTABLE (novel and nonobvious) OVER THE OTHER (though they may each be unpatentable over the prior art).

Therefore, the restriction of nucleic acid based methods would be permissible according to 35 USC 121.

The petition continues that the OG Notices, serving as guidelines for restriction practice, presume that a nucleic acid sequence that encodes a single protein does not represent independent and distinct inventions. This argument has been reviewed and is deemed not convincing. Here, the situation is a method of detecting a group of mutations which alter the amino acid sequence. Thus these elected process claims are not directed to product comprising sequences encoding a single protein, as argued by the petition.

The petition further asserts that restriction practice guidelines do not apply to the instant application. The petition argues that Applicants are claiming methods relating to a single disease and its relation to mutations in a single gene. The response asserts that "it would not be

commercially feasible to perform multiple assays, or sell multiple kits, to detect a mutation in a single gene to detect a single disease." The examiner provided applicant an opportunity to selected a single combination for examination in the initial restriction, however applicants choose to pursue a single mutation drawn to position 281.

The petition, page 6, asserts that applicants are entitled to generic claim protection for the concept. This argument has been reviewed but is not convincing. The examiner has indicated and the petition has acknowledged that Claims 1-3, 8-12, 18 and 23-24 and newly added Claim 31 are linking claims that link the dependent claims directed to independent and distinct methods of detecting the mutations.

The MPEP further provides in Form Paragraph 8.12 that

> "Upon the indication of allowability of the linking claim(s), the restriction requirement as to the linked inventions **shall** be withdrawn and any claim(s) depending from or otherwise requiring all the limitations of the allowable linking claim(s) will be rejoined and fully examined for patentability in accordance with 37 CFR 1.104 **Claims that require all the limitations of an allowable linking claim** will be entered as a matter of right if the amendment is presented prior to final rejection or allowance, whichever is earlier. Amendments submitted after final rejection are governed by 37 CFR 1.116; amendments submitted after allowance are governed by 37 CFR 1.312.
>
> Applicant(s) are advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, the allowable linking claim, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Where a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

MPEP 809 provides direction for linking claims. MPEP 809 specifically states "[l]inking claims and the inventions they link together are usually either all directed to products or all directed to processes (i.e., a product claim linking properly divisible product inventions, or a process claim linking properly divisible process inventions)."

Although applicant have elected a method of detecting a mutation at position 280 and 281 for examination, the broad scope of claim 1 appears to have been considered and rejected under 35 U.S.C 112, first paragraph for inadequate written description and lack of enablement in the Non-final Office action mailed February 6, 2008 (see pages 4-18). Thus, the generic linking claim was not allowable. Applicants are not entitled to generic claim protection for this concept until the generic claim is in condition for allowance.

The petition asserts that examination of the method of detecting the mutation in the mitofusin 2 gene does not pose a significant search and examination burden for the Office, see page 6 of the petition. The petition asserts that a sequence search and prior art search within this gene would

be co-extensive to the markers identified and located within this specified sequence. This argument has been reviewed but is not persuasive. A search for any and all mutations within the mitofusin 2 gene represents a burden. A search for a mutation at position 280 and 281 which is located at the 5' end of the gene is not co-extensive for every other mutation in the gene. The mutations are located at different codons and in different exons. A text search for any of the mutations is not co-extensive for any other mutation. Furthermore, the examination burden to determine the patentability under 101, 112/1st enablement requires different considerations and analysis. Thus, a serious burden exists to search for all mutations in the mitofusin 2 gene.

The response alternatively requests that the Examiner reconsider the analysis in election of species under the genus of all named mutations in mitofusin 2 or as species of a genus of all named missense or nonsense mutations or as mutations relating to the GTPase domain of the protein. These alternatives have been considered but ~~is~~ are found not persuasive in view of the fact that none of the alternatives ~~are~~ is commensurate in scope with the claims.

The MPEP sets forth a means for applicant to assert on the record that all methods of detecting the mutations in the dependent claims are obvious variants over one another and as such are not independent or distinct. Specifically, the MPEP provides that "Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention." The applicants do not appeared to have availed themselves of this opportunity to place such evidence or statements on the record.

Thus, for the reasons provided above, the requirement to the elected methods of detecting the mutations at positions 280 and 281 has been maintained.

In view of the non-allowance of the linking claim at this time, applicants request for consideration of additional non-elected methods is premature.

DECISION

The petition is **DENIED** for the reasons set forth above.

Any request for reconsideration must be filed within two (2) months of the mailing date of this decision.

The application will be forwarded to the examiner for consideration of the papers filed on 31 July 2008.

Should there be any questions about this decision, please contact Special Program Examiner Julie Burke, by letter addressed to Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-1600 or by facsimile sent to the general Office facsimile number, 571-273-8300.

George C. Elliott

George Elliott
Director, Technology Center 1600
jb/jg

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Shemwell Mahamedi LLP
4880 Stevens Creek Boulevard
Suite 201
San Jose, CA 95129

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OFFICE OF PETITIONS

In re Application of	:	
Joseph C. Fjelstad et al.	:	
Application No. 10/987,187	:	DECISION ON PETITION
Filed: November 12, 2004	:	TO WITHDRAW
Attorney Docket No. SIPI.P126	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 12, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Shemwell Mahamedi LLP has been revoked by the assignee of the patent application on March 9, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **Ronald R. Shea**
9244 Royal Oak Court
San Jose, CA 95123

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SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 5400
SEATTLE, WA 98104

Mail Date: 05/06/2010

Applicant	: Felix F. Antony	: DECISION ON REQUEST FOR
Patent Number	: 7617133	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/987,214	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1306** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20004

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OFFICE OF PETITIONS

In re Application of	:	
Taolin YI	:	
Application No. 10/987,217	:	DECISION ON PETITION
Filed: November 11, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. **065031-5005-US-3**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 13, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, July 10, 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 October 11, 2009.

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 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 with fee, (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 1616 for appropriate action by the Examiner in the normal course of business on the reply received October 13, 2009.

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: **RICHARD A. SUTKUS**
1300 EAST NINTH STREET, SUITE 1700
CLEVELAND, OH 44114

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

In re Application of
Done Sik Yoo *et al.*
Serial No.: 10/987,227
Filed: NOVEMBER 12, 2004
For: SYSTEM AND METHOD FOR PROCESSING HUMAN BODY IMAGE

DECISION ON PETITION
ACCEPTANCE OF COLOR DRAWINGS

This is a decision on the petition pursuant to 37 C.F.R. § 1.84(a)(2), filed July 2, 2008, requesting acceptance of color drawings.

The petition requests that the color drawings identified in Figures 2, 3 and 4 be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. §1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3 (three) set of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

Petitioner has satisfied the requirements of 37 C.F.R. §1.84(a)(2). Accordingly, the petition is **GRANTED**.

Kenneth A. Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

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LEE & HAYES PLLC
421 W RIVERSIDE AVENUE SUITE 500
SPOKANE, WA 99201

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JAN 23 2008

OFFICE OF PETITIONS

In re Application of :
M. Kivanc Mihcak, et al. :
Application No.: 10/987,232 : ON PETITION
Filed: November 12,2004 :
Attorney Docket No.: MS1-792USC1 :

This is a decision on the petition, filed January 21, 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 November 19, 2007, in the above-identified application, cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2132 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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E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1122B
4417 LANCASTER PIKE
WILMINGTON, DE 19805

Mail Date: 04/20/2010

Applicant	: Thomas J. Leck	: DECISION ON REQUEST FOR
Patent Number	: 7560044	: RECALCULATION of PATENT
Issue Date	: 07/14/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/987,250	: OF WYETH
Filed	: 11/12/2004	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/987,259	11/12/2004	Pere Obrador	200402200-1	8794

7590 04/18/2008
HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER
COUSO, YON JUNG

ART UNIT	PAPER NUMBER
2624	

NOTIFICATION DATE	DELIVERY MODE
04/18/2008	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.

Nimi Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 04/21/2008 DTERRY
11/17/2004 RFEKADU1 00000006 082025 10987259
02 FC:1201 88.00 CR
03 FC:1202 288.00 CR

FORM PET651G (Rev. 08/07)

"Express Mail" Label No. EV 520328142 US
Date of Deposit November 12, 2004

This is being deposited with the United States Postal Service "Express Mail Post Office to Address" service under 37 CFR 1.10 on the date indicated above and is addressed to:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

OIPE JC90
NOV 1 2 2004
PATENT & TRADEMARK OFFICE

PATENT
Attorney Docket No.: 061818-5006-US09
Client Ref. No.: 90-008-6

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Carol J. Lovatt

Application No.: Not Yet Assigned 10/987286

Filed: November 11, 2004

For: NOVEL FORMULATION OF PHOSPHORUS FERTILIZER FOR PLANTS

Customer No.: 43850

Examiner: Langel, Wayne

Technology Center/Art Unit: 1754

PETITION TO MAKE SPECIAL

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC 1700

MAR - 9 2005

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Prior to examination of the above-referenced application, please enter the following remarks:

Remarks/Arguments begin on page **2** of this paper.

11/17/2004 HMARZI1 00000016 500310 10987286
01 FC:1460 130.00 DA

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : May 30, 2007

TO SPE OF : ART UNIT 1754

SUBJECT : Request for Certificate of Correction for Appl. No. 10/987286 patent no. 7160349

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- [x] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

Wayne A. Langel — **SPE**

1754 — **Art Unit**

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

CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

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MAR 03 2005

OFFICE OF PETITIONS

In re Application of
Clifford J. Woolf et al.
Application No. 10/987,289
Filed: November 12, 2004
Attorney's Docket No. 00786/446002

ON PETITION

This is a decision on the petition filed December 10, 2004, under 37 CFR 1.10.

The petition is **DISMISSED** as involving moot issues.

Petitioners request that the filing date be corrected to November 12, 2004, as the date that the application was deposited in Express Mail service instead of November 15, 2004.

A review of Office PALM records indicates that the application is presently accorded a filing date of July 12, 2004 but that unfortunately, an incorrect application number and filing date was affixed to the postcard receipt. The petition is therefore dismissed as moot. A copy of a corrected filing receipt accompanies this decision.

For future references, please be careful to indicate the proper application no. (10/987,289) on any documents filed with the USPTO with respect to this application, in the future.

In view of the above, no fees are due and none have been charged.

This matter is being referred to the Office of Initial Patent Examination for further pre-examination processing with the proper application no. and with the correct filing date of November 12, 2004.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Attachment: Official Filing Receipt

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/987,289	11/12/2004	Clifford J. Woolf	00786/446002	8656

21559 7590 11/13/2009
CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON, MA 02110

EXAMINER
HUI, SAN MING R

ART UNIT	PAPER NUMBER
1628	

NOTIFICATION DATE	DELIVERY MODE
11/13/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentadministrator@clarkelbing.com

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NOV 1 3 2009

CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

In re Application of:	:
Woolf et al.	:
Serial No.: 10/987,289	: PETITION DECISION
Filed: November 12, 2004	:
Attorney Docket No.: **00786/446002**	:

This is in response to the petition under 37 CFR § 1.181, filed October 20, 2009, requesting that the finality of the Office action of September 21, 2009 be withdrawn.

BACKGROUND

The examiner mailed a non-final Office action on February 2, 2009 setting a three month statutory limit for reply. At the time of this non-final Office action, claims 1-86 were pending. The examiner rejected claims 1-14, 17-21, 25 and 27-29 and withdrew claims 15, 16, 22-24, 26 and 30-86 from consideration. The examiner rejected claims 1-14, 17-21, 25, and 27-29 under 35 USC 112, first paragraph, as nonenabling. Claims 1-14, 17-19, 25, and 27-29 were rejected under 35 USC 102 (b) as being anticipated by US 3,892,844 ('844).

In reply to the non-final Office action of February 2, 2009, applicants filed a response on June 2, 2009. The response submitted by applicants included remarks, arguments traversing the rejections made in the non-final Office action, and amendments to the claims.

On September 21, 2009, the examiner mailed a final Office action setting a three month statutory limit for reply. At the time of this final Office action, claims 2-45 were pending. The examiner rejected claims 2-14, 17-21, 25, and 27-27 and withdrew 14-16, 22-24, 26 and 30-45 from consideration. The examiner again rejected claims 2-14, 17-21, 25, and 27-29 under 35 USC 112, first paragraph, as nonenabling. Claims 14 was rejected under 35 USC 102 (b) as being anticipated by Hoffmeister from IDS of June 24, 2009. The examiner also pointed out that "Applicant's submission of an information disclosure statement under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p) on June 24, 2009 prompted the new

ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 609.04(b)."

In response thereto, applicants filed this petition on October 20, 2009, requesting that the finality of the Office action of September 21, 2009 be withdrawn.

DISCUSSION

The petition and the file history have been carefully considered.

In the petition filed by applicants on October 20, 2009, applicants request reconsideration of the final Office action mailed by the examiner on September 21, 2009. Specifically, applicants argue "Although the Office asserts that the rejections in the second action were prompted by Applicants' June 24, 2009 IDS, the Office relied upon the IDS only in making the 35 U.S.C. § 102(b) rejection. The other rejections, by contrast, could have been made prior to the June 2, 2009 amendment and did not rely upon the IDS. Because the Office has presented two new rejections that were neither necessitated by Applicants' amendment nor based on information submitted in an IDS, it is improper to make this action final."

Applicants also argue "The Office rejected all claims as lacking enablement for methods of treating or reducing consequences of a peripheral nerve lesion, other than pain. Because claim 1, as filed, recited methods of treating or reducing consequences of a peripheral nerve lesion, the Office could have applied this rejection to claim 1 and its dependent claims in the first action. Thus, Applicants' amendment did not necessitate this ground for rejection. Further, the Office did not base this rejection on information provided in the June 24, 2009 IDS."

The following excerpt from the MPEP § 706.07 was cited in support of applicants' assertions:

> Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

Thus, as applicants correctly point out "to make a second rejection final, all rejections in the action must have been either necessitated by amendment or based on information in an IDS filed after issuance of a previous, non-final action."

It is decided that Applicants' arguments are well-taken and found persuasive. In view of the evidence, the final Office action issued September 21, 2009 is found premature and thus in error. Consequently, the finality of the Office action will be withdrawn in favor of applicants.

DECISION

The petition is **GRANTED.**

The Office action mailed September 21, 2009 is hereby vacated to the extent that it was made "final" and the Office action is now considered to be a non-final Office action. As a result, any amendments submitted in response to that action will be entered.

Should there be any questions about this decision please contact Marianne C. Seidel, by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Remy Yucel
Director, Technology Center 1600

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/987,289	11/12/2004	Clifford J. Woolf	00786/446002	8656

21559 7590 06/17/2010
CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON, MA 02110

EXAMINER
HUI, SAN MING R

ART UNIT	PAPER NUMBER
1628	

NOTIFICATION DATE	DELIVERY MODE
06/17/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentadministrator@clarkelbing.com

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JUN 1 7 2010

CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

In re Application of:	:
Woolf et al.	:
Serial No.: 10/987,289	: PETITION DECISION
Filed: November 12, 2004	:
Attorney Docket No.: **00786/446002**	:

This is in response to the petition under 37 CFR § 1.181, filed April 6, 2010, requesting that the finality of the Office action of March 4, 2010 be withdrawn.

BACKGROUND

The examiner mailed a non-final Office action on February 2, 2009 setting a three month statutory limit for reply. At the time of this non-final Office action, claims 1-86 were pending. The examiner rejected claims 1-14, 17-21, 25 and 27-29 and withdrew claims 15, 16, 22-24, 26 and 30-86 from consideration. The examiner rejected claims 1-14, 17-21, 25, and 27-29 under 35 USC 112, first paragraph, as nonenabling. Claims 1-14, 17-19, 25, and 27-29 were rejected under 35 USC 102 (b) as being anticipated by US 3,892,844 ('844).

In reply to the non-final Office action of February 2, 2009, applicants filed a response on June 2, 2009. The response submitted by applicants included remarks, arguments traversing the rejections made in the non-final Office action, and amendments to the claims.

On September 21, 2009, the examiner mailed a final Office action setting a three month statutory limit for reply. At the time of this final Office action, claims 2-45 were pending. The examiner rejected claims 2-14, 17-21, 25, and 27-27 and withdrew 14-16, 22-24, 26 and 30-45 from consideration. The examiner again rejected claims 2-14, 17-21, 25, and 27-29 under 35 USC 112, first paragraph, as nonenabling. Claims 2-13, 17-19, 25 and 27-29 were rejected under 35 USC 103 (a) as being unpatentable over US 3,892,844. Claims 14 was rejected under 35 USC 102 (b) as being anticipated by Hoffmeister from IDS of June 24, 2009. The examiner also pointed out that "Applicant's submission of an information disclosure statement under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p) on June 24, 2009 prompted the new

ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 609.04(b)."

In response thereto, applicants filed a petition on October 20, 2009, requesting that the finality of the Office action of September 21, 2009 be withdrawn.

On November 13, 2009, the petition to withdraw finality was granted and the final Office action of September 21, 2009 was considered non-final.

In reply to the non-final Office action of September 21, 2009, applicants filed a response on December 14, 2009. The response submitted by applicants included remarks, arguments traversing the rejections made in the non-final Office action and amendments to the claims.

On March 4, 2010, the examiner mailed a final Office action setting a three month statutory limit for reply. At the time of this final Office action, claims 2-13, 15-46 and 87-89 were pending. The examiner rejected claims 2-13, 17-21, 25, 27-29 and 87-89 and withdrew claim 15, 16, 22-24, 26 and 30-46 from consideration. Claims 2-13, 17-19, 25 and 27-29 were again rejected under 35 USC 103 (a) as being unpatentable over US 3,892,844. Claims 2-13, 17-21, 27-29 and 87-89 were newly rejected under 35 USC 103 (a) as being unpatentable over US 4,772,606.

In response thereto, applicants filed a petition on April 6, 2010, requesting that the finality of the Office action of March 4, 2010 be withdrawn.

DISCUSSION

The petition and the file history have been carefully considered.

In the petition filed by applicants on April 6, 2010, applicants request reconsideration of the final Office action mailed by the examiner on March 4, 2010. Specifically, applicants argue that "the §103(a) rejection over the '606 patent could have been made prior to the December reply because neither the amendment deleting "or the consequences or development of a peripheral nerve lesion" nor the amendment changing the definition of R^{14} necessitated this rejection of claims 17, 18 and 19."

Thus, as applicants correctly point out "the 103(a) rejection over '606 patent was not necessitated by Applicants' amendment and because this rejection was not based on information provided in the IDS, it is improper to make the March action final."

The following excerpt from the MPEP § 706.07 was cited in support of applicants' assertions:

> Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

Thus, it is decided that applicants' arguments are well-taken and found persuasive. In view of the evidence, the final Office action issued March 4, 2010 is found premature and thus in error. Consequently, the finality of the Office action will be withdrawn in favor of applicants.

DECISION

The petition is **GRANTED.**

The Office action mailed March 4, 2010 is hereby vacated to the extent that it was made "final" and the Office action is now considered to be a non-final Office action. As a result, any amendments submitted in response to that action will be entered.

Should there be any questions about this decision please contact Marianne C. Seidel, by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Remy Yucel
Director, Technology Center 1600

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/987,291	11/15/2004	2191	966	826.1994	39	13	5

CONFIRMATION NO. 8657

CORRECTED FILING RECEIPT

OC000000020325264

21171
STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

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)

Akio Matsuda, Kawasaki, JAPAN;
Quang Zhu, Kawasaki, JAPAN;

Assignment For Published Patent Application

FUJITSU LIMITED, Kawasaki, JAPAN

Power of Attorney: The patent practitioners associated with Customer Number **21171**.

Domestic Priority data as claimed by applicant

This application is a CON of PCT/JP02/04652 05/14/2002

Foreign Applications

If Required, Foreign Filing License Granted: 01/28/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/987,291

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

System and method for dividing functions into functional blocks

Preliminary Class

717

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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SUITE 1130 - TCF TOWER
121 SOUTH EIGHTH STREET
MINNEAPOLIS MN 55402

COPY MAILED

NOV 2 8 2008

OFFICE OF PETITIONS

In re Application of :
Zilla, et al. :
Application No. 10/987,313 : DECISION
Filed: 12 November, 2004 :
Attorney Docket No. 22007-3560.CIP :

This is a decision on the petition, filed on 16 September, 2008, considered as a petition under 37 C.F.R. §1.137(b) to revive the application as having been abandoned due to unintentional delay..

The petition under 37 C.F.R. §1.137(b) is **GRANTED**.

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

BACKGROUND

The record reflects that:

Applicant, failed to reply timely and properly to the non-final Office action (Requirement for Restriction) mailed on 19 February, 2008, with reply due absent extension of time on or before 19 March, 2008.

The application went abandoned after midnight 19 March, 2008.

It appears that the Office did not mail a Notice of Abandonment before the instant petition was filed.

On 16 September, 2008, Petitioner filed the instant petition with fee, a reply in the form of an Election, and made the statement of unintentional delay.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]
The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

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.[3]))

As to Allegations of Unintentional Delay

The requirements under 37 C.F.R. §1.137(b) have been satisfied.

CONCLUSION

Accordingly, The petition under 37 C.F.R. §1.137(b) is **granted**.

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[2] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

The instant application is released to Technology Center/AU (TC/AU) 3774 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

---

[4] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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Valeo, Inc.
Intellectual Property Department
4100 North Atlantic Boulevard
Auburn Hills, MI 48326

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JUL 20 2006

OFFICE OF PETITIONS

In re Application of	:	
Jean Labadie, et al.	:	
Application No. 10/987,338	:	DECISION ON PETITION
Filed: November 12, 2004	:	TO WITHDRAW
Attorney Docket No. TMF0864-DIV	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 5, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Thomas P. Liniak.

Thomas P.Liniak has been withdrawn as attorneys or agents of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

Telephone inquiries concerning this decision should be directed to Monica Graves at 571-272-2753.

David Bucci
Petitions Examiner
Office of Petitions

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MAY 13 2005

ADAM K. SACHAROFF
MUCH SHELIST FREED DENENBERG AMENT&RUBENSTEIN,PC
191 N. WACKER DRIVE
SUITE 1800
CHICAGO IL 60606-1615

In re Application of	:	
Rehkemper, et al	:	DECISION PETITION
Serial No.: 10/987,339	:	
Filed: November 12, 2004	:	
Title: Electronic Oral Cleaning Device	:	

This is in response to the petition applicant filed on December 16, 2004 to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, VIII, thus the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact Richard Bertsch by letter addressed to the Director, Technology Center 3700 or by telephone at (571)272-4050 or by facsimile transmission at (703)872-9306.

Richard A. Bertsch

Richard A. Bertsch, Director
Technology Center 3700

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ADAM K. SACHAROFF
MUCH SHELIST FREED DENENBERG AMENT&RUBENSTEIN,PC
191 N. WACKER DRIVE
SUITE 1800
CHICAGO IL 60606-1615

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AUG 3 0 2005
OFFICE OF PETITIONS

In re Application of	:	
Rehkemper, Steven	:	
Application No. 10/987,339	:	DECISION GRANTING PETITION
Filed: November 12, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 4004013.0110	:	

This is a decision on the petition, filed August 19, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant non-provisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on June 23, 2005. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of December 29, 2005, accompanies this decision on petition.

This matter is being referred to Technology Center Art Unit 3732 for examination in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

Liana Chase

Liana Chase
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

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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

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MAR 3 1 2005

OFFICE OF PETITIONS

In re Application of :
Jeremy Charles Smith :
Application No. 10/987,358 :
Filed: November 12, 2004 :
Attorney Docket No. TI-37796 :

DECISION GRANTING PETITION

This is a decision on the petition filed March 10, 2005, requesting that the above-identified application retain the presently accorded a filing date of November 12, 2004, with Figures 10 and 11, as described in the specification, as part of the original disclosure.

On November 12, 2004, the above-identified application was filed. On February 23, 2005, the Office of Initial Patent Examination mailed a "Notice of Omitted Items of Nonprovisional Application" (the "Notice"), stating that the application had been accorded a filing date of November 12, 2004, however, Figures 10 and 11 as described in the specification appeared to have been omitted. The Notice allowed a non-extendable two-month period for reply beginning from the mailing date of the Notice.

In response, on March 10, 2005, applicants filed the present petition and a copy of an Office date-stamped postcard showing that, among other items, seven sheets of drawings were received on November 12, 2004.

Upon review of the record, Figures 10 and 11 have not been located among the application papers. However, the evidence is convincing that the application papers deposited November 12, 2004, included Figures 10 and 11, which was subsequently misplaced by the Office. Therefore, the application, including Figures 10 and 11 as described in the specification was complete on filing and entitled to the presently accorded filing date of November 12, 2004.

Accordingly, the petition is granted; the Notice is vacated, accordingly. Deposit account 20-0668 will be refunded the petition fee of $400.00

The application file is being returned to the Office of Initial Patent Examination for further processing with the presently accorded filing date of November 12, 2004, included Figures 10 and 11 received in duplicate on February 23, 2005.

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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Wong, Cabello, Lutsch, Rutherford &
Brucculeri, L.L.P.
20333 SH 249
Suite 600
Houston, TX 77070

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JUL 23 2008

In re Application of	:	
Paul W. Alford	:	
Application No. 10/987,383	:	DECISION ON PETITION
Filed: November 12, 2004	:	TO WITHDRAW
Attorney Docket No. 484-0002US	:	FROM RECORD
	:	

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 24, 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 Terril G. Lewis 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 Paul W. Alford at the address indicated below.

There is an outstanding Office action mailed July 7, 2008 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 2991.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Paul W. Alford**
51265 Bradford Lane
Loranger, LA 70446

cc: **Paul W. Alford**
235 Wildwood Drive
Hammond, LA 70401

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/987,383	11/12/2004	Paul W. Alford	484-0002US

CONFIRMATION NO. 1881

POWER OF ATTORNEY NOTICE

OC000000031107598

29855
WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI, L.L.P.
20333 SH 249
SUITE 600
HOUSTON, TX 77070

Date Mailed: 07/22/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/24/2008.

- 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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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

OBLON, SPIVAK, MCCLELLAN, MAIER &
NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

In re Application of :
Hideo Ando, et al. :
Application No. 10/987,386 : DECISION ON PETITION
Filed: November 15 2004 : TO MAKE SPECIAL
For: INFORMATION RECORDING MEDIUM, :
INFORMATION RECORDING METHOD AND :
APPARATUS, AND INFORMATION PLAYBACK
MEHTOD AND APPARATUS

This is a decision on the petition filed November 15, 2004 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
571-272-2986

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : July 24, 2008

TO SPE OF : ART UNIT 3752

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/987401 Patent No.: 7360718 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code COCX.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

SPE — **Art Unit** 3752

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IRELL & MANELLA LLP
840 NEWPORT CENTER DRIVE, SUITE 400
NEWPORT BEACH CA 92660

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OFFICE OF PETITIONS

In re Application of	:	
Sang Hoon **CHU, et al.**	:	
Application No. 10/987,417	:	DECISION ON PETITION
Filed: November 12, 2004	:	Under 37 CFR 1.137(b)
Attorney Docket No. **155634-0151(P125)**	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 3, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, August 21, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 22, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1540; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center Art Unit 2627 for consideration of the amendment filed October 3, 2007.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

Brian W. Brown
Petitions Examiner
Office of Petitions

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EMULEX DESIGN & MANUFACTURING CORPORATION
C/O MORRISON & FOERSTER LLP
555 WEST FIFTH STREET, SUITE 3500
LOS ANGELES, CA 90013

Mail Date: 04/21/2010

Applicant	: Alexander Nicolson IV	: DECISION ON REQUEST FOR
Patent Number	: 7644191	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/987,429	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1367** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI,
L.L.P.
20333 SH 249
SUITE 600
HOUSTON TX 77070

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DEC 23 2008

OFFICE OF PETITIONS

In re Application of :
Warmenhoven et al. :
Application Number: 10/987441 :
Filing Date: 11/12/2004 :
Attorney Docket Number: 112-0156US :

ON PETITION

This is a decision on the "Request for Withdrawal of Abandonment," filed on November 20, 2008, which is treated as a petition to withdraw the holding of abandonment.

The application was held abandoned for failure to timely respond to the non-final Office action mailed on April 16, 2008. Notice of Abandonment was mailed on November 17, 2008.

Petitioner asserts that the non-final Office action mailed on April 16, 2008, was not received. Petitioner's counsel states that a search of the file jacket or the equivalent, and the applicant contents, indicates that the Office action was not received. A copy of counsel's docket report has been enclosed with the petition and is referenced in the petition.

A review of the record indicates that the USPTO mailed the non-final Office action to the correct correspondence address; however, it was inexplicably returned to the USPTO on April 21, 2008. For this reason, the practitioner did not receive the non-final Office action of April 16, 2008.

The petitioner has made a sufficient showing of nonreceipt of the Office action. Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Accordingly, there was no abandonment in fact. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.[1]

[1] See MPEP 707.13. If the Office action was mailed to the correct correspondence address and it was addressed to an attorney or agent, a letter along with a copy of the Office action may be sent to the first named inventor or assignee (if available)

The petition is **GRANTED.**

No petition fee is due and none has been charged.

The application file is being referred to Technology Center Art Unit 2445 technical support staff for remailing of the non-final Office action mailed on April 16, 2008. The period for reply will be reset from the mailing date thereof.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3231. Any other questions regarding the status of the application or the examination process should be directed to the Technology Center.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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informing him or her of the returned action. The time period for reply to the Office action will be restarted to run from the mailing date of the letter informing applicant of the returned action. Id.

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SIEMENS CORPORATION
INTELLECTUAL PROPERTY LAW DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

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APR 0 4 2007

OFFICE OF PETITIONS

In re Application of	:	
Brian M. Curtis et al	:	
Application No. 10/987,462	:	DECISION ON PETITION
Filed: November 12, 2004	:	
Attorney Docket No.	:	
2004P18420US; 60426-686		

This is a decision on the petition under 37 CFR 1.137(b), filed November 20, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 6, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on July 7, 2006. A Notice of Abandonment was mailed on October 27, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of April 6, 2006 is accepted as being unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has

not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The address on the petition differs from the address of record. It is further noted that there is no duly appointed attorney of record in this file. The Declaration and Power of Attorney filed with the application on November 12, 2004 sets forth a customer number for correspondence purposes, but does not appoint an attorney to prosecute this application. Accordingly, if appropriate, the proper power of attorney documents and/or change of address should be submitted in this application. If the power of attorney is by an assignee, compliance with 37 CFR 3.73(b) must be satisfied. A courtesy copy of this decision is being mailed to the address noted on the petition. However, all future correspondence will continue to be mailed to the above customer number address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This application is being referred to Technology Center AU 3616 for appropriate action in the normal course of business on the reply received November 20, 2006.

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Kerrie A. Laba
400 West Maple Road
Suite 350
Birmingham, MI 48009

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ALEXANDRIA, VA 22313-1450
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MAR 18 2005

In re Application of	:	
Martha Thorpe	:	
Serial No. 10/987,464	:	DECISION ON PETITION
Filed: November 15, 2004	:	TO MAKE SPECIAL
For: VISUAL TEACHING AID	:	

Applicant's petition, filed January 25, 2005, requests that this application be rendered special for examination in that applicant is over sixty-five (65) years of age.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(IV) of the Manual of Patent Examining Procedure (MPEP).

PETITION GRANTED.

E R Kazenske

E. R. Kazenske, Director
Technology Center 3700

E. Kent Daniels, Jr.
Fay, Sharpe, Fagan, Minnich & McKee
1100 Superior Avenue, 7th Floor
Cleveland, OH 44114-2579

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PATENT INGENUITY, PC
520 BROADWAY, SUITE 350
SANTA MONICA, CA 90401

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MAY 03 2010

OFFICE OF PETITIONS

In re Application of	:	
Robert J. WRIGHT	:	
Application No. 10/987,474	:	DECISION GRANTING PETITION
Filed: November 12, 2004	:	UNDER 37 CFR 1.313(c)(3)
Attorney Docket No. **IGA-0240-US**	:	

This is a decision on the petition, filed May 3, 2010, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

Petitioner requests that the above-identified application be withdrawn from issue for express abandonment. *See* 37 CFR 1.313(c)(3).

The application is hereby withdrawn from issue, and the abandonment is hereby recognized.

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

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K&L GATES LLP
P.O. BOX 1135
CHICAGO IL 60690

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OFFICE OF PETITIONS

In re Application of	:
Carr et al.	:
Application No. 10/987,482	: DECISION ON PETITION
Filed: November 12, 2004	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 112905-032	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed November 6, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **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 applications 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 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) 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. No further petition fee is necessary.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Window located at: U.S. Patent and Trademark Office Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

[1] *Note* 37 CFR 1.121

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United States Patent and Trademark Office
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HOLLAND & KNIGHT LLP
2099 PENNSYLVANIA AVE, N.W.
WASHINGTON DC 20006

In re Application of	:	
Guillermo GUTIERREZ	:	
Application No. 10/987,505	:	DECISION ON PETITION
Filed: November 12, 2004	:	TO WITHDRAW
Attorney Docket No. 093057.00002	:	FROM RECORD
	:	

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, 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).

Kevin A. Buford has been withdrawn as attorneys or agents of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

Telephone inquiries concerning this decision should be directed to Monica Graves at 571-272-7253.

David Bucci
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HILARY BOEHME
375 MARCUS BOULEVARD
HAUPPAUGE, NY 11788

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APR 0 3 2008

OFFICE OF PETITIONS

In re Application of	:	
Hilary BOEHME	:	
Application No. 10/987,516	:	DECISION ON PETITION
Filed: November 12, 2004	:	
Attorney Docket No.	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 17, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before March 7, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed December 7, 2006. Accordingly, the date of abandonment of this application is March 8, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $720; (2) the petition fee of $770; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to Publishing Division for processing into a patent.

April Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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JUL 31 2007

OFFICE OF PETITIONS

HESLIN ROTHENBERG FARLEY & MESITI PC
5 COLUMBIA CIRCLE
ALBANY, NY 12203

In re Application of	:	
Mark P. Wentland	:	
Application No. 10/987,527	:	NOTICE
Filed: November 12, 2004	:	
Attorney Docket No. 0094.045C		

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application no longer qualifies for small entity status. Accordingly, all future fees must be paid at the large entity rate.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3201.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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HICKMAN PALERMO TRUONG &
BECKER, LLP
AND SUN MICROSYSTEMS, INC.
2055 GATEWAY PLACE
SUITE 550
SAN JOSE CA 95110-1089

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OFFICE OF PETITIONS

In re Application of

Fast, et al.

Application No. 10/987,567

Filed: November 12, 2004

Attorney Docket No. 15437-0691

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed October 21, 2008.

The petition is **dismissed**.

This application was held abandoned September 18, 2008, after no reply was received to the Notice to of Allowance and Issue Fee Due mailed June 17, 2008. The notice set forth a statutory period of reply of three months from its mailing date. No response was received within the allowable period and the application became abandoned on September 18, 2008. A Notice of Abandonment was mailed October 13, 2008. The instant petition was filed on October 21, 2008. Petitioner maintains that the notice of June 17, 2008, was never received.

When, as in this case petitioner is arguing that an Office communication was not received, petitioner must establish non-receipt of the Office communication in accordance with section 711.03(c) of the *Manual of Patent Examining Procedure* that requires the following:

> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

Petitioner has not made the evidentiary showing specified above. Petitioner has not provide a copy of the master docket for the firm for the three month period for reply set forth in Noticeof Allowance and Issue Fee Due. If a master docket does not exists, petitioner is required to state this in the renewed petition and provide any other corroborative evidence that petitioner may have to substantiate the claim that the Notice of Allowance and Issue Fee Due was not received.

Alternatively, petitioner may revive the application based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply, the required petition fee ($1,620.00 for a large entity and $810.00 for a verified small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned (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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HICKMAN PALERMO TRUONG &
BECKER, LLP
AND SUN MICROSYSTEMS, INC.
2055 GATEWAY PLACE
SUITE 550
SAN JOSE CA 95110-1089

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In re Application of

Fast, et al.

Application No. 10/987,567

Filed: November 12, 2004

Attorney Docket No. 15437-0691

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed November 17, 2008.

The petition is **granted.**

This application was held abandoned September 18, 2008, after no reply was received to the Notice to of Allowance and Issue Fee Due mailed June 17, 2008. The notice set forth a statutory period of reply of three months from its mailing date. No response was received within the allowable period and the application became abandoned on September 18, 2008. A Notice of Abandonment was mailed October 13, 2008. The instant petition was filed on November 17, 2008. Petitioner maintains that the notice of June 17, 2008, was never received

When, as in this case petitioner is arguing that an Office communication was not received, petitioner must establish non-receipt of the Office communication in accordance with section 711.03(c) of the *Manual of Patent Examining Procedure* that requires the following:

> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application

> contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is, therefore, withdrawn.

The application file is being forwarded to the Office of Data Management for re-mailing of the Notice of Allowance and Issue Fee Due resetting of the time period for responding thereto.

Questions concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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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INTERNATIONAL BUSINESS MACHINES CORPORATION
9000 SOUTH RITA ROAD
TUCSON, AZ 85744

Mail Date: 04/20/2010

Applicant	: Robert Francis Bartfai	: DECISION ON REQUEST FOR
Patent Number	: 7647357	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/987,570	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **704** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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CRAIG W. RODDY
HALLIBURTON ENERGY SERVICES
P.O. BOX 1431
DUNCAN OK 73536-0440

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OFFICE OF PETITIONS

In re Application of	:	
Heathman et al.	:	
Application No. 10/987,632	:	ON PETITION
Filed: November 12, 2004	:	
Attorney Docket No. HES 2002-IP-008794U1C1	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 21, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment and terminal disclaimer (with requisite fee); (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

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 request to change the address of record should be filed. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

This matter is being referred to Technology Center 3600 for further examination on the merits

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

Cc: RODNEY B. CARROLL
CONLEY ROSE, P.C.
5700 GRANITE PARKWAY, SUITE 330
PLANO, TX 75024

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KSOPHT0101-Z2100
OVERLAND PARK, KS 66251-2100

Mail Date: 04/21/2010

Applicant	: Thomas L. Paterik	: DECISION ON REQUEST FOR
Patent Number	: 7643475	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/987,655	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1421** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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ROCHE PALO ALTO LLC
PATENT LAW DEPT. M/S A2-250
3431 HILLVIEW AVENUE
PALO ALTO, CA 94304

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OFFICE OF PETITIONS

In re Application of	:	
David Michael Goldstein	:	
Application No. 10/987,656	:	ON PETITION
Filed: November 12, 2004	:	
Attorney Docket No. R0198B-REG	:	

This is a decision on the petition filed October 5, 2007 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and Publication fee in a timely manner in reply to the Notice of Allowance mailed June 19, 2007, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on September 20, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue fee and Publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This matter is being referred to the Publishing Division for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. None

GENENTECH, INC.
1 DNA WAY
SOUTH SAN FRANCISCO CA 94080

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JUN 08 2005

OFFICE OF PETITIONS

In re Application of :
Hilary Clark et al. :
Application No. 10/987,663 : DECISION ON PETITION
Filed: November 12, 2004 :
Attorney Docket No.: P1996R1P1 :
Title: NOVEL COMPOSITION AND :
METHODS FOR THE TREATMENT OF :
IMMUNE RELATED DISEASES

This is a decision on the petition filed April 27, 2005, requesting that Figures 21 and 22 be accorded a filing date of November 12, 2004, as part of the original disclosure.

The application was deposited on November 12, 2004. However, on December 22, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice to File Missing Parts of Nonprovisional Application (notice)," stating that the application had been accorded a filing date, and advising applicants that the application appeared to have been deposited without Figures 21 and 22. The notice further required an executed oath or declaration, the associated surcharge, a CRF as well as a copy of the sequence listing, and set a two-month period for response.

In response, on April 27, 2005, applicants filed the present petition. The petition is further accompanied by a declaration, a copy of Figures 21 and 22 and a copy of applicants' postcard receipt acknowledging receipt of "29 pgs Formal Drawings" in the United States Patent and Trademark Office (Office) on November 12, 2004. Applicants request that Figures 21 and 22 be accorded a filing date of November 12, 2004 as part of the original disclosure.

It is noted that 27 sheets of drawings have been located in the electronic file containing Figures 1-20 and 23.

Upon review of the record, the above-mentioned figures have not been located among the application papers. However, the evidence is convincing that the application papers deposited on November 12, 2004 included Figures 21 and 22, and the sheets containing these figures were subsequently misplaced in the Office.

Therefore, the application, including Figures 21 and 22, was complete on filing and these figures are entitled to a filing date of November 12, 2004 as part of the original disclosure.

Accordingly, the petition is **GRANTED**.

The portion of the notice mailed December 22, 2004 referring to the missing drawings was sent in error, and is hereby **VACATED**. Therefore, no petition fee is necessary. The petition fee of $400 will be refunded to Petitioner's Deposit Account.

The Office of Initial Patent Examination will be advised to process this application with a filing date of November 12, 2004, using the original application papers filed on that date, as well as Figures 21 and 22 submitted on April 27, 2005 with the instant petition and for indication in Office records that these figures were 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

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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P.O. Box 1450
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GENENTECH, INC.
1 DNA WAY
SOUTH SAN FRANCISCO CA 94080

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In re Application of	:	
Hilary Clark, et al.	:	
Application No. 10/987,663	:	DECISION GRANTING PETITION
Filed: November 12, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. P1996R1P1	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 25, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 10, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 1644 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Williams
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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MAY - 9 2006

NIELDS & LEMACK
176 EAST MAIN STREET, SUITE 7
WESTBORO MA 01581

In re Application of	:
A. K. Gunar Aberg et al	:
Serial No.: 10/987,665	: PETITION TO MAKE SPECIAL
Filed: November 12,2004	:
Attorney Docket No.: 559P028	:

This is in response to the petition filed May 1, 2006, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, IV. Therefor the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission to the general Office facsimile number, 571-273-8300.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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Commissioner for Patents
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Alexandria, VA 22313-1450
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AUG 23 2007

OFFICE OF PETITIONS

DINSMORE & SHOHL, LLP
1900 CHEMED CENTER
255 EAST FIFTH STREET
CINCINNATI OH 45202

In re Application of:	:	
WYSONG, Douglas, E., et al.	:	DECISION ON PETITION UNDER
Application No.: 10/987,677	:	37 CFR 1.137(b)
Filed: November 12, 2004	:	
Atty's Docket No.: 3317-4DA	:	

This is a decision on the petition for revival of the above-entitled application under 37 CFR 1.137(b), filed August 03, 2007.

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 20, 2007, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned at midnight on July 20, 2007.

On August 03, 2007, applicants 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 payment is 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 at (571) 272-3296.

Richard M. Ross
Attorney Advisor

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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PACESETTER, INC.
15900 VALLEY VIEW COURT
SYLMAR, CA 91392-9221

Mail Date: 04/21/2010

Applicant	: Xing Pei	: DECISION ON REQUEST FOR
Patent Number	: 7574259	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/987,731	: OF WYETH
Filed	: 11/12/2004	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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 2 9 2005

OFFICE OF PETITIONS

TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

In re Application of	:	
Donald C. Abbott	:	
Application No. 10/987,757	:	DECISION GRANTING PETITION
Filed: November 9, 2004	:	
Attorney Docket No. TI-98447	:	

This is a decision on the petition filed April 4, 2005, requesting that the above-identified application be accorded a filing date of November 9, 2004, with three sheets of informal drawings as part of the original disclosure.

On November 9, 2004, the above-identified application was filed. On February 10, 2005, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application" (the "Notice"), stating that the application had not been accorded a filing date because no drawings were found on filing, but were believed to be required to understand the invention claimed. The Notice allowed a non-extendable two-month period for reply beginning from the mailing date of the Notice.

In response, on April 4, 2005, applicants filed the present petition and a copy of an Office date-stamped postcard showing that, among other items, three of drawings were received on November 9, 2004.

Upon review of the record, three sheets of drawings have not been located among the application papers. However, the evidence is convincing that the application papers deposited November 9, 2004, included three sheets of drawings, which were subsequently misplaced by the Office. Therefore, the application, including the three sheets of informal drawings was complete on filing and entitled to the filing date of November 9, 2004.

Accordingly, the petition is granted; the Notice is vacated, accordingly. Deposit account 20-0668 will be refunded the petition fee of $400.00

The application file is being returned to the Office of Initial Patent Examination for further processing with the filing date of November 9, 2004. The Office of Initial Patent Examination is directed to issue a corrected filing receipt, accordingly.

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/02/08

TO SPE OF : ART UNIT 1796

SUBJECT : Request for Certificate of Correction for Appl. No.: 10987777 Patent No.: 7387750 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

_____
Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Harold Pyon/ SPE 1796

1796

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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LOWENSTEIN SANDLER PC
65 LIVINGSTON AVENUE
ROSELAND NJ 07068

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FEB 15 2007

OFFICE OF PETITIONS

In re Application of	:	
Greg E. Blonder	:	
Application No. 10/987,779	:	ON PETITION
Filed: 12 November, 2004	:	
Atty Docket 13558-15	:	

This is a decision in reference to the petition filed under 37 CFR 1.181 on 27 November, 2006, to withdraw the holding of abandonment.

This application became abandoned on 30 March, 2006, for failure to timely respond to the non-final Office action mailed on 29 December, 2005, which set a three (3) month statutory period for reply. The filing of the present petition precedes the mailing of Notice of Abandonment.

Petitioner states that the holding of abandonment should be withdrawn because the Office action mailed on 29 December, 2005, was sent in error, and the examiner had agreed to send a new Office action, but failed to do so.

Petitioners' argument has been carefully considered, but is not persuasive.

In this regard, 37 CFR 1.135 states:

> (a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
> (b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require...

The Office action mailed on 29 December, 2005, set a three (3) month shortened statutory period for reply. Petitioner, however, concededly failed to respond to the Office action. As such, the application became abandoned for failure to timely respond to the outstanding Office action.

Further, the showing of record does not support petitioners' assertion that the Examiner agreed to withdraw the Office action mailed on 29 December, 2005, and mail a supplemental Office action. In this regard, the official file constitutes the showing of record. A review of the file reveals that the Office action mailed on 29 December, 2005, was not withdrawn or vacated. In the absence of evidence on the record that the subject Office action was withdrawn or vacated, petitioner's argument that no reply was required to the Office action mailed on 29 December, 2005, is not persuasive.

Lastly, with regard to petitioners' implicit assertion that the examiner had agreed that no response to the Office action mailed on 29 December, 2005, was required, there is no showing in the written record to support that allegation. As MPEP 711.03(c) states, a delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to: (A) the applicant's reliance upon oral advice from USPTO employees; or (B) the USPTO's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action. See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

37 CFR 1.2 states that the action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

As such, the showing of record is that the abandonment resulted from the failure of petitioners to respond to the Office action, rather than an error on the part of the USPTO.

As such the application is properly held abandoned.

The petition is **DISMISSED.**

Petitioner is advised to consider filing a petition to revive under 37 C.F.R. 1.137(b).

Any request for reconsideration must be filed within **TWO (2) MONTHS** of the date of this decision.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of	:	
Greg E. Blonder	:	DECISION GRANTING
Application No. 10/987,779	:	PETITION
Filed: 11/12/2004	:	
Atty Docket No. 13558-15	:	

This is a decision on the petition under 37 CFR 1.137(a) filed on 13 April, 2007.

The petition is **GRANTED**.

The application became abandoned on 30 March, 2006, for failure to timely respond to the non-final Office action mailed on 29 December, 2005, which set a three (3) month statutory period for response. The filing of the present petition precedes the mailing of Notice of Abandonment. The petition to withdraw the holding of abandonment filed on 26 November, 2006, was dismissed on 15 February, 2007.

The application is restored to pending status.

The application is being referred to Technology Center Art Unit 3711 for further processing.

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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US CORPORATIONS, INC.
630 NEPTUNE AVE.
ENCINITAS, CA 92024

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MAR 2 8 2006

OFFICE OF PETITIONS

In re Application of :
Asar et al. :
Application No. 10/987,784 :
Filed: November 12, 2004 : ON PETITION
Title of Invention: :
METHOD AND APPARATUS FOR :
PREDICTIVE MODELING & :
ANALYSIS FOR KNOWLEDGE :
DISCOVERY :

This is a decision on the petition under 37 CFR 1.137(a), and alternatively under 37 CFR 1.137(b), filed February 10, 2006, to revive the above-identified application.

The petition under 37 CFR 1.137(a) is **DISMISSED**.

The petition under 37 CFR 1.137(b) is **DISMISSED**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to timely and peoperly reply to the Notice to File Corrected Application Papers ("Notice"), mailed March 7, 2005. The Notice set a period for reply of two (2) months. Extensions of time were available under 37 CFR 1.136(a). No reply having been filed, the application became abandoned May 8, 2005. A Notice of Abandonment was mailed November 8, 2005.

The instant petition

In response to the Notice of Abandonment, Applicant filed the instant petition and provides that inventor Asar employed the services of US Corporations, Inc., to draft and file this application. Thereafter, inventor Asar "received no communications regarding the application from U.S. Corporations, Inc. for an extended period of time." Petition at p.1. Petitioner states that inventor Asar received a copy of the application from U.S. Corporations, Inc., on October 21, 2005. Thereafter inventor Asar became aware of the abandonment of the application.

Petitioner provides that the delay was unavoidable because inventor Asar was unaware of the outstanding Notice.

Petition under 37 CFR 1.137(a) based upon unavoidable abandonment

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: (**1**)the required reply (unless previously filed), which may met by the filing of a notice of appeal and the requisite fee; a continuing application; an amendment or request for reconsideration which *prima facie* places the application in condition for allowance, or a first or second submission under 37 CFR 1.129(a) if the application has been pending for at least two years as of June 8, 1995, taking into account any reference made in such application to any earlier filed application under 35 USC 120, 121 and 365(c); (**2**) the petition fee as set forth in 37 CFR 1.17(l); (**3**) a showing to the satisfaction of the 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). The instant petition lacks items (1) and (3).

Petitioner must establish that petitioner treated the patent the same as a reasonable and prudent person would treat his or her most important business.

The general standard applied by the Office requires petitioner to establish that petitioner treated the patent the same as a reasonable and prudent person would treat his or her most

important business.[1] 35 U.S.C. 41(c)(1) states, "The Commissioner may accept the payment of any maintenance fee ... at any time ... if the delay is shown *to the satisfaction of the Commissioner* to have been unavoidable." (emphasis added).

"In the specialized field of patent law, ... the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. His interpretation of those provisions is entitled to considerable deference." Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA)1876 (D.D.C. 1990), aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir. 1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg, 849 F.2d 1422, 1425, 7 U.S.P.Q.2d (BNA) 1152 (Fed. Cir. 1988) ("an agency' interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.")).

"The critical phrase 'unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable' has remained unchanged since first enacted in 1861." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982). The standard for "unavoidable" delay for reinstating a patent is the same as the unavoidable standard for reviving an application. See Ray v. Lehman, 55 F.3d 606, 608-609, 34 U.S.P.Q.2d (BNA) 1786, 1787 (Fed. Cir. 1995) (citing In re patent No. 4,409,763, 7 U.S.P.Q.2d (BNA) 1798, 1800 (Comm'r Pat. 1990; Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982). The court in In re Mattullath, accepted the standard which had been proposed by Commissioner Hall which "requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business." In re Mattullath, 38 App. D.C. 497, 514-515 (1912) (quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)). However, "The question of

[1] The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard.

whether an applicant's delay in prosecuting an application was unavoidable [will] be decided on a case-by-case basis, taking all of the facts and circumstances into account."[2] Nonawareness of the content of, or a misunderstanding of, PTO statutes, PTO rules, the MPEP, or Official Gazette notices, does not constitute unavoidable delay.[3] The statute requires a "showing" by petitioner. Therefore, petitioner has the burden of proof. The decision will be based solely on the written, administrative record in existence. It is not enough that the delay was unavoidable; petitioner must prove that the delay was unavoidable. A petition will not be granted if petitioner provides insufficient evidence to "show" that the delay was unavoidable.

Applicant is further advised that the Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and applicant is bound by the consequences of those actions or inactions. Link v. Wabash, 370 U.S. 626, 633-34 (1962); Huston v. Ladner, 973 F.2d 1564, 1567, 23 USPQ2d 1910, 1913 (Fed. Cir. 1992); see also Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (D.N. Ind. 1987). Specifically, petitioner's delay caused by the actions or inactions of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 U.S.C. 133 or 37 CFR 1.137(a). Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (D. Ind. 1987); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (Comm'r Pat. 1891). 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,

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[2] Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

[3] See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D. D.C. 1978) for the proposition that counsel's nonawareness of PTO rules does not constitute "unavoidable" delay)); Vincent v. Mossinghoff, 1985 U.S. Dist. LEXIS 23119, 13, 230 U.S.P.Q. (BNA) 621 (D. D.C. 1985) (Plaintiffs, through their counsel's actions, **or their own**, must be held responsible for having noted the MPEP section and Official Gazette notices expressly stating that the certified mailing procedures outlined in 37 CFR 1.8(a) do not apply to continuation applications.) (Emphasis added).

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).

Finally, a "delay (in responding) resulting from the lack of knowledge or improper application of the patent statute, rules of practice, or MPEP, [] does not constitute unavoidable delay." MPEP 711.03(c).

Applicant's Assertion

Petitioner provides that the delay was unavoidable because inventor Asar was unaware of the outstanding Notice.

Analysis and conclusion

As to item (3) above, Applicant has not provided an adequate showing of unavoidable delay. Petitioner's delay caused by the actions or inactions of his voluntarily chosen representative, in this instance, U.S. Corporations, Inc., does not constitute unavoidable delay within the meaning of 35 U.S.C. 133 or 37 CFR 1.137(a).

It is also noted that the correspondence address in the petition differs from the correspondence address of record. A copy of this decision is being mailed to the address appearing in the petition; however, all future correspondence will be mailed to the correspondence address of record until proper correspondence address change has been filed with the Office.

Also, absent an assignment, a Power of Attorney must be executed by all of the inventors.

Petition under 37 CFR 1.137(b) based upon unintentional abandonment

A review of the petition and application file reveal that, while petitioner requests petitions under 37 CFR 1.137(a), and alternatively under 37 CFR 1.137(b), petitioner has failed to include the petition fee for both petitions. The fee for a petition under 37 CFR 1.137(a) is $250.00 for a small entity. This fee has been deducted from the $750.00 filed with the petition(s). A balance of $500.00 remains. However, the fee for a petition under 37 CFr 1.137(b) is $750.00.

Applicant must submit the deficient fee amount, $250.00, before the petition under 37 CFR 1.137(b) may be addressed on the merits.

This application is being referred to Publishing Division for continued processing in due course.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

CC: HAVERSTOCK & OWENS
162 NORTH WOLFE ROAD
SUNNYVALE, CA 94068

UNITED STATES PATENT AND TRADEMARK OFFICE

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US CORPORATIONS, INC.
630 NEPTUNE AVE.
ENCINITAS, CA 92024

COPY MAILED
JUN 23 2006
OFFICE OF PETITIONS

In re Application of :
Asar et al. :
Application No. 10/987,784 :
Filed: November 12, 2004 :
For: METHOD AND APPARATUS FOR :
PREDICTIVE MODELING & ANALYSIS :
FOR KNOWLEDGE DISCOVERY :

This is a decision in response to the Renewed Petition Under 37 CFR 1.137, filed May 11, 2006, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice to File Corrected Application Papers (hereinafter "Notice"), mailed March 7, 2005. The Notice set a two (2) month period for reply. No response having been received, the application became abandoned on May 8, 2005. A Notice of Abandonment was mailed November 8, 2005.

Applicant filed petitions to revive the application under 37 CFR 1.137(a) and 1.137(b) on February 10, 2006; however, the petition under 37 CFR 1.137(a) was dismissed for failing to meet the requirements of a grantable petition under 37 CFR 1.137(a). The petition under 37 CFR 1.137(b) was dismissed for lack of funds; however, as Applicant notes in the Renewed Petition, the Transmittal Paper filed with the petitions included an authorization to charge Applicant's deposit account.

The Power of Attorney and Revocation of Prior Powers of Attorney has been entered and made of record.

The reply to the Notice was filed February 10, 2006. Accordingly, the petition is granted.

This application is being forwarded to the Office of Initial Patent Examination for continued processing in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-145

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FROM DIRECTORS OFFICE

APR 01 2005

TECHNOLOGY CENTER 3600

J. Rodman Steele, Jr.
AKERMAN SENTERFITT
P.O. Box 3188
West Palm Beach, FL 33402-3188

In re application of
MIDDLEBROOK et al
Application No. 10/987,789 :
Filed: November 12, 2004 :
For: METHOD AND APPARATUS :
FOR THE CONTROL OF VERMIN

DECISION ON REQUEST
FOR WITHDRAWAL OF
ATTORNEY

This is a decision on the request filed on December 03, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks condition A) above.

As to condition A), the attorneys listed in the request (Customer Number 30448) do not correspond with those named in the Power of Attorney in the declaration, thereby creating confusion as to who is withdrawing. The original Power of Attorney appointed several attorneys. Each attorney must sign or a clear indication of one signing on behalf of the others is required. If only the attorneys listed in the request are to have power withdrawn (customer no. 30448) and the remaining attorneys are intended to remain having power of attorney for this case, this needs to be made clear in any supplemental request; otherwise the other attorneys, or a statement that all attorneys of record, would need to be added to the request.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

SNM/pav: 03/21/05

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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HONEYWELL INTERNATIONAL INC.
PATENT SERVICES
101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN, NJ 07962-2245

Mail Date: 04/21/2010

Applicant	: Michael E. Bazakos	: DECISION ON REQUEST FOR
Patent Number	: 7602942	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/987,806	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1370** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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YUAN QING JIANG
P.O. BOX 61214
PALO ALTO, CA 94306

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MAR 0 9 2007

OFFICE OF PETITIONS

In re Application of	:	
Hong Wang et al	:	
Application No. 10/987,842	:	DECISION ON PETITION
Filed: November 12, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. OPTOTRACE 402	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed January 9, 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 March 18, 2006.

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.

The power of attorney submitted on February 26, 2007, is not proper because only one inventor signed the power of attorney. In accordance with 37 CFR 1.33(b)(4), both inventors must sign. Future correspondence will be directed only to the current address of record until a proper power of attorney is submitted.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3208. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center Art Unit 2877 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.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
cc:
XIN WEN
3449 RAMBOW DRIVE
PALO ALTO, CA 94306

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	TOT CLMS	IND CLMS
10/987,842	11/12/2004	2877	818	OPTOTRACE 402	23	12

CONFIRMATION NO. 1337
CORRECTED FILING RECEIPT
OC000000022824377
OC000000022824377

40079
YUAN QING JIANG
P.O. BOX 61214
PALO ALTO, CA 94306

Date Mailed: 03/09/2007

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)

Hong Wang, Cupertino, CA;
Zhimin Liu, San Jose, CA;

Power of Attorney: The patent practitioners associated with Customer Number **40079**.

Domestic Priority data as claimed by applicant

This application is a CIP of 10/852,787 05/24/2004
which claims benefit of 60/473,283 05/27/2003
and claims benefit of 60/473,287 05/27/2003
and claims benefit of 60/520,222 11/17/2003

Foreign Applications

If Required, Foreign Filing License Granted: 03/08/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/987,842

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

** SMALL ENTITY **

Title

Applications of Raman scattering probes

Preliminary Class

356

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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John G. Posa
Gifford, Krass, Groh, Sprinkle,
Anderson & Citokowski, P.C.
280 N. Old Woodward Ave., Suite 400
Birmingham MI 48009-5394

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APR 0 8 2005

OFFICE OF PETITIONS

In re Application of	:	
Brett Ferree	:	DECISION ON PETITION
Application No. 10/987,864	:	
Filed: November 10, 2004	:	
Attorney Docket No. BAF-18902/29	:	

This is a decision on the petition under 37 CFR 1.10(d), filed February 10, 2005, requesting that the above-identified application be accorded a filing date of November 10, 2004, rather than the presently accorded filing date of November 11, 2004.

Petitioner alleges that the application was deposited in Express Mail service on November 10, 2004. The date-in indicated on Express Mail label No. EV340743248US is November 11, 2004. However, petitioner asserts that the USPS incorrectly entered November 11, 2004, instead of November 10, 2004, the date of deposit with the USPS Express Mail Service.

In support of the allegation, a letter accompanies the present petition from Madilynne Mulleague, Customer Relations Coordinator at the USPS in Ann Arbor, Michigan. Ms. Mulleague stated that the USPS accepted the Express Mail package on November 10, 2004. Additionally, petitioner submitted a United States Postal Service Pickup Service Statement for Express Mail, Priority Mail, or Parcel Post, which indicates that a USPS employee accepted a package bearing Express Mail label No. EV340743248US on November 10, 2004, at 4:00 PM, as evidenced by his signature. The same Express Mail label number was placed on the original transmittal sheet located in the official file.

In view of the corroborating evidence, it is concluded that the correct date of deposit in Express Mail service is November 10, 2004. Therefore, the application will be accorded a filing date of November 10, 2004.

The petition is **granted**. No petition fee is necessary.

The Office of Initial Patent Examination is directed to correct **the filing date to November 10, 2004, and to mail a corrected filing receipt.**

Telephone inquires specific to this matter may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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JAN 25 2006

OFFICE OF PETITIONS

In re Application of	:	
Carl T. Brighton et al	:	
Application No. 10/987,866	:	DECISION ON PETITION
Filed: November 12, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. UPN-4418	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 22, 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 Inventor Carl T. Brighton's driver license showing that he is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at 571-272-3210.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3738 for action on the merits commensurate with this decision.

Amelia Au
Petitions Examiner
Office of Petitions

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RICHLAND MI 49083

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AUG 21 2008

OFFICE OF PETITIONS

In re Application of :
Saha et al. :
Application No. 10/987,878 : ON PETITION
Filed: November 12, 2004 :
Title: Ultratough High-Strength Weldable :
Plate Steel

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 28, 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 Election, (2) the petition fee, and (3) a proper statement of unintentional delay.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center 1793 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

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JAN 21 2005

TECHNOLOGY CENTER 3600

WILLIAM M. HOBBY, III
157 E. New England Avenue
#375
Winter Park, FL 32789

In re application of
Nelson R. Boice JR.
Application No. 10/987,879
Filed: November 15, 2004
For: IRRIGATION METHOD FOR SLOPING LAND

DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)

This is a decision on the petition submitted on November 15, 2004, under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a declaration signed by Mr. Boice JR. indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

SNM/pav: 01/07/05

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Alexander R. Pagano. Esq.
Green & Pagano. L.L.P
Bldg. A. Suite 230A
30 Vreeland Road
Florham Park, NJ 07932

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FEB 20 2007

OFFICE OF PETITIONS

In re Application of Kulkarni :
Application No. 10/987,899 : Decision on Petition
Filing Date: November 12, 2004 :
Attorney Docket No. 1123-164 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 21, 2006, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed December 1, 2005. The Notice set a period for reply of two (2) months from the mail date of the Notice. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on February 2, 2006. A Notice of Abandonment was mailed on August 9, 2006.

The instant petition requests revival of the application.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

The Office of Initial Patent Examination will be informed of the instant decision and will review the papers filed with the petition in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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JOHN P. FONDER
PATTERSON, THUENTE, SKAAR, & CHRISTENSEN, P.A.
4800 IDS CENTER, 80 SOUTH 8TH STREET
MINNEAPOLIS, MN 55402-2100

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SEP 17 2007

OFFICE OF PETITIONS

In re Application of
Jeremy Johnson
Application No. 10/987,900
Filed: November 12, 2004
Attorney Docket No. J303-002-PAT

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b)[1], filed July 30, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on March 23, 2006, for failure to timely file a reply to the final Office action mailed December 22, 2005, which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed July 25, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $750.00; and (3) an adequate statement of unintentional delay.

---

[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)).

The Examiner has determined that the amendment filed with the present petition is acceptable. The matter therefore is being referred to Technology Center 3652.

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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MAY 0 2 2007

GIFFORD, KRASS, SPRINKLE,ANDERSON & CITKOWSKI, P.C
PO BOX 7021
TROY MI 48007-7021

In re Application of:
FERREE, BRET A. Serial No.: 10/987,914
Filed: Nov. 12, 2004
Docket: BAF-19002/29
Title: SHIMS, PARTICULARLY FOR LATERALLY PLACED ARTIFICIAL DISC REPLACEMENTS (ADRS)

DECISION ON PETITION

This is a decision on the petition filed on Jan. 26, 2006 by which petitioner respectfully requests withdrawal of the restriction requirement issued Oct. 24, 2005 and that claims 9-12 be examined in this application. This petition is being considered pursuant to 37 CFR 1.144 and 37 CFR 1.181.

The petition is **DISMISSED**.

The record shows that:

1) The original claims in this application included claims 1-4 which were directed to an apparatus for use in conjunction with a laterally placed artificial disc replacement.
2) On Jun. 9, 2005, the examiner conducted a search and examination on the merits of claims 1-4 and issued a non-final Office action rejecting claims 1-4.
3) On Sep. 9, 2005, the petitioner filed an amendment to claim 1 and presented new claims 5-8 directed to a spinal apparatus and new claims 9-12 directed to a method of stabilizing a spinal implant.
4) On Oct. 24, 2005, the examiner issued a final Office action. In the final Office action, the examiner withdrew newly submitted claims 9-12 because by original presentation, they were directed to a non-elected invention.
5) On Jan. 26, 2006, the petitioner filed the current request to withdraw the restriction requirement issued Oct. 24, 2005 and to have claims 9-12 be examined in the application.
6) On May 2, 2006, the petitioner filed an appeal brief.
7) On Jun. 21, 2006, the examiner re-opened prosecution in the application and issued a new final Office action. In the final Office action, the examiner repeated the election by original presentation restriction requirement.
8) On Sep. 29, 2006 the petitioner filed an appeal brief.

9) Feb. 13, 2007, the examiner issued an examiner's answer.
10) On Apr. 13, 2007, the petitioner filed a reply brief.

Discussion and analysis

37 CFR 1.144 Petition from requirement for restriction, states:

> After a final requirement for restriction, the applicant, in addition to making any reply due on the remainder of the action, may petition the 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]

MPEP 818.01 Election Fixed by Action on Claims, states:

> Election becomes fixed when the claims in an application have received an action on their merits by the Office.

MPEP 821.03 Claims for Different Invention Added After an Office Action, states:

> Claims added by amendment following action by the examiner, MPEP § 818.01, § 818.02(a), to an invention other than previously claimed, should be treated as indicated by 37 CFR 1.145.
>
> *37 CFR 1.145 Subsequent presentation of claims for different invention.*
>
> If, after an office action on an application, the applicant presents claims directed to an invention distinct from and independent of the invention previously claimed, the applicant will be required to restrict the claims to the invention previously claimed if the amendment is entered, subject to reconsideration and review as provided in §§ 1.143 and 1.144

806.05(h) Product and Process of Using, states:

> A product and a process of using the product can be shown to be distinct inventions if either or both of the following can be shown: (A) the process of using as claimed can be practiced with another materially different product; or (B) the product as claimed can be used in a materially different process. The burden is on the examiner to provide an example, but the example need not be documented. If the applicant either proves or provides a convincing argument that the alternative use suggested by the examiner cannot be accomplished, the burden is on the examiner to support a viable alternative use or withdraw the requirement. Form *>paragraphs< 8.20 *>and 8.21.04 should< be used in restriction requirements between the product and method of using.**>

In the final Office action dated Oct. 24, 2005, the grouping of the claims were as follows in the restriction requirement:

Group I: Claims 1-8, drawn to product
Group II: Claims 9-12, drawn to a process of using the product

Because applicant had already received an examination on the merits for the product, the examiner withdrew method of using claims 9-12 by original presentation as being directed to a non-elected invention. The restriction requirement is considered proper in that the inventions are

distinct for the reasons set forth in the final Office action dated Oct. 24, 2005 and each invention would involve a separate search and examination.

On Jan. 26, 2006, petitioner filed a petition requesting withdrawal of the restriction requirement and to have claims 9-12 examined. The petition filed Jan. 26, 2006 in effect traverses the restriction requirement in the final Office action dated Oct. 24, 2005.

A second final Office action on the merits was rendered on Jun. 21, 2006. The second final Office action was issued after petitioner filed the appeal brief on May 2, 2006. It is noted that there is a lack of Supervisory Patent Examiner signature in the second final Office action dated Jun 21, 2006 which is a requirement when reopening prosecution after the filing of an appeal brief. However, the Supervisory Patent Examiner's signature in the examiner's answer dated Feb. 13, 2007 essentially perfects the omission of the Supervisory Patent Examiner's signature in the second final Office action.

Although the restriction requirement was never formally made final, which is a requirement under 37 CFR 1.144 for petitioner to petition the restriction, in view of the examiner maintaining the restriction requirement in the second final Office action and the fact that petitioner traversed the restriction requirement in the instant petition (the second final Office action being issued after the petition was filed), the restriction requirement is considered to be made final.

The claims have been amended since the original filing date of this application. In order to determine whether or not the restriction requirement of Oct. 24, 2005 is proper, the most recent claims must be reviewed.

A comparison of product claims 1-8 and method of using claims 9-12 reveals that claim 9 requires the positively recited step of inserting the shim between a plate and a lateral edge of a vertebral body. In accordance with MPEP 806.05(h), the examiner has shown that the product can be used in a materially different process. The examiner states in the final Office action dated Jul. 21, 2006 that the shim could be placed between a tibial knee plate and bone rather than in a vertebral body. Therefore, the shim could be used in a method of stabilizing a tibial knee plate and bone instead of in a method of stabilizing a spinal implant as recited in claims 9-12. In accordance with MPEP 821.03, the examiner withdrew claims 9-12 as being directed to claims non-elected by original presentation.

The petitioner's specific argument on pages 1-2 of the petition pertaining to the examiner's reasoning for making the restriction requirement is noted. However, the examiner provided a different line of reasoning for restricting the claims in the second final Office action dated Jul. 21, 2006 which was issued after the instant petition was filed.

In view of the record, the restriction requirement rendered in Oct. 24, 2005 is considered proper and stands. The examiner properly followed the guidelines set forth in MPEP sections 818.01, 821.03 and 806.05(h). Petitioner's request to have non-elected claims 9-12 be examined in this application is dismissed.

Any inquiry regarding this decision should be directed to Marc Jimenez, Training Quality Assurance Specialist, at (571) 272-4530.

The petition is dismissed.

Frederick R. Schmidt, Director
Technology Center 3700

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

Naren Chaganti
7328 Dartford Drive, #6
McLean, VA 22102

MAILED

AUG 2 6 2005

Technology Center 2100

In re Application of:
Sitapathi CHAGANTI, et al.
Application No. 10/987,917
Filed: November 12, 2004
For: ONLINE REPOSITORY FOR PERSONAL INFORMATION

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102(c) and M.P.E.P. § 708.02, Section IV: Applicant's Age, filed November 12, 2004 to make the above-identified application special.

A grantable petition to make special under 37 C.F.R. § 1.102(c) and in accordance with M.P.E.P. § 708.02, Section IV must include a showing, as by a birth certificate or the applicant's statement, that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a statement that the applicant, Sitapathi Chaganti, is over sixty-five (65) years of age.

Accordingly, the petition is GRANTED. The application is being forwarded to the examiner for expedite prosecution.

For Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
571-272-3613

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NAREN CHAGANTI
713 THE HAMPTONS LANE
TOWN & COUNTRY MO 63017

COPY MAILED

DEC 0 5 2007

OFFICE OF PETITIONS

In re Application of :
Chaganti, et al. :
Application No. 10/987,917 : ON PETITION
Filed: November 12, 2004 :
Attorney Docket No. PSCO-006 :
For: ONLINE REPOSITORY FOR PERSONAL INFORMATION

This is a decision on the correspondence entitled, "PETITION FOR RELIEF FROM ANY ABANDONMENT," filed October 23, 2007. The correspondence will be treated as a feeless petition under 37 CFR 1.181 for clarification of the application's status.

The petition under 37 CFR 1.181 is **GRANTED**.

A Notice of Noncompliant Amendment was mailed on May 30, 2007, which set an extendable one (1) month or thirty day period (whichever is longer) for reply. Applicants mailed an amendment with a proper certificate of mailing dated June 15, 2007 affixed thereto to the Office. The June 15, 2007 amendment appears to have been lost. On October 12, 2007, applicants transmitted via facsimile a copy of the June 15, 2007 amendment to the Office. Petitioners request that the Office construe the October 12, 2007 facsimile as being filed on June 15, 2007 and request relief from any abandonment.

Petitioner is informed that another Notice of Non-compliant Amendment was mailed on October 22, 2007. This Notice addresses the October 12, 2007 facsimile transmission. While the new Notice fails to state the June 15, 2007 certificate of mailing date of the October 12, 2007 amendment, the Notice does not state the application is abandoned, either.

Applicants are entitled to rely on their Rule 1.8 certificate of mailing dated June 15, 2007. Therefore, a reply to the May 30, 2007 Notice of Noncompliant Amendment was timely filed. The examiner found the certificate of mailing date June 15, 2007 amendment to be non-compliant and set another one (1) month or 30 day (whichever is longer) period for reply from the October 22, 2007 mail date of the Notice.

The application is NOT currently abandoned. Applicants are encouraged to timely reply to the October 22, 2007 Notice of Non-compliant Amendment.

Accordingly, the application file will be forwarded to Technology Center A.U. 2161 to await response to the October 22, 2007 Notice of Non-compliant Amendment.

Telephone inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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NAREN CHAGANTI
713 THE HAMPTONS LANE
TOWN & COUNTRY MO 63017

MAILED

AUG 13 2009

OFFICE OF PETITIONS

In re Application of
Chaganti, et al.
Application No. 10/987,917
Filed: November 12, 2004
Attorney Docket No. PSCO-006
For: ONLINE REPOSITORY FOR PERSONAL INFORMATION

CORRECTED DECISION ON PETITION

This is a corrected decision on the correspondence entitled, "PETITION FOR RELIEF FROM ANY ABANDONMENT," filed October 23, 2007. The correspondence will be treated as a feeless petition under 37 CFR 1.181 to withdraw the holding of abandonment. The decision mailed December 5, 2007 is hereby *vacated.*

The petition under 37 CFR 1.181 is **DISMISSED**.

Any reconsideration petition must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

A Notice of Noncompliant Amendment was mailed on May 30, 2007, which set an extendable one (1) month or thirty day period (whichever is longer) for reply. Applicants mailed an amendment with a certificate of mailing dated June 15, 2007 affixed thereto to the Office. The June 15, 2007 amendment appears to have been lost. On October 12, 2007, applicants transmitted via facsimile a copy of the June 15, 2007 amendment to the Office. Petitioners request that the Office construe the October 12, 2007 facsimile as being filed on June 15, 2007 and request relief from any abandonment. It is noted that the filing of the present petition precedes the mailing of a Notice of Abandonment.

Applicants may not rely on their certificate of mailing dated June 15, 2007 because the certificate of mailing does not comply with 37 CFR 1.8. Therefore, a reply to the May 30, 2007 Notice of Noncompliant Amendment was not timely filed and the application became abandoned on July 1, 2007.

Under 37 C.F.R. § 1.8(a)(1) correspondence is considered timely filed if: (1) the correspondence is mailed or transmitted prior to expiration of the set period for response by being properly addressed to the Patent and Trademark Office as set out in 37 C.F.R. § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail or transmitted to the Patent and Trademark Office in accordance with 37 C.F.R. § 1.6(d); and (2) the correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have a reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

The correspondence in question does not bear a proper certificate of mailing in compliance with the requirements of 37 C.F.R. § 1.8(a)(1) as set forth above. The certificate of mailing does not specify *how* the correspondence was conveyed to the Office. The certificate of mailing does not specify that the correspondence was deposited with the U.S. Postal Service with sufficient postage as first class mail. Thus, petitioners may not rely on Rule 1.8 to make the correspondence timely filed.

A revival petition is required. Delay in prosecution resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not unavoidable. See, Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (N.D. Ind. 1987), Vincent v. Mossinghoff, 230 USPQ 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891). Therefore, petitioners are strongly encouraged to file a petition to revive under the unintentional delay standard of 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail:
Mail Stop 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 may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

NAREN CHAGANTI
713 THE HAMPTONS LANE
TOWN & COUNTRY MO 63017

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JAN 19 2010

In re Application of Chaganti, et al. Application No. 10/987,917 Filed: November 12, 2004 Attorney Docket No. PSCO-006 For: ONLINE REPOSITORY FOR PERSONAL INFORMATION	: : : : :	ON PETITION

This is a decision on the reconsideration petition under 37 CFR 1.181 to withdraw the holding of abandonment. The petition was filed September 10, 2009.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any reconsideration petition must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

A Notice of Noncompliant Amendment was mailed on May 30, 2007, which set an extendable one (1) month or thirty day period (whichever is longer) for reply. Applicants mailed an amendment with a certificate of mailing dated June 15, 2007 affixed thereto to the Office. The June 15, 2007 amendment appears to have been lost. On October 12, 2007, applicants transmitted via facsimile a copy of the June 15, 2007 amendment to the Office. Petitioners request that the Office construe the October 12, 2007 facsimile as being filed on June 15, 2007 and request relief from any abandonment.

Applicants may not rely on their certificate of mailing dated June 15, 2007 because the certificate of mailing does not comply with 37 CFR 1.8. Therefore, a reply to the May 30, 2007 Notice of Noncompliant Amendment was not timely filed and the application became abandoned on July 1, 2007.

Under 37 C.F.R. § 1.8(a)(1) correspondence is considered timely filed if: (1) the correspondence is mailed or transmitted prior to expiration of the set period for response by being properly addressed to the Patent and Trademark Office as set out in 37 C.F.R. § 1.1(a) and deposited with the U.S.

Postal Service with sufficient postage as first class mail or transmitted to the Patent and Trademark Office in accordance with 37 C.F.R. § 1.6(d); and (2) the correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have a reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

The correspondence in question does not bear a proper certificate of mailing in compliance with the requirements of 37 C.F.R. § 1.8(a)(1) as set forth above. The certificate of mailing does not specify *how* the correspondence was conveyed to the Office. The certificate of mailing does not specify that the correspondence was deposited with the U.S. Postal Service with sufficient postage as first class mail.

Practitioner argues that he has always used the same or similar certificate of mailing in communication with the Office in dozens of cases. He references the October 16, 2006 filing in the present case which states:

> "I certify that on the date shown below that I mailed this paper and all other related papers via US Mail addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450."

The Office did not object to the October 16, 2006 certificate of mailing. Practitioner argues that the June 15, 2007 certificate of mailing is similar enough that it should be accepted, as well. The difference between the October 16, 2006 certificate of mailing and the June 15, 2007 certificate of mailing is that the June 15, 2007 certificate of mailing does not specify that the correspondence was deposited in U.S. Mail.

The benefits of 37 CFR 1.8 apply only to documents delivered to the Office by the U.S. Postal Service. The June 15, 2007 correspondence could have been delivered to the Office via commercial couriers, e.g., "Federal Express," "DHL," "Purolator," "Air Borne," "UPS." As stated in the previous decision of August 13, 2009, the certificate of mailing does not specify ***how*** the correspondence was conveyed to the Office. Therefore, petitioners may not rely on Rule 1.8 to make the correspondence timely filed.

The Office must reverse the December 5, 2007 decision on petition because it was improperly decided. Any argument about the prejudicial nature of the delay in reversing the December 5, 2007 decision on August 13, 2009 is premature, as the application has not been allowed and patented.

A revival petition is required. Delay in prosecution resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not unavoidable. See, Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (N.D. Ind. 1987), Vincent v. Mossinghoff, 230 USPQ 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891). Therefore, petitioners are strongly encouraged to file a petition to revive under the unintentional delay standard of 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop 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 may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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www.uspto.gov

Solae, LLC
4300 Duncan Avenue
Legal Department E4
St. Louis MO 63110

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MAR 27 2009

OFFICE OF PETITIONS

In re Application of

John E. Fannon

Application No. 10/987,918

Filed: November 12, 2004

Attorney Docket No. SP-1431 US CIP

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 6, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a timely response to the final Office action mailed June 20, 2008. The final Office action set a shortened statutory period fro reply of three months from its mailing date. No response was received within the allowable period and the application became abandoned on September 21, 2008. A Notice of Abandonment was mailed in January 29, 2009.

The continuing application accorded application serial number 12/288,369, filed October 20, 2008, is noted. With continuity having been established, the subject application is again abandoned in favor of the continuing application.

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 1700, GAU 1794 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc: Janet S. Hendrickson, Ph.D.
Senniger Powers, LLP
100 North Broadway , 17th Floor
St. Louis, Missouri 63102

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OFFICE OF PETITIONS

DUGAN & DUGAN PC
245 SAW MILL RIVER ROAD
SUITE 309
HAWTHORNE, NY 10532

In re Application of :
Ho-Man Rodney Chiu et al :
Application No. 10/987,921 : ON PETITION
Filed: November 12, 2004 :
Attorney Docket No. 9985/AGS/SPARES/DP

This is a decision on the petition, filed October 22, 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 September 22, 2009 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1797 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JOHN W. WUSTENBERG
P.O. BOX 1431
DUNCAN OK 73536

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In re Application of	:	
Neal G. Skinner, et al.	:	
Application No. 10/987,923	:	DECISION GRANTING PETITION
Filed: November 12, 2004	:	UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 25, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 18, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries should be directed to Terri Williams at (571) 272-2991.

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

This application is being referred to Technology Center AU 3676 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Fish & Richardson P.C.**
1717 Main Street
Suite 5000
Dallas, TX 75201

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JUN 2 9 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

BRUCE E. LILLING
LILLING & LILLING P.C.
P.O. BOX 560
GOLDEN BRIDGE, N.Y. 10526

In re Application of
Simon Girshovich et al
Application No. 10/987,924
Filed: November 12, 2004
For: WIRELESS ANTI-THEFT SYSTEM FOR COMPUTER AND OTHER ELECTRONIC & ELECTRONIC EQUIPMENT

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. §1.102 to make special filed November 12, 2004 which is considered as pursuant to MPEP §708.02 (IV), applicant's age.

A petition to make special under MPEP §708.02, IV, must show that petitioner is 65 years of age, or more. Acceptable evidence includes a birth certificate, copy of a driver's license, or simply a statement by the applicant. No fee is required.

The petition includes a statement by Simon Girshovich stated he is over the age of 70 years old.

Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

The application is being forwarded to the examiner for expedited prosecution.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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OFFICE OF PETITIONS

PAUL CHOATE
90 SPRUCE STREET
MURRAY, KY 42071

In re Application of
Paul H. Choate, et al.
Application No. 10/987,925
Filed: November 12, 2004
Attorney Docket No. 012-040000US

ON PETITION

This is a decision in response to the petition, filed July 20, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed June 16, 2006. A Notice of Abandonment was mailed on March 26, 2007. In response, on July 20, 2007, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 2857 for consideration of the amendment filed July 20, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Knobbe Martens Olson & Bear LLP
2040 Main Street
Fourteenth Floor
Irvine CA 92614

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OFFICE OF PETITIONS

In re Application of	:
Lin, Cozean and Mamalis	: DECISION ACCORDING STATUS
Application No. 10/987,929	: UNDER 37 CFR 1.47(a)
Filed: November 12, 2004	:
For: Methods and Systems for Treating	:
Presbyopia Via Laser Ablation	:

This is in response to the petition under 37 CFR 1.47(a), filed on July 25, 2005 (certificate of mailing dated July 20, 2005).[1]

The petition is granted.

Petitioner showed that Jui-Teng Lin, 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 Timothy Shea established that petitioner mailed a copy of the application papers, as well as a declaration and assignment to the last known address of the non-signing inventor. However, the non-signing inventor refused to sign the declaration and assignment documents.

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 the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

[1] Petitioner obtained an extension of time for response within the fifth month. Accordingly, the petition is filed timely.

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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Jui-Teng Lin, Ph.D.
Coleman Low FCI
846 NE 54th Terrace, Box 1029
Coleman, FL 33521

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SEP 22 2005

OFFICE OF PETITIONS

In re Application of :
Lin, Cozean and Mamalis :
Application No. 10/987,929 : LETTER
Filed: November 12, 2004 :
For: Methods and Systems for Treating :
Presbyopia Via Laser Ablation :

Dear Dr. Lin:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Knobbe Martens Olson & Bear LLP
2040 Main Street
Fourteenth Floor
Irvine CA 92614

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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SEP 23 2009

OFFICE OF PETITIONS

BATEMAN IP LAW GROUP
P.O. BOX 1319
SALT LAKE CITY, UT 84110

In re Application of

Brian Mitchell
Application No. 10/987,938
Filed: November 12, 2004
Attorney Docket No. 2770.SABI.NP

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR §§ 1.36(b), or 10.40 filed August 7, 2009.

The request is **NOT APPROVED**.

The request cannot be approved because the attorney cannot withdraw practitioners associated with customer number 27472, when the power of attorney filed on January 24, 2005 originally granted power to Randall B. Bateman as an individual.

The request to change the correspondence of record is not acceptable[1] 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 continue to be directed to the above listed address until otherwise properly notified by the applicant.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Sabioso, Inc.
189 South State Street, #250
Clearfield, UT 84015

[1] The Office will no longer change the correspondence address to that of a new practitioner unless the Request is accompanied by a power of attorney to a new practitioner (*See* USPTO Form PTO/SB/82).

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Alexandria, VA 22313-1450
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BATEMAN IP LAW GROUP
P.O. BOX 1319
SALT LAKE CITY, UT 84110

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DEC 17 2009

OFFICE OF PETITIONS

In re Application of

Brian Mitchell
Application No. 10/987,938
Filed: November 12, 2004
Attorney Docket No. 2770.SABI.NP

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 CFR §§ 1.36(b), or 10.40 filed November 5, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Randall B. Bateman on behalf of himself and all attorneys/agents of record. Randall B. Bateman and all the attorneys/agents of record have been withdrawn. Therefore, applicant is reminded that there are no attorneys/agents of record at this time.

The request to change the correspondence cannot be accepted since the assignee has failed to properly intervene in the above application by complying with the requirements of 37 CFR 3.73(b)[1]. Since 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 continue to be directed to the above listed address until otherwise properly notified by the applicant.

This application is being referred to Technology Center Art Unit 2195 for examination in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

[1] 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).

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MAY 20 2009

OFFICE OF PETITIONS

WILLIAMS, MORGAN & AMERSON
10333 RICHMOND, SUITE 1100
HOUSTON TX 77042

In re Application of	:	
Charriere et al	:	
Application No. 10/987,944	:	ON PETITION
Filed: November 12, 2004	:	
Attorney Docket No. 2100.014700	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 27, 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 reply in a timely manner to the final rejection mailed September 18, 2007.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1).

The petition submitted on April 27, 2009 is unsigned.

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.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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JUN 12 2009

OFFICE OF PETITIONS

WILLIAMS, MORGAN & AMERSON
10333 RICHMOND, SUITE 1100
HOUSTON TX 77042

In re Application of	:	
Charriere et al	:	
Application No. 10/987,944	:	DECISION ON PETITION
Filed: November 12, 2004	:	
Attorney Docket No. 2100.014700	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed June 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 an RCE and an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final rejection mailed September 15, 2007, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2617 for appropriate action by the Examiner in the normal course of business.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

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GREENLEE WINNER AND SULLIVAN P C
4875 PEARL EAST CIRCLE
SUITE 200
BOULDER, CO 80301

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JUN 0 9 2005

OFFICE OF PETITIONS

In re Application of	:	
Dale Gyure	:	
Application No. 10/987,954	:	ON PETITION
Filed: November 12, 2004	:	
Attorney Docket No.: 103-03	:	

This is a decision on the petition under 37 CFR 1.182, filed May 8, 2005, requesting that the above-identified application retain the presently accorded filing date with Figure 5C, as described in the specification, as part of the original disclosure.

The petition is **dismissed**.

On November 12, 2004, the above-identified application was filed. However, on March 7, 2005, the Office of Initial Patent Examination mailed a "Notice of Missing Parts of Nonprovisional Application", stating, in pertinent part, that application had been accorded a filing date of November 12, 2004, and advising applicant that Figure 5C, as described in the specification, appeared to have been omitted.

In response, on May 8, 2005, applicant filed the present petition. Applicant concedes that Figure 5C was omitted from the original application papers, but argues that the instant application incorporated by reference the entirety of a prior-filed provisional application, which contained Figure 5C, therefore; the instant application was complete on filing.

The Notice permits applicant to either: (1) promptly establish prior receipt in the Office of the items at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted items 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 Office 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 omitted 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)).

Petitioner concedes that Figure 5C was not present on filing and does not request that the application be accorded a filing date as of the date of omitted item was supplied.

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 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 applications(s) will permit an applicant to amend the divisional application to include any subject matter in such prior application(s), without the need for a petition. See MPEP 201.06(c).

In view of the incorporation by reference of the prior application, Figure 5C is not new matter if they were a part of the disclosure of the prior application. Petitioner should file Figure 5C as a preliminary amendment whereupon the examiner will review it for new matter.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of November 12, 2004, using only the application papers present on filing. The copy of Figure 5C of the specification will not be processed for examination, but will be kept in the application file.

The petition fee of $400.00 will be charged to deposit account 07-1969 as this petition was necessitated by the applicant's filing error, rather than an error on the part of the Office.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of November 12, 2004, using the 18 sheets of drawings filed on that date.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

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NOV 1 0 2008

OFFICE OF PETITIONS

In re Application of :
Brima Ibrahim, et al. :
Application No.: 10/987,977 :
Filed: November 12, 2004 :
Attorney Docket No.: 16253US02 :

ON PETITION

This is a decision on the petition, filed November 10, 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 30, 2008, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2618 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

/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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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

Mail Date: 04/21/2010

Applicant	: Brima Ibrahim	: DECISION ON REQUEST FOR
Patent Number	: 7593707	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/987,977	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **836** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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JENKINS, WILSON, TAYLOR & HUNT, P. A.
Suite 1200 UNIVERSITY TOWER
3100 TOWER BLVD.,
DURHAM, NC 27707

Mail Date: 04/21/2010

Applicant	: Thomas L. Bonds JR.	: DECISION ON REQUEST FOR
Patent Number	: 7630211	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/987,982	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **173** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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FREDERICK W. GIBB, III
Gibb Intellectual Property Law Firm, LLC
844 West Street
SUITE 100
ANNAPOLIS, MD 21401

Mail Date: 04/20/2010

Applicant	: Girish B. Chafle	: DECISION ON REQUEST FOR
Patent Number	: 7606832	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/987,997	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1377** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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DURECT CORPORATION
THOMAS P. MCCRACKEN
2 RESULTS WAY
CUPERTINO CA 95014

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OCT 22 2008

In re Application of Panchula, et al. Application No. 10/988,020 Filed: November 12, 2004 Attorney Docket No. DURE-333; ALZA-0275/ALZ5096USNP	DECISION ON PETITION

This is a decision on the petition under the unavoidable standard of 37 CFR 1.137(a), filed September 15, 2008 (certificate of mailing date September 12, 2008), to revive the above-identified application.

The application became abandoned for failure to timely reply to a non-final Office action, mailed December 13, 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 March 14, 2008. A Notice of Abandonment was mailed on September 9, 2008.

Petitioners have submitted an amendment in reply to the December 13, 2007 non-final Office action, an acceptable showing of the unavoidable nature of the delay in responding to the December 13, 2007 non-final Office action, and the petition fee.

The petition under 37 CFR 1.137(a) is **granted.**

The revocation/power of attorney filed with the present petition has been entered and made of record. Please find enclosed a NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY.

After the mailing of this decision, the application will be returned to Technology Center G.A.U. 3767 for consideration of the amendment, filed September 15, 2008 (certificate of mailing date September 12, 2008).

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/988,020	11/12/2004	Martin Panchula	ALZA-0275/ALZ5096USNP

CONFIRMATION NO. 9985

POA ACCEPTANCE LETTER

31498
DURECT CORPORATION
THOMAS P. MCCRACKEN
2 RESULTS WAY
CUPERTINO, CA 95014

OC000000032669886

Date Mailed: 10/20/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/15/2008.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/swbrantley/

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
10/988,020	11/12/2004	Martin Panchula	ALZA-0275/ALZ5096USNP

CONFIRMATION NO. 9985

POWER OF ATTORNEY NOTICE

45511
WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

OC000000032669879

Date Mailed: 10/20/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/15/2008.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/swbrantley/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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DENNIS LEBLANG
43680 OLD TROON COURT
INDIO CA 92201

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AUG 0 1 2006

OFFICE OF PETITIONS

In re Application of :
Dennis William LeBlang :
Application No. 10/988,030 : DECISION ON PETITION
Filed: November 12, 2004 :
Attorney Docket No. 200407 :

This is a decision on the petition under 37 CFR 1.137(a), filed January 5, 2006, to revive the above-identified application.

The petition under 37 CFR 1.137(a) is **dismissed**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." Extensions of time under 37 CFR 1.136(a) are permitted.

The application became abandoned on May 8, 2005, for failure to timely reply to the Notice to File Corrected Application Papers mailed on March 7, 2005, which set a two (2) month extendable period for reply. A Notice of Abandonment was mailed on November 8, 2005.

In the present petition, petitioner explained that his patent representative, Sidney Fox, contacted him to request that the petitioner change the line spacing of the specification because Mr. Fox was unable to do it on his computer. Petitioner stated that the corrected the line spacing and sent the document to Mr. Fox; however, petitioner indicated that he was unaware if Mr. Fox sent it to the USPTO or if it was lost. Petitioner stated he spoke with Mr. Fox several times regarding the status of the application, but that Mr. Fox indicated he did not receive any response from the USPTO at that time. Petitioner asserted that he assumed that the application was being reviewed by the USPTO. Petitioner further explained that he attempted to call Mr. Fox on many occasions, but that his answering machine never picked up. Petitioner stated that he learned that Mr. Fox moved with his son to San Jose, CA, when Mr. Fox became ill. Thereafter, petitioner contacted Mr. Fox's son, who indicated that his father was deceased.

Petitioner also submitted a letter from Janna Dutton, the representative for Mr. Fox's estate. The letter stated that Mr. Fox died on December 14, 2005, of pancreatic and liver cancer. Furthermore, Ms.

Dutton indicated that Mr. Fox's son advised her that in the spring of 2005, Mr. Fox was diagnosed with dementia, which may have been caused by the liver cancer.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

> (1) The reply required to the outstanding Office action or notice, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must include payment of the issue fee or any outstanding balance. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.
>
> (2) The petition fee as set forth in 37 CFR 1.17(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 this paragraph was unavoidable.
>
> (4) Any terminal disclaimer (and fee set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

This petition lacks item (3) above.

The Director may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Director to be "unavoidable".[1] 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.[2]

---

[1] 35 U.S.C. § 133.

[2] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).[3] Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[4]

It appears that petitioner is asserting that the unavoidable delay in submitting a timely response to the outstanding Notice of March 7, 2005, was caused by Mr. Fox's illness and/or death. The Office sympathizes with the position petitioner finds himself; however, it is petitioner's burden to prove unavoidable delay. That is, petitioner and his duly authorized legal representative, Mr. Fox, took reasonable actions to ensure the timely filing of the reply, but due to the intervention of unforeseen circumstances, the reply was not filed timely with the USPTO.

First, the Office notes that Mr. Fox's death has no bearing on the issue of unavoidable delay because he died after the period for response had expired. Second, it appears that Mr. Fox was capable of preparing and filing the above-identified application on November 12, 2004, and was aware that a reply was due in response to the Notice to File Corrected Application Papers mailed on March 7, 2005, as he contacted petitioner to prepare the reply. Third, neither petitioner nor Mr. Fox's representative indicated exactly when Mr. Fox's health began to deteriorate to such an extent that he unable to communicate effectively with petitioner and the USPTO. Petitioner did not submit any documentary evidence such as medical records or a letter from Mr. Fox's then treating physician to substantiate the specific period of time that Mr. Fox became incapacitated. Fourth, petitioner speculated that Mr. Fox may not have mailed the corrected specification to the USPTO or that it was lost. However, petitioner did not provide any documentary evidence such as copies of Mr. Fox's business records with regard to this application to show whether Mr. Fox mailed the response to the USPTO, which was subsequently misplaced by the Office, or if it was lost prior to mailing it to the USPTO.

Unfortunately, without further documentary evidence, the Office is left to speculate as to the circumstances that transpired. As petitioner failed to meet his burden of proving unavoidable delay, the petition is **dismissed**. With any renewed petition under 37 CFR 1.137(a), applicant must provide the Office with documentary evidence to support the showing of unavoidable delay.

Alternative Venue:

Instead of filing a renewed petition under 37 CFR 1.137(a), petitioner is encouraged to file a petition pursuant to 37 CFR 1.137(b) on the basis of **unintentional** delay. 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 as set forth in 1.17(m) (**an additional fee of $750.00 for a small entity**); and, (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The appropriate form for filing a petition under 37 CFR 1.137(b) accompanies this decision for petitioner's convenience.

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[3] See MPEP 711(c)(III)(C)(2).

[4] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Form PTO/SB/64

PTO/SB/64 (07-06)
Approved for use through 09/30/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

_____ Signature	_____ Date
_____ Typed or printed name	_____ Registration Number, if applicable
_____ Address	_____ Telephone Number
_____ Address	

Enclosures: ☐ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office as (571) 273-8300.

_____ Date	_____ Signature
	_____ Typed or printed name of person signing certificate

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

DENNIS LEBLANG
43680 OLD TROON COURT
INDIO CA 92201

In re Application of
Dennis William LeBlang
Application No. 10/988,030
Filed: November 12, 2004
Attorney Docket No. 200407

DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(a), filed September 18, 2006, to revive the above-identified application.

The application became abandoned on May 8, 2005, for failure to timely reply to the Notice to File Corrected Application Papers mailed on March 7, 2005, which set a two (2) month extendable period for reply. A Notice of Abandonment was mailed on November 8, 2005.

The showing of record, including documentary evidence and supporting statements submitted on renewed petition, is adequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a).[1] 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 should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

[1] The Office notes that portions of the medical records of petitioner's former legal representative submitted on renewed petition have been redacted for privacy reasons. Nevertheless, the remaining sections were more than adequate to establish unavoidable delay. Pursuant to USPTO policy, the Office will not remove the medical records from the Image File Wrapper, but rather will "close" the documents in an effort to avoid displaying the records if the application is published. The redacted copy of the medical records will be re-scanned into the Image File Wrapper and will remain "open."

UNITED STATES PATENT AND TRADEMARK OFFICE

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Dave R. Hofman
Haynes and Boone, LLP
901 Main Street, Suite 3100
Dallas, TX 75202

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OFFICE OF PETITIONS

In re Application of

David J. Ziobro
Application No. 10/988,046
Filed: November 12, 2004
Attorney Docket No. 23667.146

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 February 5, 2007.

The request is **APPROVED**.

A review of the file record indicates that Todd Mattingly of the firm Haynes and Boone: (1) does not have power of attorney in this patent application;[1] and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, all the attorneys associated with customer number 27683 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 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. As no assignee has properly intervened in this application, all future communications from the Office will be directed to the first signing inventor at the first copied address below. If assignee desires to be represented by counsel or to intervene and receive correspondence regarding this application, compliance with 3.73(b) must be satisfied. A courtesy copy of this decision is being mailed to the address supplied in the petition.

Applicant is reminded that there is no attorney of record at this time.

There are no pending office actions in this case.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: David Jude Ziobro
350 Stayman Park
Fayetteville, GA 30215

cc: Todd Mattingly
King & Spaulding, L.L.P.
1100 Louisiana, Suite 4000
Houston, TX 77002

[1] The Revocation of Power of Attorney with new Power of Attorney filed on October 6, 2005 is not acceptable since it does not comply with the provisions of 37 CFR 3.73(b).

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 NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/988,046	11/12/2004	David Jude Ziobro	560302-1640 (23667.146)

CONFIRMATION NO. 3349

OC000000023218594

27683
HAYNES AND BOONE, LLP
901 MAIN STREET, SUITE 3100
DALLAS, TX 75202

Date Mailed: 04/03/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/05/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Kimberly Drabnet
Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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KATTEN MUCHIN ROSENMAN, LLP
575 MADISON AVENUE
NEW YORK, NY 10022-2585

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JUL 07 2006

OFFICE OF PETITIONS

In re Application of	:	
Katsuaki Yanagiuchi, et. al.	:	
Application No. 10/988,086	:	ON PETITION
Filed: November 12, 2004	:	
Attorney Docket No. WAKA 21.519	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on March 22, 2006, to revive the above-identified application.

The application became abandoned for failure to timely respond to the Notice of Allowance and Fee(s) Due mailed December 16, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $1,400 for payment of the issue fee and $300 for payment of the publication fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Office also acknowledges receipt of $30 for ten (10) advance soft copies filed on March 15, 2006.

This application file is being referred to the Office of Publications to be processed into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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

STORM LLP
BANK OF AMERICA PLAZA
901 MAIN STREET, SUITE 7100
DALLAS TX 75202

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OFFICE OF PETITIONS

In re Application of

POWDERMAKER, David K.
Application No. 10/988,099
Filed: November 12, 2004
Attorney Docket No. **DAP 02810 PTUS**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 31, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by John G. Fischer on behalf of all attorneys of record who are associated. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor David Powdermaker at the address indicated below.

There is an outstanding Office action mailed May 16, 2007 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **DAVID K. POWDERMAKER**
1824 FLATWOOD DRIVE
FLOWER MOUND, TX 75028

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Alexander Birger
2800 London Bell Drive
Raleigh, NC 27614

MAIL

OCT 26 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of: Alexander Birger)
Application No. 10/988,138)
Filed: November 15, 2004)
For:)
SCHOOLCHILDREN TRANSPORTATION MANAGEMENT SYSTEMS, METHODS AND COMPUTER PROGRAM PRODUCTS)

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. §1.102(d) AND MPEP §708.02 (I): MANUFACTURE

This is a decision on the petition, filed September 8, 2005, which is being treated under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(I): Manufacture, to make the above-identified application special.

In compliance with M.P.E.P. § 708.02(I), the petition must be accompanied by the required fee pursuant to 37 C.F.R. §1.17(I)(2) 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 affidavit 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 petition fails to meet requirements (A), (B), (C) and (D) set forth above. Accordingly, the petition is **DENIED**.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Alexander Birger
2800 London Bell Dr.
Raleigh NC 27614

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OFFICE OF PETITIONS

In re Application of	:	
Alexander Birger	:	
Application No. 10/988,138	:	DECISION ON PETITION
Filed: November 15, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No.	:	37 CFR 1.102(d)
	:	

This is a decision on the petition under 37 CFR 1.102(d), filed November 30, 2005, 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 fails to meet the requirements of (A), (B), (C), and (D) set forth above and does identify references deemed most closely related to the subject matter encompassed by the claims.

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 David Bucci at 571-272-7099.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 2636 for action in its regular turn.

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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Alexandria, VA 22313-1450
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Mathew P. Anderson
Caterpillar Inc.
Intellectual Property Dept.
AH 9510
100 N.E. Adams Street
PEORIA, IL 61629-9510

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In re Application of	:	
Ronald D. Shinogle et al.	:	
Application No. 10/988,141	:	DECISION ON PETITION
Filed: November 12, 2004	:	
Attorney Docket No. 04-161	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 8, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before April 16, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed January 16, 2007. Accordingly, the date of abandonment of this application is April 17, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1400.00 and the publication fee of $300.00, (2) the petition fee of $1540.00; and (3) a proper statement of unintentional delay.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

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.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to Publishing Division for processing into a patent.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/988,143	11/12/2004	Galo Gimenez Palop	1939.034US1	9963

7590 04/21/2008
HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER
MYHRE, JAMES W

ART UNIT	PAPER NUMBER
3688	

NOTIFICATION DATE	DELIVERY MODE
04/21/2008	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.

Patent Publication Branch
Office of Data Management

Adjustment date: 04/21/2008 DTERRY
11/18/2004 MBIZUNES 00000030 190743 10988143
02 FC:1202 360.00 CR
03 FC:1201 616.00 CR

FORM PET651G (Rev. 08/07)

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PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND OH 44114-3108

COPY MAILED

OCT 0 3 2006

OFFICE OF PETITIONS

In re Application of

Samuel Cini et al.
Application No. 10/988,146
Filed: November 12, 2004
Attorney Docket No. 36627

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 12, 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 attorneys/agents associated with customer number 00116. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, No longer representing this applicant, 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.

Telep Telephone inquiries concerning this decision should be directed to Charles Smoot at 571-272-3299.

for

David Bucci
Petitions Examiner
Office of Petitions

cc: Signage Systems
2677 Drew Road
Mississauga, Ontario L4T 3X1

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.

CALFEE HALTER & GRISWOLD, LLP
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND OH 44114

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AUG 14 2006

OFFICE OF PETITIONS

In re Application of	:	
Alan Bauer	:	DECISION ON PETITION
Application No. 10/988,149	:	
Filed: November 12, 2004	:	
Atty Docket No. 27475/07820	:	

This is a decision on the "PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT UNDER 37 CFR 1.181(a)" filed December 5, 2005.

The above-identified application became abandoned for failure to reply to the Notice to File Missing Parts of Application mailed December 20, 2004. This Notice set a two-month time limit for reply, with extensions of time obtainable under § 1.136(a). No reply considered received and no extension obtained, the above-identified application became abandoned on February 21, 2005. A Notice of Abandonment was mailed on September 14, 2005.

In response, applicants timely filed the instant petition. Applicants submit that a proper and timely reply to the Notice was mailed in accordance with 37 CFR 1.8(a) on January 27, 2005. In support thereof, applicants submitted a copy of the response and a statement from the person who mailed the response attesting to the timely filing pursuant to their signed and dated certificate of mailing.

37 CFR 1.8(b) provides that:

In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding

is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
>
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
>
> (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

On instant petition, petitioner has satisfied the requirements of 1.8(b) to have the response considered timely filed by virtue of the certificate of mailing dated January 27, 2005.

Accordingly, the Notice of Abandonment mailed September 14, 2005 is hereby **VACATED**, and the holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

The Office of Initial Patent Examination (OIPE) has been advised of this decision. The application file is, thereby, forwarded to OIPE's technical staff to withdraw the holding of abandonment and for OIPE to consider the response to the Office action resubmitted on petition filed December 5, 2005.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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PEARNE & GORDON LLP
1801 EAST 9TH STREET, SUITE 1200
CLEVELAND, OH 44114-310

MAILED

MAR 29 2010

OFFICE OF PETITIONS

In re Application of
Bruce YOUNG
Application No. 10/988,151
Filed: November 12, 2004
Attorney Docket No. **P2024US00**

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 4, 2010.

The request is **NOT APPROVED**.

A review of the file record indicates that PEARNE & GORDON, LLP does not have power of attorney in this patent application nor is there any statement or evidence of record of employment in or otherwise being engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the below-listed address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

cc: **GATEWAY, INC.**
ATTN: PATENT ATTORNEY
610 GATEWAY DRIVE
MAIL DROP Y-04
N. SIOUX CITY SD 57049

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LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

MAILED

JUN 21 2010

OFFICE OF PETITIONS

In re Application of	:	
James Wilk et al.	:	
Application No. 10/988,153	:	DECISION ON PETITION
Filed: November 12, 2004	:	TO WITHDRAW
Attorney Docket No. WILK 3.0-001	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 17, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Scott E. Charney on behalf of all attorneys/agents of record. All attorneys/agents of record have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address has been changed and is copied below.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Mr. James Wilk
115 Kenvil Avenue
Kenvil, NJ 07847

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
10/988,153	11/12/2004	James Wilk	WILK 3.0-001

CONFIRMATION NO. 9978

POWER OF ATTORNEY NOTICE

530
LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

OC000000042206813

Date Mailed: 06/21/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/17/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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AUG 29 2006

Zollinger & Burleson, Ltd.
P.O. Box 2368
North Canton OH 44720

In re Application of
ROZAKIS, GEORGE W. et al
Serial No.: 10/988,157
Filed: Nov. 12, 2004
Docket: GR009D0FUSBC
Title: POSTERIOR CHAMBER PHAKIC INTRAOCULAR LENS

DECISION ON PETITION TO WITHDRAW FINALITY OF REJECTION AS PREMATURE UNDER 37 CFR 1.181

This is a decision on the petition filed on Jan. 23, 2006 by which petitioners request supervisory review and withdrawal of the finality of the Office Action dated Nov. 22, 2005. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is **dismissed**.

A review of the relevant prosecution history shows that the applicant filed the original claims on Nov. 12, 2004. On May 6, 2005, the examiner rejected all claims, except Claims 3-4 which were objected to, stating "Claims 3-4 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 applicant subsequently filed an amendment on Sept. 6, 2005, within which were re-written the original allowable Claims 3 and 4 as independent claims 3 and 4. On Nov. 22, 2005, the examiner issued a final Office Action, stating *inter alia* that Claims 3 and 4 are rejected under 35 USC 103(a) as being unpatentable over Zhou et al in view of Worst and Bogaert et al.[1]

On Jan. 23, 2005, the applicant filed the current petition requesting a withdrawal of the finality of the previous Office Action. The petitioner is of the opinion that the Final Office Action was premature. In particular, the petitioner states that Claims 3-4 could not have necessitated new grounds of rejection since the applicant amended these claims by placing them in independent form including the limitations of the base claim and the intervening claims.

[1] Newly cited reference added in the Final rejection of claims 3-4.

Analysis of Application Record

MPEP 706.07(a) states in relevant part: "Under present practice, second or any subsequent actions on the merits shall be final, *except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims* nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p)." (*Emphasis added*).

The issue presented in the current petition is whether the new independent claims 3 and 4 changed the scope of the original allowed dependent claims 3-4 and the new ground of rejection in the Final Office action was necessitated by applicant's amendment of independent claims 3-4.

Since new Claim 3 was dependent upon original claims 1 and 2, the focus of the analysis is whether new independent Claim 3 has the same scope as the original allowed dependent Claim 3. Since new Claim 4 was dependent upon original claims 1 and 2, the focus of the analysis is whether new independent Claim 4 has the same scope as the original allowed dependent Claim 4.

In order to determine whether or not the original dependent Claims 3 and 4 and the new independent Claims 3 and 4 are identical in scope, a comparison of the claims must be made. Original dependent Claims 3 and 4, rewritten as independent claims 3 and 4, must necessarily combine the original Claims 1 and 2 without changing the scope of the claims. The original Claims 1-4 filed on Nov. 12, 2004 are reproduced below:

1. A phakic intraocular lens comprising: a body having a flat anterior-facing optical surface and a curved posterior-facing optical surface that defines the optical power of the lens; and the body having a thick outer rim adapted to position the lens within the eye.
2. The lens of claim 1, further comprising at least one positioning arm and an optical portion of the body; the connection between the positioning arm and the optical portion being a joint; the joint having an anterior surface.
3. The lens of claim 2, wherein the anterior surface of the joint defines a channel
4. The lens of claim 2, wherein the joint defines an opening.

The newly amended independent claims 3 and 4 as filed on Sept. 6, 2005 are also reproduced below:

3. (Currently amended) A phakic intraocular lens comprising: a body having a flat anterior-facing optical surface and a curved posterior-facing optical surface that defines an optical portion of the lens and the optical power of the lens; the body having a thick outer rim adapted to position the lens within the eye; at least one positioning arm connected to the optical portion of the body; the connection between the positioning arm and the optical portion being a joint; the joint having an anterior surface; and the anterior surface of the joint defining a channel.

4. (Currently amended) A phakic intraocular lens comprising: a body having a flat anterior-facing optical surface and a curved posterior-facing optical surface that defines an optical portion of the lens and the optical power of the lens; the body having a thick outer rim adapted to position the lens within the eye; at least one positioning arm connected to the optical portion of the body; the connection between the positioning arm and the optical portion being a joint; the joint having an anterior surface and the joint defining an opening.

A comparison of original dependent Claims 3 and 4 with the new independent Claims 3 and 4 reveals two differences which change the scope of the original dependent Claims 3 and 4. The new independent claims 3 and 4 specifically require "a curved posterior-facing optical surface that defines *an optical portion of the lens*" (emphasis added). This limitation was not found in

any of the original claims 1-4. Original claim 2 (from which both claims 3 and 4 depend) required "at least one positioning arm and *an optical portion of the body*", (emphasis added) but it does not specify where on the body the optical portion was, thus not specifying exactly where the connection is made as is now found in the new claims.

Conclusion

Based on the analysis of the record, the examiner was correct in finding that the amended independent Claims 3-4 differed in scope from the original dependent Claims 3-4. Accordingly, the change in scope of claims 3-4 resulted in the new ground of rejection in the Final Office action of Nov. 22, 2005 and was necessitated by applicant's amendment. The petition is, therefore, dismissed.

The application is being forwarded to the Supervisory Patent Examiner of Art Unit 3738 pending the filing of a proper reply to the final rejection. Petitioner may file a request for reconsideration of this decision, without fee. However, such a request must be filed within two months of the date of this decision. See 37 CFR 1.181. Any inquiry regarding this decision should be directed to Henry Yuen, Special Program Examiner, at (571) 272-4856.

PETITION DISMISSED.

Frederick R. Schmidt, Director
Technology Center 3700

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Wong Cabello Lutsch Rutherford & Brucculeri LLP
20333 Tomball Parkway, 6th Floor
Houston, TX 77070

Mail Date: 04/21/2010

Applicant	: Yi Lin	: DECISION ON REQUEST FOR
Patent Number	: 7596100	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/988,172	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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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OCT - 7 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

In re Application of:
Yu-Wen Chang, et al.
Application No. 10/988,177
Filed: November 12, 2004
For: **DEPLOYABLE MONITORING DEVICE HAVING SELF-RIGHTING HOUSING AND ASSOCIATED METHOD**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the Petition To Make Special under MPEP 708.02, XI: Invention for Countering Terrorism, filed September 20, 2005.

A grantable petition to make an application special under 37 C.F.R. § 1.102(d), and in accordance with MPEP 708.02, XI, for an invention which contributes to the countering of terrorism must be accompanied by a statement explaining how the invention contributes to countering terrorism. Applicants' statement that "Such a device is capable of being deployed into a building or into the vicinity of a particular area by personnel and, through the video-capturing device, is capable of allowing the personnel to survey the building or area prior to entry. The invention may therefore be used, for instance, to protect law enforcement or military personnel from terrorist attacks involving roadside bombs or explosive-rigged buildings", is not fully supported by the specification as a possible use. 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...". Applicants' specification does give the example of monitoring a hostage situation among other scenarios.

Accordingly, the petition is **GRANTED**.

The application file is being forwarded to the examiner for expedited action in its turn.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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HARNESS, DICKEY
& PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

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SEP 21 2009

OFFICE OF PETITIONS

In re Application of :
Toledano, et al. :
Application No. 10/988,194 :
Filed: 12 November, 2004 :
Attorney Docket No. 6668TC-000020/US/01 :

DECISION

This is a decision on the petition filed on 15 June, 2009, for revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b).

The petition under 37 C.F.R. §1.137(b) is **GRANTED**.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 9 February, 2009, with reply due under a non-extendable deadline on or before 9 May, 2009.

The application went abandoned by operation of law after midnight 9 May, 2009.

The Office mailed the Notice of Abandonment on 5 June, 2009.

On 15 June, 2009, Petitioner filed, *inter alia*, a petition (with fee) pursuant to 37 C.F.R. §1.137(b), with a reply in the form of fees due and made the statement of unintentional delay.

Again, Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]
The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

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.[3]))

As to Allegations of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[2] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

It appears that the requirements under 37 C.F.R. §1.137(b) have been satisfied.

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Publications Branch to be processed into a patent 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 Publications Branch in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the Publications Branch where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[4] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Patent No. : 7,626,610 B2
Ser. No. : 10/988,194
Inventor(s) : Toledano et al.
Issued : Dec. 1, 2009
Title : ELECTRONIC IMAGER TESTER
Docket No. : 6668TC- 000020/US/01
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. 17(i) (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
40l Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Ennis Young
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) **756-1542** or (703) 756-1814

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

FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON, WI 53701-1497

COPY MAILED

DEC 0 4 2009

OFFICE OF PETITIONS

In re Application of Shealy et al. :
Application No. 10/988,204 :
Filing Date: November 12, 2004 :
Attorney Docket No. 043200-0104 :

On Application For
Patent Term Adjustment

This is in response to the "Request for Reconsideration of Patent Term Adjustment Under 37 C.F.R. §1.705" filed September 21, 2009. Applicants submit the correct patent term adjustment to be indicated on the patent is one thousand four hundred fifty-four (1,454) days, not one thousand one hundred forty-two (1,142) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, an applicant may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the

amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON, WI 53701-1497

Mail Date: 04/21/2010

Applicant	: C. Norman Shealy	: DECISION ON REQUEST FOR
Patent Number	: 7645226	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/988,204	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1461** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 : December 19, 2006

TO SPE OF : ART UNIT 1755 Jerry A Lorengo

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/988,227 Patent No.: 7101428B2

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: _____

_____

_____

_____

_____

_____ **SPE**

1755 **Art Unit**

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PEREGRINE PHARMACEUTICALS, INC.
5353 WEST ALABAMA
SUITE 306
HOUSTON TX 77056

MAILED

JUN 17 2010

OFFICE OF PETITIONS

In re Patent No. 7,550,141	
Thorpe et al.	DECISION ON REQUEST FOR
Issue Date: June 23, 2009	RECONSIDERATION OF
Application No. 10/988,245	PATENT TERM ADJUSTMENT
Filed: November 12, 2004	AND NOTICE OF INTENT
Attorney Docket No.	TO ISSUE CERTIFICATE OF
399.002398/UTSD:0556--1	CORRECTION
Title: METHODS FOR IMAGING	
TUMOR VASCULATURE USING	
CONJUGATES THAT BIND TO	
AMINOPHOSPHOLIPIDS	

This is a decision on the petition filed on June 26, 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 an additional one hundred seventy-six (176) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED TO THE EXTENT INDICATED HEREIN.**

Patentees contend that an adjustment of 54 days is warranted based upon 37 CFR 1.702(a)(2). Patentees also dispute the reductions of 120 days and 2 days.

It should be noted the argument that a 54 day adjustment is required is being treated as the argument was timely submitted on January 30, 2009, however was not addressed prior to the issuance of the patent.

Patentees contend that a 54-day adjustment is warranted because the Notice of Allowance and Notice of Allowability, which was

mailed on October 31, 2008, failed to address claims 96-99. A supplemental Notice of Allowability was mailed on December 24, 2008. Patentees argue that a 54-day adjustment for Office delay should be calculated from October 31, 2008 to December 24, 2008.

Patentees' argument has been considered and determined to be unpersuasive. A review of the record shows that a Notice of Allowance was mailed within four months in response to applicants' response on July 11, 2008. The December 24, 2008 mailing supplemented the July 11, 2008 Notice of Allowability. As such an adjustment is not warranted.

Patentees dispute the 2-day reduction for the submission of the issue fee. Patentees contend that the issue fee transmittal was submitted via EFS on January 30, 2009. A review of the record shows that patentees established, by prima facie evidence in the form of the electronic acknowledgement receipt, that the response was originally submitted on January 30, 2009. This was within three months of the mailing of the Notice of Allowance on October 31, 2008. Thus, with respect to responding to the Notice of Allowance, patentees did not fail to engage in reasonable efforts to conclude processing or examination within the meaning of 37 CFR 1.704(b). Accordingly, the period of 2 days will be removed.

Patentees also dispute the 120-day reduction for the submission of the Application for Patent Term Adjustment on January 30, 2009. Patentees contend the PTA was incorrectly coded as a miscellaneous letter, which resulted in an improper reduction. A review of the record confirms that a 120-day 1.704 (c)(10) reduction was not warranted. The submission of an application for patent term adjustment is not considered a failure to engage in reasonable efforts to conclude processing or examination of the application. As such 120-day reduction will be removed.

The period of adjustment to which the patent is entitled under 37 CFR 1.702(a) is 469 days(448 days + 21 days).

The period of adjustment to which the patent is entitled under 37 CFR 1.702(b) is 589 days (November 13, 2007 to June 23, 2009 the day of issuance of the patent.

There are twenty (21) days of overlap between 37 CFR 1.702(a) and 37 CFR 1.702(b) (June 3, 2009 to June 23, 2009).

There are 277 days of applicants' delay

In view thereof, the patent is entitled to an overall adjustment of 760 days.

The application is being forwarded to the Certificate of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by seven hundred sixty **(760)** 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 $200.00 petition fee set forth in 37 CFR 1.18(e) has been assessed from deposit account no. 50-3493. No additional fees are required.

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 : 7,550,141 B2

DATED : **June 23, 2009** **DRAFT**

INVENTOR(S) : Thorpe 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 190 days

Delete the phrase "by 190 days" and insert – by 760 days--

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INTELLECTUAL PROPERTY DEPARTMENT
100 BOSCH BOULEVARD
NEW BERN NC 28562

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SEP 03 2009

OFFICE OF PETITIONS

In re Application of :
Klaus ERDMANN et al. :
Application No. 10/988,247 : DECISION ON PETITION
Filed: November 12, 2004 :
Attorney Docket No. **2003P00375US** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 27, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of January 10, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is April 11, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office Action of January 10, 2008 is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178

(October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the Tredelle Jackson at (571) 272-2783.

This application is being referred to Technology Center AU 3632 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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JOANN VILLAMIZAR, PATENT DEPARTMENT
CIBA SPECIALTY CHEMICALS CORPORATION
540 WHITE PLAINS ROAD
P.O. BOX 2005
TARRYTOWN, NY 10591-9005

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OFFICE OF PETITIONS

In re Application of	:	
Yingxia He et al	:	
Application No. 10/988,250	:	ON PETITION
Filed: November 12, 2004	:	
Attorney Docket No. CO/2-22980/P1/CGC 2172	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 1, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The 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 15, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on August 16, 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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JOSEPH M. SAUER
JONES DAY REAVIS & POGUE
NORTH POINT, 901 LAKESIDE AVENUE
CLEVELAND, OH 44114

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MAY 11 2006
OFFICE OF PETITIONS

In re Application of	:	
Carles Puente Baliarda	:	
Application No. 10/988,261	:	DECISION ON PETITION
Filed: November 12, 2004	:	TO WITHDRAW
Attorney Docket No. 153454600031	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 29, 2005.

The petition is **NOT APPROVED** as moot.

A review of the file record indicates that the previously appointed power of attorney has been revoked by the assignee. 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.

This application is being referred to Technology Center AU 2828 to await a reply to the non-final Office action mailed January 26, 2006.

Telephone inquires concerning this decision should be directed to Wan Laymon at 571-272-3220.

Denise Pothier for

David Bucci
Petitions Examiner
Office of Petitions

cc: JENKENS & GILCHRIST, PC
1445 ROSS AVENUE
SUITE 3200
DALLAS, TX 75202

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ALEXANDRIA, VA 22313-1450
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SEP 27 2007
TECHNOLOGY CENTER 2800

In re Patent No. BALIARDA, CARLES PUENTE	:	
Issue Date: July 31, 2007	:	**DECISION GRANTING**
Appl No.: 10/988,261	:	**PETITION**
Filed: November 12, 2004	:	*37 CFR 1.324*
For: INTERLACED MULTIBAND ANTENNA ARRAYS	:	

This is a decision on the petition under 37 CFR 1.48, filed July 30, 2007. In view of the fact that the patent has already issued, the request under 37 CFR 1.48 has been treated as a petition to correct inventorship under 37 CFR 1.324.

The petition is granted.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

Douglas W. Owens 9/25/07

Douglas W. Owens
Supervisory Patent Examiner
Art Unit 2821
Patent Examining Group 2800

WINSTEAD PC
P.O. BOX 50784
DALLAS, TX 75201

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OFFICE OF PETITIONS

COOK, ALEX, McFARRON, MANZO,
CUMMINGS & MEHLER, LTD.
SUITE 2850
200 WEST ADAMS STREET
CHICAGO IL 60606

In re Patent No. 7,576,485	:
Hisashi Ohtani	: DECISION ON REQUEST FOR
Issue Date: August 18, 2009	: RECONSIDERATION OF
Application No. 10/988,265	: PATENT TERM ADJUSTMENT
Filed: November 12, 2004	: AND NOTICE OF INTENT
Attorney Docket No. 0553-0428	: TO ISSUE CERTIFICATE OF
Title: IMAGE DISPLAY DEVICE	: CORRECTION
WITH NARROW FRAME	:

This is a decision on the petition filed on October 16, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by six hundred thirty-three (633) 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 thirty-two (632) 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 November 13, 2007 and ends on April 1, 2008, the day before the RCE was filed, and is 141 days. See 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 632, not 633 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 thirty-two (632)** days.

Telephone inquiries specific to this matter should be directed to Petitions Attorney, Charlema Grant at (571) 272-3215.

/Kery Fries/

Kery 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 : 7,576,485 B2

DATED : **August 18, 2009** **DRAFT**

INVENTOR(S) : Hisashi Ohtani

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 491 days

Delete the phrase "by 491 days" and insert – by 632 days--

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UNITED STATES DEPARTMENT OF COMMERCE
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ECKERT SEAMANS CHERIN & MELLOTT
600 GRANT STREET
44TH FLOOR
PITTSBURGH, PA 15219

Mail Date: 04/21/2010

Applicant	: Andrew D. Bocking	: DECISION ON REQUEST FOR
Patent Number	: 7603105	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/988,270	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **130** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF THE DIRECTOR
TC 3600

Brown Raysman Millstein Felder & Steiner LLP
900 Third Avenue
New York, NY 10022

In re application of :
Jonathan Schull :
Application No. 10/988,273 :
Filed: November 12, 2004 :
For: SYSTEM AND METHOD FOR SELLING PROTECTED INFORMATION IN AN OEM CONTEXT

DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)

This is a decision on the petition under 37 C.F.R § 1.102(d) filed February 22, 2005 to make the above-identified application special. The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market or method in use; (B) that a rigid comparison of the alleged infringing device, product or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed February 22, 2005 lacks requirements 2(C), above.

Regarding item 2(C), petitioner 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.

In view of these deficiencies, the petition is **DISMISSED**.

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Should petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving the information as outlined above.

Applicant should promptly submit a renewed petition to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

SUMMARY: Petition to Make Special **DISMISSED**.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/pav: 03/08/05

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

MAY - 5 2005

Brown Raysman Millstein Felder & Steiner LLP
900 Third Avenue
New York, NY 10022

In re application of	:	**DECISION ON PETITION**
Jonathan Schull	:	**TO MAKE SPECIAL**
Application No. 10/988,273	:	**(INFRINGEMENT)**
Filed: November 12, 2004	:	
For: SYSTEM AND METHOD FOR SELLING	:	
PROTECTED INFORMATION IN AN	:	
OEM CONTEXT	:	

This is a decision on the Request For Reconsideration For Decision On Petition To Make Special (Infringement) filed April 11, 2005.

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 Request filed April 11, 2005 now meets all of the requirements above and, therefore, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications; (2) to promptly examine this application out of turn; and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference and appeal, if any, only if petitioner makes a prompt *bona fide* effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(571) 272-6587

KAD/dew: 4/19/05

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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PERKINS COIE LLP
P.O. BOX 2168
MELSO PARK, CA 94026

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MAR 3 1 2008

In re Application of	:	
GABIZON, et al.	:	
Application No. 10/988,275	:	DECISION ON PETITION
Filed: November 12, 2004	:	TO WITHDRAW
Attorney Docket No. **55325-8171.US00**	:	FROM RECORD
	:	

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 9, 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 Judy M. Mohr 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: **ALBERTO A. GABIZON**
56 BERNSTEIN STREET, APT 7
JERUSALEM, ISRAEL 96920

cc: **ROBINS & PASTERNAK, LLP**
1731 EMBARCADERO ROAD, SUITE 230
PALTO ALTO, CA 94303

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

HOLLSTEIN KEATING CATTELL JOHNSON & GOLDSTEIN P.C.
WILLOW RIDGE EXECUTIVE OFFICE PARK, SUITE 301
750 ROUTE 73 SOUTH
MARLTON, NJ 08053

MAILED

OCT 01 2009

OFFICE OF PETITIONS

In re Application of	:	
Jace A. WEAVER	:	
Application No. 10/988,278	:	DECISION ON PETITION
Filed: November 13, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. **2014.00078**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 4, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of March 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 date of abandonment of this application is June 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 a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) an adequate statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1110 extension of time fee submitted with the petition on September 4, 2009 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account minus the $810 RCE fee.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 3723 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.

Brian W. Brown
Petitions Examiner
Office of Petitions

cc: **GREGORY M. SMITH**
225 WEST WACKER DRIVE
CHICAGO, IL 60606

PTO/SB/30EFS (07-09)
Approved for use through 07/31/2012. OMB 0851-0031
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 contains a valid OMB control number.

REQUEST FOR CONTINUED EXAMINATION(RCE)TRANSMITTAL
(Submitted Only via EFS-Web)

Application Number	10988278	Filing Date	2004-11-13	Docket Number (if applicable)	QUK-95	Art Unit	3723
First Named Inventor	Jace A. Weaver			Examiner Name	Laura Cole Guidotti		

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application.
Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. The Instruction Sheet for this form is located at WWW.USPTO.GOV

SUBMISSION REQUIRED UNDER 37 CFR 1.114

Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).

☐ 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.

- ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on _____
- ☐ Other _____

☒ Enclosed

- ☒ Amendment/Reply
- ☐ Information Disclosure Statement (IDS)
- ☐ Affidavit(s)/ Declaration(s)
- ☒ Other Petition Form PTO/SB/64 - Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 CFR 1.137(b)

MISCELLANEOUS

☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of months _____
(Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)

☐ Other _____

FEES

The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.

☒ The Director is hereby authorized to charge any underpayment of fees, or credit any overpayments, to Deposit Account No 232126

Adjustment date: 10/02/2009 LDIEP1
09/08/2009 INTEFSW 00011002 232126 10988278
02 FC:1053 110.00 CR

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

☒ Patent Practitioner Signature

☐ Applicant Signature

10/02/2009 LDIEP1 00000013 232126 10988278
01 FC:1801 810.00 DA

PTO/SB/30EFS (07-09)
Approved for use through 07/31/2012. 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 contains a valid OMB control number.

Signature of Registered U.S. Patent Practitioner			
Signature	/Gregory M. Smith/	Date (YYYY-MM-DD)	2009-09-04
Name	Gregory M. Smith	Registration Number	43136

This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

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 inspections 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 & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 10/01/09

2 Serial/Patent # 10988278

	3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing				$
	Amendment				$
X	Extension of Time	1253	WFEE	09/04/09	$ 300.00
	Notice of Appeal/Appeal				$
	Petition				$
	Issue				$
	Cert of Correction/Terminal Disc.				$
	Maintenance				$
	Assignment				$
	Other				$

7 TOTAL AMOUNT OF REFUND $ 300.00

8 TO BE REFUNDED BY:

	Treasury Check
X	Credit Deposit A/C #:

9 2 3 -- 2 1 2 6

10 REASON:

X	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

$1,110 Ext of time unnecessary, fee to be refunded

minus RCE fee of $810 for a total refund of $300.

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Monica A. Graves TITLE: Paralegal Specialist

SIGNATURE: /Monica A. Graves/ PHONE: (571) 272-7253

OFFICE: Office of Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: DATE: 10/02/09

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

UNITED STATES PATENT AND TRADEMARK OFFICE

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Harness, Dickey & Pierce, P.L.C.
P. O. Box 828
Bloomfield Hills, MI 48303

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MAR 1 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Edward V. White	:	
Application No. 10/988,286	:	DECISION GRANTING
Filed: November 12, 2004	:	PETITION
Attorney Docket No. 7784-000762	:	

This is a decision on the petition filed February 22, 2005, requesting that the above-identified application be accorded a filing date of November 12, 2004, rather than the presently accorded date of November 13, 2004. The petition is properly treated as a petition under 37 CFR 1.10(d).

The petition is **GRANTED**.

Applicant requests the earlier filing date on the basis that the application was purportedly deposited with Express Mail Service on November 12, 2004 pursuant to 37 CFR 1.10. While the copy of the Express Mail label receipt no. EL961489560US bears no "date-in," it also includes a USPS receipt date stamp of November 12, 2004. Applicants are alleging that the date of mailing shown in the "date-in" is a U. S. Postal Service (USPS) error and the correct date of mailing pursuant to 37 CFR 1.10 is November 12, 2004.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "date-in" on the Express Mail label, MPEP 513. However, in view of the conflicting dates on the label, a search of the USPS' Express Mail Track and Confirm database was made and confirms that the package bearing Express Mail label No. EL961489560US was accepted on November 12, 2004.

This application file is being returned to the Office of Initial Patent Examination Division for **correction of the filing date to November 12, 2004.** Thereafter, the application file will be forwarded to Technology Center 3700 for examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3223.

Marianne E. Jenkins

Marianne E. Jenkins
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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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS MI 48303

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MAR 2 2 2005

OFFICE OF PETITIONS

In re Application of
Wood, et al.
Application No. 10/988,287
Filed: November 13, 2004
Attorney Docket No. 7784-000763/US
For: MORPHING STRUCTURE

DECISION GRANTING
PETITION

This is a decision on the petition filed February 22, 2005 requesting that the above-identified application be accorded a filing date of November 12, 2004, rather than the presently accorded filing date of November 13, 2004. The petition will be treated under 37 CFR 1.10(d).

Petitioners request the earlier filing date on the basis that the application was deposited in Express Mail service on November 12, 2004, pursuant to the requirements of 37 CFR 1.10. The petition is accompanied by a copy of Express Mail label no. EL961489560US that lists the date-in as 11/13/04. In addition, a St. Louis MO Galleria USPS date stamp citing NOV 12 2004 is affixed to the label. The same Express Mail label number is found on the original application papers.

Paragraph (d) of 37 CFR 1.10 states that:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
>
> (3) The petition includes a showing which establishes, to the satisfaction of the

> Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

A grantable petition under 37 CFR 1.10(d) must include "a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day." In addition, the showing "must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the 'Express Mail Post Office to Addressee' service of the USPS."

The petition filed February 22, 2005 is accompanied by the corroborating evidence required by the rule. Accordingly, the petition is granted. No petition fee has been or will be charged in connection with this matter.

The application is being returned to the Office of Initial Patent Examination for correction of the filing date to **November 12, 2004** and the mailing of a corrected filing receipt.

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3230.

E Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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
10/988,287	11/12/2004	3745	1060	7784-000763	8	35	3

CONFIRMATION NO. 1188

CORRECTED FILING RECEIPT

OC000000015591714

27572
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

Date Mailed: 03/29/2005

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)

Jeffrey H. Wood, Eureka, MO;
James P. Dunne, Ballwin, MO;

Power of Attorney: None

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 12/20/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/988,287

Projected Publication Date: 05/18/2006

Non-Publication Request: No

Early Publication Request: No

Title

Morphing structure

Preliminary Class
415

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LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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P.O. BOX 828
BLOOMFIELD HILLS MI 48303

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OFFICE OF PETITIONS

In re Application of	:	
Jeffrey H. Wood	:	
Application No. 10/988,292	:	DECISION GRANTING PETITION
Filed: 12 November, 2004	:	
Atty Dckt No. 7784-00764	:	

This is a decision in reference to the petition filed on 22 February, 2005, under 37 CFR 1.10(c), requesting that the above-identified application be accorded a filing date of 12 November, 2004, rather than the currently-accorded filing date of 13 November, 2004.

The Office apologizes for the delay in responding to the present petition and regrets any inconvenience to petitioner.

The petition is **granted**.

Petitioner asserts that the application was deposited in Express Mail Service on 12 November, 2004. In support, petitioner has provided a copy of the Express Mail Customer Label EL961489560US. Although the "date-in" on the Express Mail label is does not appear to be a proper date-in,[1] the Express Mail label also contains a USPS postmark dated Nov 12, 2004. Additionally, petitioner provided, on 8 February, 2006, an email from the USPS's Intranet Track/Confirm database showing that Express Mail Item EL961489560US (the same Express Mail number found on the itemized utility patent application transmittal sheet accompanying the original application papers located in the official file) was accepted by the USPS on 12 November, 2004.

As such, the showing of record is that the correct date of deposit in Express Mail is 12 November, 2004.

---

[1] The "Date in" block contains the marking "8 44" which also appears in the "Weight" block. As such, it appears that the postal clerk inadvertently entered the weight of the package in the space intended for the "date in".

In view of the above, the petition is granted. No fee is required and none has been charged.

The address on the petition is different than the correspondence address. A courtesy copy of this decision is being mailed to the address in the petition. All future correspondence will be mailed solely to the address of record.

The application is being referred to the Office of Initial Patent Examination (OIPE) for correction of the filing date to 12 November, 2004, and for issuance of a corrected Filing Receipt.

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

cc: Scott T. Gray
Harness, Dickey & Pierce, P.L.C.
7700 Bonhomme, Suite 400
St. Louis, MO 63105

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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
10/988,292	11/12/2004	3644	952	7784-000764	6	29	3

CONFIRMATION NO. 1194

CORRECTED FILING RECEIPT

OC000000018252481

27572
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

Date Mailed: 03/09/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Jeffrey H. Wood, Eureka, MO;

Power of Attorney: None

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 03/09/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/988,292

Projected Publication Date: 06/15/2006

Non-Publication Request: No

Early Publication Request: No

Title

Shape changing structure

Preliminary Class

244

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON, MA 02205

Mail Date: 04/21/2010

Applicant	: Hiroshi Fuji	: DECISION ON REQUEST FOR
Patent Number	: 7582261	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/988,303	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1236** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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MARTIN J. MORAN, ESQ.
Eaton Electrical, Inc.
Technology & Quality Center
170 Industry Drive, RIDC Park West
Pittsburgh, PA 15275-1032

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JUL 10 2006

OFFICE OF PETITIONS

In re Application of Shea :
Application No. 10/988,308 :
Filing Date: November 12, 2004 :
Attorney Docket No. 03-EDP-399 :

Decision on Petition

This is a decision on the petition under 37 C.F.R. § 1.137(a), filed May 9, 2006, to revive the above-identified application.

The petition is **granted.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment mailed October 17, 2005, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on November 18, 2005.

The instant petition seeks revival of the application. Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(a). Therefore, the petition is granted.

Technology Center Art Unit 2832 will be informed of the instant decision and the examiner will consider the papers filed May 9, 2006, in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/988,326	11/12/2004	David L. Bombard	169	1423

7590 10/29/2007

CARDICA, INC.
900 SAGINAW DRIVE
REDWOOD CITY, CA 94063

EXAMINER
THALER, MICHAEL H

ART UNIT	PAPER NUMBER
3731	

MAIL DATE	DELIVERY MODE
10/29/2007	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

Adjustment date: 10/30/2007 KKING1
11/18/2004 DEMMANU1 00000009 10988326
02 FC:2202 -36.00 OP

Repln. Ref: 10/30/2007 KKING1 0016101400
DA#:502108 Name/Number:10988326
FC: 9204 $36.00 CR

FORM PET651G (Rev. 08/07)

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 1/11/07 Paper No.: —

TO SPE OF : ART UNIT 1616

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/988328 Patent No.: 7067544 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**.

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: All corrections approved.

Toni, Examiner
8/6/07

SPE

1625
Art Unit

PTOL-306 (REV 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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YOUNG & BASILE, P.C.
3001 WEST BIG BEAVER ROAD
SUITE 624
TROY MI 48084

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APR 16 2007

OFFICE OF PETITIONS

In re Application of
Duane Harvey
Application No. 10/988,351
Filed: November 11, 2004
Attorney Docket No. TCT-102-B

ON PETITION

This is a decision on petition to withdraw the holding of abandonment under 37 CFR 1.181 filed February 21, 2007.

The petition to withdraw the holding of abandonment is **GRANTED**.

This application was held abandoned September 17, 2006 for failure to file a complete reply to the final Office Action mailed on June 16, 2006. The final Office Action set a three (3) month extendable time period for reply. An amendment was filed on August 16, 2006. An advisory action was mailed on August 31, 2006 informing applicant the amendment submitted on August 16, 2006 did not place the application in condition for allowance. A Notice of Abandonment was mailed January 18, 2007.

Petitioner asserts that a reply to the final Office Action in the form of an RCE was timely submitted on September 18, 2006. Petitioner states the examiner requested a re-submission of the RCE. As evidence, petitioner has submitted a copy of a return postcard date stamped by the Office acknowledging receipt of the reply on September 21, 2006. Additionally, petitioner has supplied a copy of the previously mailed correspondence which contains a certificate of mailing date of September 15, 2005.

A review of the evidence presented shows that the Office is not in receipt of the RCE purportedly sent on September 18, 2006. The postcard receipt establishes that the RCE and check were received in the Office on September 21, 2006. The last day for submission of a reply without benefit of an extension of time was September 18, 2006. Petitioner has failed to provide convincing evidence that the RCE was mailed or transmitted prior to September 18, 2006. The certificate of mailing statement cannot be relied upon because it is improperly dated (September 15, 2005).

However, further review of the record shows that the application contained a general authorization to charge extensions of time fees. Accordingly, deposit account 25-0115 will be charged the $60.00 one month extension of time fee to make the RCE timely.

The response submitted on September 21, 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 Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn.

The application file is being forwarded to the Technology Center 3700 for further processing of the RCE and amendment.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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Paper No.

FULBRIGHT & JAWORSKI, LLP
1301 MCKINNEY
SUITE 5100
HOUSTON, TX 77010-3095

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MAR 0 4 2005

OFFICE OF PETITIONS

In re Application of Hans Baumann Application No. 10/988,352 Filed: November 12, 2004 Attorney Docket No. HO-P03033US0	: : : : :	DECISION ON PETITION

This is a decision on the "RESPONSE TO NOTICE TO FILE MISSING PARTS OF APPLICATION AND PETITION UNDER 37 C.F.R. 1.53(E)" filed January 7, 2005. Petitioner requests that the above-identified application be accorded a filing date of November 12, 2004, with figures 5 and 6 considered part of the original application disclosure; and that the petition fee be refunded.

Application papers in the above-identified application were filed on November 12, 2004. However, on December 21, 2004, the Office mailed a "Notice to File Missing Parts of Nonprovisional Application," notifying applicant that the application papers had been accorded a filing date; however, figures 5 and 6 described in the specification appeared to have been omitted.

Petitioner responded with the instant petition (and authorization to charge the petition fee). Petitioner asserts *inter alia* that the drawing page, containing figures 5 and 6, was originally submitted on November 12, 2004. In support thereof, petitioner submits a copy of the front and back of their date-stamped postcard receipt. Petitioner also supplies a copy of the missing drawing sheet.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date

stamped thereon by the Office. See MPEP 503. A review of the postcard receipt reveals that: 1) it bears an OIPE date-stamp acknowledging receipt on November 12, 2004 of the correspondence assigned application No. 10/988352, 2) it identifies the items being filed, including "6 drawings (4 sheets)," and 3) it lacks any annotation of nonreceipt of any item denoted on the postcard. Thus, petitioner has shown that the items denoted, including the four sheets of drawings, were filed on November 12, 2004.

A review of the drawing sheets considered received in the Office on November 12, 2004, and the sheet resubmitted on petition filed January 7, 2005, reveals that these sheets constitute the papers identified on the postcard as "6 drawings (4 sheets)." Petitioner has shown that the application as filed included figures 5 and 6.

Accordingly, the petition is **GRANTED**.

Given the basis for granting the petition, the petition fee, which has increased to $400, is being refunded to Deposit Account No. 06-2375, as authorized.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for:

- further processing with a filing date of November 12, 2004, using the application papers received in the Office (including 3 sheets of drawings) and presently accorded that date; and the 1 sheets of drawings (containing figures 5 and 6) re-supplied on petition filed January 7, 2005;

- indication in Office records, as appropriate, that the application as filed included 4 sheets of drawings.

Applicants will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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LADAS & PARRY
26 WEST 61ST STREET
NEW YORK NY 10023

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OFFICE OF PETITIONS

In re Application of
Yoel Arieli, et al.
Application No. 10/988,361
Filed: November 12, 2004
Attorney Docket No. U 015471-0

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 7, 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 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 request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There are no outstanding Office actions at the present time.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: YOEL ARIELI
14 RABBI-MEIR STREET
JERUSALEM 93185, ISRAEL

cc: NANO OR TECHNOLOGIES, INC.
1013 CENTER ROAD
WILMINGTON, DE 19805

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OFFICE OF THE STAFF JUDGE ADVOCATE
US ARMY MEDICAL RESEARCH AND MATERIEL COMMAND
ATTN MCMR-JA (MS ELIZABETH ARWINE)
504 SCOTT STREET
FORT DETRICK MD 21702-5012

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OFFICE OF PETITIONS

In re Application of	:	
Rash, et al.	:	
Application No. 10/988,404	:	ON PETITION
Filed: November 10, 2004	:	
Attorney Docket No. AARL 00-34A 07CON	:	

This is a decision on the petition filed on November 7, 2007, pursuant to 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 file a reply to the Office action mailed on August 23, 2006, which set a shortened period for reply of one (1) month. No extensions of time under 37 CFR 1.136(a) were obtained. Accordingly, no reply having been received, the application became abandoned on September 24, 2006. The Office mailed a Notice of Abandonment on July 19, 2007.

With the instant petition, applicants paid the petition fee, submitted the required reply in the form of an Election, and made the 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 instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

The matter is being forwarded to Group Art Unit 2624 for consideration of the Election, filed November 7, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

cc: Frederick N. Samuels
2000 P St NW
Suite 200
Washington DC 20036-6924

22 FEB 2005

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HENKEL CORPORATION
Patent Law Department
2200 Renaissance Blvd., Suite 200
Gulph Mills, PA 19406

In re Application of GRÜNEWÄLDER, Bernhard *et al* U.S. Application No.: 10/988,405 Filing Date: 12 November 2004 Attorney Docket No.: H 5510 US For: NEUTRAL-COLOURED 1K POLYURETHANE ADHESIVE	: : : : : : : :	**DECISION ON PETITION FOR REVIVAL UNDER 37 CFR 1.137(b)**

This decision is in response to applicants' "Petition to Revive Abandoned International Application" filed on 12 November 2004 to revive international application, PCT/EP03/01018 which was abandoned under 35 U.S.C. 371(d) and is hereby **GRANTED** as to the present U.S. national application as follows:

International application PCT/EP03/01018 became abandoned as to the United States of America for failure to pay the basic national fee by 08 August 2004. The filing of the present continuing application under 35 U.S.C. 111(a) is accepted as an appropriate response under 37 CFR 1.137(b). The $1,370.00 petition to revive fee has been charged to Deposit Account No. 01-1250 as authorized. Applicants' statement in the petition regarding the delay satisfies the requirement of 37 CFR 1.137(b)(3). Thus, all requirements of 37 CFR 1.137(b) are satisfied.

International application PCT/EP03/01018 is being revived for purposes of continuity only and since continuity has been established by this decision reviving the international application, the international application is again abandoned in favor of the present continuing application number 10/988,405.

This application is being forwarded to the Office of Initial Patent Examination for further processing under 35 U.S.C. 111(a) with a filing date of 12 November 2004.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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WAGNER, MURABITO & HAO LLP
Third Floor
Two North Market Street
San Jose, CA 95113

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OCT 2 5 2005

OFFICE OF PETITIONS

In re Application of :
Andhare et al. :
Application No. 10/988,408 :
Filed: November 12, 2004 :
Attorney Docket No. TLME-03-001 :
For: Method and System for Design :
for Run-Time Control of Voice :
XML Applications :

Decision Refusing to Accord
Status Under 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed July 26, 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 current non-signing inventor(s). **Failure to respond will result in abandonment of the application.**

A grantable petition under 37 CFR 1.47(a) requires

(1) proof that the non-signing inventor cannot be found or reached after diligent effort or that the inventor refuses to sign after having been presented with the application papers (specification, claims, and drawings),
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $200 as specified in 37 CFR 1.17(g), and
(4) the last known address of the omitted inventor(s).

In addition to the above requirements, the signing inventors must sign the declaration on behalf of the non-signing inventor. See MPEP 409.03(a).

The instant petition fails to satisfy item (2) above. By statute, an oath or declaration must list the citizenship for the inventors. The declaration submitted with the petition does not list the citizenship for the non-signing inventor. A new declaration listing citizenship must be submitted. Citizenship can be based on a good faith determination. Petitioner does not need to be 100%.certain the citizenship is correct. If necessary, the new declaration can state "unknown" for the citizenship.

The new declaration must be signed by either Haakenson, who constructively refused to sign the current declaration, or signed by all the other inventors on Haakenson's behalf.

Petitioner submitted $130 for the petition fee. However, the current fee for a petition under 37 CFR 1.47 is $200. The file record fails to indicate petitioner submitted a check for the $130 fee due as a result of the declaration being filed on a date after the filing date. The fee deficiency of $200 has been charged to petitioner'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 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

If a request for reconsideration is filed, and a decision on the new petition is not received within three months, petitioner may wish to call the number below to check on the status of the renewed petition.

If a request for reconsideration is not filed, the application will become abandoned

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WAGNER, MURABITO & HAO LLP
Third Floor
Two North Market Street
San Jose, CA 95113

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MAR 28 2006

OFFICE OF PETITIONS

In re Application of	:	
Andhare et al.	:	
Application No. 10/988,408	:	Decision Noting Joinder of Inventor and
Filed: November 12, 2004	:	Decision Dismissing Any Request for
Attorney Docket No. TLME-03-001	:	Status Under 37 CFR 1.47 As Moot
For: Method and System for Design	:	
for Run-Time Control of Voice	:	
XML Applications	:	

Papers filed on January 25, 2006, in response to a Decision refusing to accord status under 37 CFR 1.47(a) mailed on October 25, 2006, include a Declaration signed by the previously non-signing inventor in compliance with 37 CFR 1.63.

In view of the joinder of the inventor, further consideration under Rule 1.47(a) is unnecessary.

Therefore, the petition is **dismissed as moot**.

The Office of Initial Patent Examination will be informed of the instant decision so that it may continue taking steps to prepare the application for examination.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ROSS GORSSON
WINSTEAD SECHREST &
MINICK PC
100 CONGRESS AVENUE
SUITE 800
AUSTIN, TX 78701

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MAY 0 4 2007

OFFICE OF PETITIONS

In re Application of
Angela E. NICOLINI
Application No. 10/988,409
Filed: November 12, 2004
Attorney Docket No. 43439-P001US

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 24, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney given to Winstead, Sechrest & Minick, P.C. has been revoked by the assignee of the patent application on February 26, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

The correspondence address of record has been changed and the new correspondence address is the first copied address indicated below.

There is an outstanding Office action mailed March 30, 2007 that requires a reply from the applicant.

Telephone inquires concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

cc: R. SCOTT RHOADES, AKIN GUMP
STRAUSS HAUER & FELD LLP
1700 PACIFIC AVENUE, SUITE 4100
DALLAS, TX 75201

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/988,409	11/12/2004	Angela E. Nicolini	43439-P001US

CONFIRMATION NO. 1732

OC000000023380189

43164
R. SCOTT RHOADES
WINSTEAD SECHREST & MINICK P.C.
PO BOX 50784
DALLAS, TX 75201

Date Mailed: 04/13/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/26/2007.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

IFW

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WINSTEAD SECHREST &
MINICK PC
100 CONGRESS AVENUE
SUITE 800
AUSTIN, TX 78701

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MAY 0 4 2007

OFFICE OF PETITIONS

In re Application of	:	
Angela E. NICOLINI	:	
Application No. 10/988,409	:	DECISION ON PETITION
Filed: November 12, 2004	:	TO WITHDRAW
Attorney Docket No. 43439-P001US	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 24, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney given to Winstead, Sechrest & Minick, P.C. has been revoked by the assignee of the patent application on February 26, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

The correspondence address of record has been changed and the new correspondence address is the first copied address indicated below.

There is an outstanding Office action mailed March 30, 2007 that requires a reply from the applicant.

Telephone inquires concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

cc: R. SCOTT RHOADES, AKIN GUMP
STRAUSS HAUER & FELD LLP
1700 PACIFIC AVENUE, SUITE 4100
DALLAS, TX 75201

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/988,409	11/12/2004	Angela E. Nicolini	43439-P001US

CONFIRMATION NO. 1732

OC000000023380189

43164
R. SCOTT RHOADES
WINSTEAD SECHREST & MINICK P.C.
PO BOX 50784
DALLAS, TX 75201

Date Mailed: 04/13/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/26/2007.

o 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).

Diane Goodlow

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
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MAY 28 2009

OFFICE OF PETITIONS

Winstead, PC
P.O. Box 50784
Dallas, TX 75201

In re Application of	:	
Angela E. Nicolini	:	
Application No. 10/988,409	:	DECISION ON PETITION
Filed: November 12, 2004	:	TO WITHDRAW
Attorney Docket No. 43439-P001US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 24, 2006.

The request is **moot because a revocation of power of attorney has been filed**.

A review of the file record indicates that the power of attorney to Ross Spencer Garsson and all attorneys/agents of record has been revoked by the assignee of the patent application on February 26, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Akin, Gump, Strauss, Hauer & Feld, LLP
P.O. Box 688
Dallas, TX 75313-0688

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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MAR 30 2006

OFFICE OF PETITIONS

VOLPE AND KOENIG, P.C.
DEPT. ICC
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103

In re Application of Faith M. Ozluturk et al. Application No. 10/988,410 Filed: November 12, 2004 Attorney Docket Number: I-2-0091.20US Title: INITIAL POWER CONTROL FOR SPREAD-SPECTRUM COMMUNICATIONS	DECISION ON PETITION UNDER 37 C.F.R. §1.137(b)

This is a decision on the petition, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application, filed on February 27, 2006.

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 and Issue Fee Due, mailed May 26, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time are permitted for

1 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 § 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 (d) of this section.

transmitting issue fees or publication fees[2]. Accordingly, the above-identified application became abandoned on August 27, 2005.

With the present petition, Petitioner has submitted the petition fee, the publication fee, the issue fee, and the proper statement of unintentional delay.

As such, the petition is **GRANTED**.

The phone number for the Office of Patent Publication is (571) 272-4200. 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

2 See MPEP §710.02(e).

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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VOLPE AND KOENIG, P.C.
DEPT. ICC
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

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MAY 14 2007

OFFICE OF PETITIONS

In re Application of	:	
Fatih M. Ozluturk et al	:	
Application No. 10/988,410	:	DECISION GRANTING PETITION
Filed: November 12, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1-3-0091.20US	:	

This is a decision on the petition, filed May 11, 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 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 2616 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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BAKER BOTTS LLP
30 ROCKEFELLER PLAZA
44TH FLOOR
NEW YORK, NY 10112-4498

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OCT 2 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Jian-Qiang FAN, et al	:	
Application No. 10/988,427	:	DECISION ON PETITION
Filed: November 12, 2004	:	TO WITHDRAW
Attorney Docket No. 077376.0147		FROM RECORD
	:	

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 29, 2008.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because the attorneys of record were not appointed by Customer Number 21003, as indicated.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

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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BAKER BOTTS LLP
30 ROCKEFELLER PLAZA
44TH FLOOR
NEW YORK, NY 10112-4498

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OFFICE OF PETITIONS

In re Application of	:	
Jian-Qiang FAN, et al	:	
Application No. 10/988,428	:	DECISION ON PETITION
Filed: November 12, 2004	:	TO WITHDRAW
Attorney Docket No. 1860-16B	:	FROM RECORD
	:	

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 4, 2008.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Baker Botts, LLP, has been revoked by the assignee of the patent application on November 6, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

Telephone inquires concerning this decision should be directed to undersigned at 571-272- 6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

BATEMAN IP LAW GROUP
P.O. BOX 1319
SALT LAKE CITY, UT 84110

In re Application of
Brian Mitchell
Application No. 10/988,437
Filed: November 12, 2004
Attorney Docket No. 2953.SABI.NP

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 CFR §§ 1.36(b) or 10.40 filed August 7, 2009.

The request is **APPROVED**.

A review of the file record indicates that Randall B. Bateman and all the attorneys/agents associated with Customer Number 27472: (1) do not have power of attorney in this patent application; but (2) have been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, Randall B. Bateman and all the attorneys/agents associated with Customer Number 27472 have been withdrawn from the present application and may not prepare or submit papers under 37 CFR § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 CFR § 1.32(b).

Applicant is reminded that there are no Attorneys of record at this time.

There is an outstanding Office action mailed on August 14, 2009 that requires a reply from applicant.

The request to change the correspondence of record is acceptable as the requested correspondence address is that of the sole inventor. Therefore, all future communications from the Office will be directed to the address below until otherwise properly notified by the applicant.

This application file is being referred to Technology Center Art Unit 2195 to await a response to the Office action mailed August 14, 2009.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-3226. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Brian Mitchell
189 South State Street, #250
Clearfield, UT 84015

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 7

DAVID C READ ESQ
MARSHALL O'TOOLE GERSTEIN MURRAY & BORUN
6300 SEARS TOWER
233 SOUTH WACKER DRIVE
CHICAGO IL 60606-6402

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DEC 3 1 2002

OFFICE OF PETITIONS

In re Reissue Application of :
Lowell R. Tully, Stephen A. :
Johnson, Dave Konieczny, Stephen :
R. Estes :
Patent No. 5,858,142 :
Application No. 09/759,823 :
Isued: January 12, 1999 :
Attorney Docket No. 29627/36393
Title: ANGULAR ORIENTATION CONTROL
SYSTEM FOR FRICTION WELDING

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition, filed January 12, 2001, under 37 CFR 1.47(a). The Office apologizes for the delay.

The petition under 37 CFR 1.47(a) is **GRANTED**.

The above-identified reissue application was filed on January 12, 2001, without a fully executed declaration. Concurrent with the filing of the reissue application, applicant filed a petition under 37 CFR 1.47(a). With the instant petition, applicant filed a reissue declaration executed by inventors Lowell Tully, Dave Konieczny, and Stephen Estes, on behalf of themselves and on behalf of non-signing inventor Stephen Johnson.

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, drawings, oath or declaration); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

With the instant petition, attorney David C. Read included a copy of a cover letter dated December 27, 2000, transmitting the reissue declaration and issued patent to Johnson through his attorney, Matthew Yeakey. According to Read, no executed reissue declaration from Johnson has been received.

The declaration filed January 12, 2001, and the petition have been reviewed and found to be 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 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 forwarded to the Technology Center 1700 for examination of the reissue application.

Telephone inquiries regarding this decision should be directed to Petitions Attorney Cliff Congo at (703) 305-0272.

for

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

MARSHALL, GERSTEIN & BORUN LLP
233 S. WACKER DRIVE, SUITE 6300
SEARS TOWER
CHICAGO IL 60606

COPY MAILED

AUG 0 9 2005

OFFICE OF PETITIONS

In re Application of
Lowell R. Tully, Stephen A. Johnson, Dave Konieczny, and Stephen R. Estes
Application No. 10/988,448
Filed: November 12, 2004
Attorney Docket Number: 29627/36393A
Title: ANGULAR ORIENTATION CONTROL SYSTEM FOR FRICTION WELDING

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), filed April 25, 2005.

A grantable petition under 37 C.F.R. §1.47(a) requires:

(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) either
  a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
  b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 CFR §1.63.

The above-identified reissue application was filed on November 12, 2004, identifying Lowell R. Tully, Stephen A. Johnson, Dave Konieczny, and Stephen R. Estes as joint inventors. The reissue declaration which was submitted on filing was not executed by any of the joint inventors. With the present petition, Petitioner has submitted the petition fee, a reissue declaration which has been executed by each of the joint inventors save Mr. Johnson, the petition fee, the associated surcharge, and a statement of facts.

Petitioner has met requirements (1) - (3), and (5) as set forth above.

Regarding the fourth requirement above, Petitioner has set forth that a copy of the reissue declaration was sent to the last known address of the non-signing inventor; however, it does not appear from either the statement of facts, or the letter itself, that a copy of the issued patent was included. It follows that one cannot refuse to sign something which one has not been presented with its entirety. A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the patent does not itself suggest that the inventor is refusing to join the reissue application, unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept a copy of the issued patent. It is reasonable to require that the inventor be presented with the patent, to which the reissue application is attached, before a petition under 37 CFR §1.47 is granted, since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed[1].

As such, the petition under 37 C.F.R. §1.47(b) is **DISMISSED**.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Renewed Petition Under 37 C.F.R. §1.47(a)," and should only address the deficiencies noted above, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 C.F.R. §1.136(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.

Any renewed petition may be submitted by mail[2], hand-delivery[3], or facsimile[4].

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

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

---

1 In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).
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. On July 15, 2005, the Central FAX Number changed to 571-273-8300. To give customers time to adjust to the new Central FAX Number, faxes sent to the old number (703-872-9306) will be routed to the new number until September 15, 2005.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. None

MARSHALL, GERSTEIN & BORUN LLP
233 S. WACKER DRIVE, SUITE 6300
SEARS TOWER
CHICAGO IL 60606

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JAN 12 2006

OFFICE OF PETITIONS

In re Application of
Lowell R. Tully, Stephen A. Johnson, Dave Konieczny, and Stephen R. Estes
Application No. 10/988,448
Filed: November 12, 2004
Attorney Docket Number: 29627/36393A
Title: ANGULAR ORIENTATION CONTROL SYSTEM FOR FRICTION WELDING

DECISION ON RENEWED PETITION UNDER 37 C.F.R. §1.47(a)

This is in response to the renewed petition under 37 C.F.R. §1.47(a), filed October 14, 2005.

A 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 CFR § 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) either
  a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
  b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 CFR §1.63.

The above-identified reissue application was filed on November 12, 2004, identifying Lowell R. Tully, Stephen A. Johnson, Dave Konieczny, and Stephen R. Estes as joint inventors. The reissue declaration which was submitted on filing was not executed by any of the joint inventors.

With the original petition, Petitioner has submitted the petition fee, a reissue declaration which has been executed by each of the joint inventors save Mr. Johnson, the associated surcharge, and a statement of facts.

The original petition, submitted on April 25, 2005, was dismissed via the mailing of a decision on August 9, 2005 for failure to evince that a complete copy of the reissue application was sent to the last-known address of the non-signing joint inventor.

With this renewed petition, this deficiency has been corrected.

Therefore, the renewed petition is **GRANTED** and this application is hereby accorded Rule §1.47(a) status.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given on the declaration. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11501 BURNET ROAD
AUSTIN, TX 78758

Mail Date: 04/20/2010

Applicant	: Gary D. Carpenter	: DECISION ON REQUEST FOR
Patent Number	: 7667513	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/988,454	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **654** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

SEP 12 2005

In re Application of Lyndonn Prince Serial No. 10/988,482 Filed: November 15, 2004 For: BASEBALL GAME AND PLAYING FIELD	: : : : : :	DECISION ON PETITION TO MAKE SPECIAL

Applicant's petition, filed July 25, 2005, requests that this application be rendered special for examination in that applicant is over sixty-five (65) years of age.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(IV) of the Manual of Patent Examining Procedure (MPEP).

PETITION GRANTED.

Richard A. Bertsch

Richard A. Bertsch, Director
Technology Center 3700

Seth Natter
Natter & Natter
501 Fifth Avenue
New York, NY 10017

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COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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OREN PETRANK
83 AUGUSTINE WAY
HAVERFORDWEST, SA61 1NZ
UNITED KINGDOM

COPY MAILED

FEB 09 2005

OFFICE OF PETITIONS

In re Application of	:	
Oren Petrank	:	
Application No. 10/988,488	:	DECISION
Deposited: November 15, 2004	:	ON PETITION
Title of Invention:	:	
AUTOMATIC ENTRANCE STATION	:	
ANSWERING APPARATUS AND METHOD	:	

This is in response to the petition, filed January 14, 2005, to accord the application a filing date of November 6, 2004. The petition is properly treated under 37 CFR 1.53.

The above-identified application was filed November 15, 2004. Applicant files the instant petition and requests the application be accorded as a filing date, the date "[t]he application left the UK on its way to the US []."

The petition is dismissed.

Applicant is advised that there are no provisions in this Office wherein an application may be accorded as a filing date the date "[t]he application left the UK on its way to the US []." Applicant is further advised that there is but one method wherein correspondence will be considered filed on the date of deposit. That method, under 37 CFR 1.10, provides for the filing of papers and fees by "Express Mail." The Office considers the date the correspondence is shown to have been deposited as "Express Mail" to be the "date-in" on the Express Mail mailing label. *See* Manual of Patent Examining Procedure ("MPEP") § 513.

A nonprovisional application, other than a CPA filed under 37 CFR 1.53(d), is entitled to a filing date as of the date of receipt of the specification, including claims, and any required drawing. *See* 37 CFR 1.53(b).

Finally, the MPEP advises that

> [t]he Office strongly recommends that applicants file new applications by "Express Mail" in accordance with 37 CFR 1.10 since such correspondence will be accorded the date of deposit in "Express Mail" with the USPS as the filing date. See 37 CFR 1.6(a) and MPEP § 513. Applications that are not filed by "Express Mail" can only be accorded the date of receipt in the Office as the filing date (unless there is a postal interruption or emergency designated by the Office and applicants are instructed to file their applications in a manner other than by "Express Mail"). *Any applicant who files an application by first class mail bears the risk of any delay in the delivery of the application to the Office, even if the delay is unusually significant due to some unforeseen event.*

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney/Advisor
Office of Petitions

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OIPE JC154
FEB 2 4 2005
PATENT & TRADEMARK OFFICE

OREN PETRANK
83 AUGUSTINE WAY
HAVERFORDWEST, SA61 1NZ
UNITED KINGDOM

COPY MAILED
FEB 0 9 2005
OFFICE OF PETITIONS

In re Application of :
Oren Petrank :
Application No. 10/988,488 : DECISION
Deposited: November 15, 2004 : ON PETITION
Title of Invention: :
AUTOMATIC ENTRANCE STATION :
ANSWERING APPARATUS AND METHOD :

This is in response to the petition, filed January 14, 2005, to accord the application a filing date of November 6, 2004. The petition is properly treated under 37 CFR 1.53.

The above-identified application was filed November 15, 2004. Applicant files the instant petition and requests the application be accorded as a filing date, the date "[t]he application left the UK on its way to the US []."

The petition is dismissed.

Applicant is advised that there are no provisions in this Office wherein an application may be accorded as a filing date the date "[t]he application left the UK on its way to the US []." Applicant is further advised that there is but one method wherein correspondence will be considered filed on the date of deposit. That method, under 37 CFR 1.10, provides for the filing of papers and fees by "Express Mail." The Office considers the date the correspondence is shown to have been deposited as "Express Mail" to be the "date-in" on the Express Mail mailing label. *See* Manual of Patent Examining Procedure ("MPEP") § 513.

A nonprovisional application, other than a CPA filed under 37 CFR 1.53(d), is entitled to a filing date as of the date of receipt of the specification, including claims, and any required drawing. *See* 37 CFR 1.53(b).

Finally, the MPEP advises that

> [t]he Office strongly recommends that applicants file new applications by "Express Mail" in accordance with 37 CFR 1.10 since such correspondence will be accorded the date of deposit in "Express Mail" with the USPS as the filing date. See 37 CFR 1.6(a) and MPEP § 513. Applications that are not filed by "Express Mail" can only be accorded the date of receipt in the Office as the filing date (unless there is a postal interruption or emergency designated by the Office and applicants are instructed to file their applications in a manner other than by "Express Mail"). *Any applicant who files an application by first class mail bears the risk of any delay in the delivery of the application to the Office, even if the delay is unusually significant due to some unforeseen event.*

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney/Advisor
Office of Petitions

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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

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SEP 11 2007

OFFICE OF PETITIONS

In re Patent No. 7,218,377 :
Issued: May 15, 2007 :
Application No. 10/988,514 : PATENT TERM ADJUSTMENT
Filed: November 16, 2007 :
Dkt. No.: 00684.103185 :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(d)," filed July 16, 2007.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(d) is **GRANTED TO THE EXTENT INDICATED HEREIN**.

The above-identified application matured into U.S. Patent No. 7,218,377 on May 15, 2007. The instant request for reconsideration was timely filed in accordance with 37 C.F.R. § 1.705(d).

The patent issued with a PTA of 157 days. Patentees have not contested the adjustment of 221 days under 37 CFR 1.702(a)(1) and 1.703(a)(1). Patentees argue that the adjustment was improperly reduced 64 days in connection with the Rule 312 amendment filed March 13, 2007. Patentees argue that the correct reduction is nine days and that the patent is entitled to an adjustment of 213 days.

A review of the record reveals that the adjustment of 221 days is properly reduced nine days, rather than 64 days, in accordance with 37 CFR 1.704(c)(10). The adjustment began March 13, 2007, the date that the Rule 312 amendment was filed, and ended March 21, 2007, the date a reply thereto was mailed.

In view thereof, at the time of issuance, the application was entitled to a patent term adjustment of 212 days (the adjustment of 221 days less patentees' delay of nine days).

Receipt is hereby acknowledged of the required application fee of $200.00.

This application file will be forwarded to the Certificate of Corrections branch for issuance of a certificate of correction to indicate that the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 212 days.

Telephone inquiries specific to this matter may be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Kery A Fries

Kery Fries
Senior Patent Attorney
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Draft Certificate of Correction

Day : Monday
Date: 9/10/2007

PALM INTRANET

Time: 14:09:25

PTA Calculations for Application: 10/988514			
Application Filing Date:	11/16/2004	PTO Delay (PTO):	221
Issue Date of Patent:	05/15/2007	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	64
Post-Issue Petitions:	0	Total PTA (days):	212
PTO Delay Adjustment:	55		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
63	09/10/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		9	
62	09/10/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	64		
57	05/15/2007	PATENT ISSUE DATE USED IN PTA CALCULATION			
56	04/17/2007	EXPORT TO FINAL DATA CAPTURE			
55	04/14/2007	FINISHED INITIAL DATA CAPTURE			
54	04/16/2007	DISPATCH TO FDC			
53	04/16/2007	APPLICATION IS CONSIDERED READY FOR ISSUE			
52	04/16/2007	RESPONSE TO AMENDMENT UNDER RULE 312			
51	04/04/2007	WORKFLOW - QUERY REQUEST - FINISH			
50	03/27/2007	MAIL EXAMINER'S AMENDMENT			
49	03/23/2007	EXAMINER'S AMENDMENT COMMUNICATION			
48	03/21/2007	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
47	03/19/2007	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
46	03/13/2007	AMENDMENT AFTER NOTICE OF ALLOWANCE (RULE 312)		64	
45	03/13/2007	ISSUE FEE PAYMENT VERIFIED			
44	03/13/2007	ISSUE FEE PAYMENT RECEIVED			
43	02/20/2007	PUBS CASE REMAND TO TC			
42	02/23/2007	WORKFLOW - QUERY REQUEST - BEGIN			
41	02/02/2007	EXPORT TO INITIAL DATA CAPTURE			
40	01/29/2007	MAIL NOTICE OF ALLOWANCE			
39	01/29/2007	MAIL EXAMINER'S AMENDMENT			
38	01/25/2007	ISSUE REVISION COMPLETED			

37	01/25/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
35	01/22/2007	EXAMINER'S AMENDMENT COMMUNICATION			
34	01/22/2007	NOTICE OF ALLOWABILITY			
33	11/07/2006	SUBSTITUTE SPECIFICATION FILED			
32	11/14/2006	DATE FORWARDED TO EXAMINER			
31	11/07/2006	RESPONSE AFTER NON-FINAL ACTION			
30	08/25/2006	MAIL NON-FINAL REJECTION	221		-1
29	08/21/2006	NON-FINAL REJECTION			
28	06/14/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
27	11/16/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
26	07/13/2006	CASE DOCKETED TO EXAMINER IN GAU			
25	01/06/2006	CASE DOCKETED TO EXAMINER IN GAU			
24	06/14/2005	REFERENCE CAPTURE ON IDS			
23	06/14/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	02/28/2005	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
21	03/03/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
20	03/03/2005	CASE DOCKETED TO EXAMINER IN GAU			
19	11/16/2004	REFERENCE CAPTURE ON IDS			
18	11/16/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	02/28/2005	APPLICATION RETURN FROM OIPE			
16	02/28/2005	APPLICATION RETURN TO OIPE			
15	02/28/2005	APPLICATION DISPATCHED FROM OIPE			
14	02/28/2005	APPLICATION IS NOW COMPLETE			
13	02/15/2005	ADDITIONAL APPLICATION FILING FEES			
12	02/15/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
11	01/14/2005	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
9	11/16/2004	PGPUBS EARLY PUBLICATION REQUEST			
4	12/11/2004	CLEARED BY OIPE CSR			
3	12/11/2004	CASE CLASSIFIED BY OIPE			
2	12/11/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			

1	11/16/2004	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT **CERTIFICATE OF CORRECTION**

PATENT	:	7,218,377 B2
DATED	:	May 15, 2007
INVENTOR(S)	:	Chibana

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 157 days

Delete the phrase "by 157 days" and insert – by 212 days--

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DAVIS WRIGHT TREMAINE, LLP/Seattle
1201 Third Avenue, Suite 2200
SEATTLE WA 98101-3045

MAILED

JUN 3 0 2010

OFFICE OF PETITIONS

In re Application of :
Lin et al. :
Application No. 10/988,517 : DECISION ON PETITION
Filed: November 16, 2004 :
Attorney Docket No. 88910-113 :
:

This is a decision on the PETITION TO ACCEPT LATE CLAIM FOR FOREIGN PRIORITY UNDER 37 CFR 1.55(c) AND 35 USC 119(a)-(d) filed April 29, 2009. This also responds to the PETITION TO OMIT ASSIGNEE NAME AND RESIDENCE DATA FROM LETTERS PATENT also filed April 29, 2009.

The petition under 1.55(c) is **GRANTED**.

The petition under 1.182 is **DISMISSED**.

PETITION UNDER 37 CFR 1.55(c)

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number,

country, and the filing date, and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6));
(3) the surcharge as set forth in 37 CFR 1.17(t);
(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional (the Director may require additional information where there is a question whether the delay was unintentional); and
(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The requirements of 37 CFR 1.55(c) are met: This application was filed after November 29, 2000. The petition includes a claim for priority to Taiwan Patent Application No. 092220496 filed November 20, 2003, and this claim is included in an executed declaration. Moreover, the petition includes payment of the surcharge and a proper statement of unintentional delay. Finally, this application filed November 16, 2004, was filed within 12 months of the filing date of the foreign application, November 20, 2003.

In view thereof, the petition under 37 CFR 1.55(c) is **GRANTED**.

PETITION TO OMIT ASSIGNEE NAME AND RESIDENCE DATA FROM LETTERS PATENT

This is a decision on the PETITION TO OMIT ASSIGNEE NAME AND RESIDENCE DATA FROM LETTERS PATENT filed April 29, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the inclusion of the name and address of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **DISMISSED** without prejudice to reconsideration upon the submission of a Certificate of Correction.

Petitioner requests that the name of the assignee and residence data as shown on the Part B-Fee Transmittal document filed April 14, 2009 be omitted from the letters patent.

Such correction is by way of a certificate of correction.

---

[1] *See* MPEP 1309, subsection II, Official Gazette at 1283 OG 148 (June 22, 2004) or Final Register at 69 FR 29865 (May 26, 2004).

Unfortunately, the request includes the processing fee but does not include the Certificate of Correction fee or a Certificate of Correction. As petitioner has failed to fully comply with the provisions of 37 CFR 3.81(b), the request cannot be granted at this time.

The Certificates of Correction Branch is instructed to issue a certificate of correction removing the assignee data from the patent upon submission by petitioner of a certificate of correction and certificate of correction fee. No certificate of correction will be issued which sets forth an assignee in place of the assignee. This request grants only the removal of the assignee. 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, since this decision operates as an instruction to the Certificates of Correction Branch to issue the requested certificate of correction[2].

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3219. Any questions concerning issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

In view thereof, the petition is **DISMISSED**.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

[2] However, to facilitate issuance of the Certificate of Correction, patentee may contact the undersigned upon the filing of the Certificate of Correction.

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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
10/988,517	11/16/2004	2627	1090	88910-113	5	1

CONFIRMATION NO. 4910

CORRECTED FILING RECEIPT

22504
DAVIS WRIGHT TREMAINE, LLP/Seattle
1201 Third Avenue, Suite 2200
SEATTLE, WA 98101-3045

OC000000042332471

Date Mailed: 06/29/2010

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Ke Rong Lin, Taipei, TAIWAN;
Hsin-Tso Chen, Taipei, TAIWAN;

Assignment For Published Patent Application

BEHAVIOR COMPUTER TECH CORP.

Power of Attorney: The patent practitioners associated with Customer Number 22504

Domestic Priority data as claimed by applicant

Foreign Applications

TAIWAN 092220496 11/20/2003

If Required, Foreign Filing License Granted: 12/20/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/988,517**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

TRAY USED IN AN OPTICAL DISK DRIVE

Preliminary Class

720

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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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/988,517	11/16/2004	2627	1090	88910-113	5	1

CONFIRMATION NO. 4910

CORRECTED FILING RECEIPT

22504
DAVIS WRIGHT TREMAINE, LLP/Seattle
1201 Third Avenue, Suite 2200
SEATTLE, WA 98101-3045

OC000000042332471

Date Mailed: 06/29/2010

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Ke Rong Lin, Taipei, TAIWAN;
Hsin-Tso Chen, Taipei, TAIWAN;

Assignment For Published Patent Application

BEHAVIOR COMPUTER TECH CORP.

Power of Attorney: The patent practitioners associated with Customer Number 22504

Domestic Priority data as claimed by applicant

Foreign Applications

TAIWAN 092220496 11/20/2003

If Required, Foreign Filing License Granted: 12/20/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/988,517**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

TRAY USED IN AN OPTICAL DISK DRIVE

Preliminary Class

720

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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MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON, DC 20006

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JUL 24 2006

OFFICE OF PETITIONS

In re Application of :
Ji-Heum Uh, et al. :
Application No. 10/988,557 :
Filed: November 16, 2004 :
Attorney Docket No.: 8733.711.10 :

ON PETITION

This is a decision on the petition, filed July 18, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 6, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 3723 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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OFFICE OF PETITIONS

NORMAN P. SOLOWAY
HAYES SOLOWAY P.C.
SUITE 140
3450 E. SUNRISE DRIVE
TUCSON AZ 85718

In re Application of	:	
SEWELL, Robert	:	
Application No. 10/988,566	:	DECISION ON PETITION
Filed: November 16, 2004	:	TO WITHDRAW
Attorney Docket No. **AII 05.01 CIP**	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 12, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Hayes Soloway P.C. has been revoked by the assignee of the patent application on March 15, 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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **AIR INSTITUTION, INC.**
c/o BARRY SEWELL, PRESIDENT
3700 N. GOLDEN RULE ROAD
COCHISE, ARIZONA 85606

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
10/988,566	11/16/2004	Robert R. Sewell SR.	AII 05.01 CIP

CONFIRMATION NO. 3149

OC000000023295846

AIR INSTITUTION, INC.
BARRY SEWELL, PRESIDENT
3700 N. GOLDEN RULE ROAD
COCHISE, AZ 85606

Date Mailed: 04/09/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/15/2007.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

Michelle R. Eckser

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
ATTORNEY/APPLICANT COPY

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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
10/988,566	11/16/2004	Robert R. Sewell SR.	AII 05.01 CIP

CONFIRMATION NO. 3149

OC000000023295839

Norman P. Soloway
HAYES SOLOWAY P.C.
Suite 140
3450 E. Sunrise Drive
Tucson, AZ 85718

Date Mailed: 04/09/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/15/2007.

- 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).

Michelle R. Eason

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199

FORMER ATTORNEY/AGENT COPY

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ROYLANCE, ABRAMS, BERDO & GOODMAN, L.L.P.
1300 19TH STREET, N.W.
SUITE 600
WASHINGTON,, DC 20036

Mail Date: 04/21/2010

Applicant	: Jae-Gon Son	: DECISION ON REQUEST FOR
Patent Number	: 7606432	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/988,577	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1366** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Pearl Cohen Zedek Latzer, LLP
1500 Broadway
12th Floor
New York, NY 10036

Mail Date: 04/21/2010

Applicant	: Yehudit Kraizer	: DECISION ON REQUEST FOR
Patent Number	: 7585283	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/988,614	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1230** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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BRUCE H. TROXELL
SUITE 1404
5205 LEESBURG PIKE
FALLS CHURCH VA 22041

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OFFICE OF PETITIONS

In re Application of	:
Ben Hung-Ping Shen et al	:
Application No. 10/988,643	: DECISION GRANTING PETITION
Filed: November 16, 2004	: UNDER 37 CFR 1.137(b)
Attorney Docket No. BHT-3127-86	:

This is a decision on the petition under 37 CFR 1.137(b), filed November 8, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue fee and publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance of April 10, 2006, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Patent Publication.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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032007

STEPTOE & JOHNSON LLP
1330 CONNECTICUT AVE., NW
WASHINGTON DC 20036

In re Application of:
Tatuo Okamoto et al.
Serial No.: 10/988,661
Filed: November 16, 2004
For: DRIVER CIRCUIT

DECISION ON PETITION TO REMAIL OFFICE ACTION

This is a decision on the petition, filed February 12, 2007, requesting that the non-final Office action of April 4, 2006 be re-mailed and the period for reply be reset to run from the date of the re-mail.

The petition is GRANTED.

A Change of Address was filed on November 21, 2005, requesting that the correspondence address of record be changed to the address associated with Customer No. 27890. This change of address was not processed by the USPTO at the time the Office action was mailed on April 4, 2006. The file record indicates that the Office action was returned undelivered by the US Postal Service on April 11, 2006. The Office action was not re-mailed pursuant to USPTO policy as outlined in MPEP § 707.13.

Because the Office action was mailed to an incorrect address of record and was returned undelivered by the US Postal Service, petitioner was not duly served notice that a reply was required within a set time period. The petition to remail the Office action is granted.

The Office action will be re-mailed and the period for reply will be reset to run three (3) months from the date the Office action is re-mailed. Extension of this time is available under 37 CFR 1.136(a).

Any inquiry regarding this decision should be directed to the undersigned, at (571) 272-1606.

Hien H. Phan, T-QAS
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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BISHOP TX 78343

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OFFICE OF PETITIONS

In re Application of	:	
Warner et al.	:	
Application No. 10/988,683	:	DECISION ON PETITION
Filed: 15 November, 2004	:	
Atty Docket No. C-7234	:	

This is a decision on the petition filed on 23 May, 2005, which is treated as a petition under 37 CFR 1.53 to withdraw the Notice of Omitted Items mailed on 12 May, 2005.

The petition is **DISMISSED**.

On 15 November, 2004, the application was filed. On 12 May, 2005, however, Initial Patent Examination Division mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" stating that the application had been accorded a filing date of 15 November, 2004, but that Pages 18, 19, 20, 21, and 22 of the specification (description and claims) appeared to have been omitted from the application. A two (2)-month period for reply was set.

In response, on 23 May, 2005, the present petition was filed. Petitioners argue that no pages were actually missing from the application papers filed on 15 November, 2004, but that Pages 18, 19, 20, 21, and 22, were misnumbered. In support, petitioners supplied on 23 May, 2005, a copy of seven (7) pages of specification, including three (3) pages of claims and one (1) page of abstract, were supplied.

A review of the record reveals that the original disclosure as filed consists of 24 pages of specification and one (1) page of abstract, numbered 1-17 and 23-29. As such, it is obvious from the petition that no pages of specification were actually missing

on 15 November, 2004. Rather, Pages 18-24 were simply misnumbered as a result of the applicant's filing error.

37 CFR 1.52(b)(5) states that the pages of the specification including claims and abstract must be numbered consecutively, starting with one. As petitioners did not consecutively number all of the pages of the specification, it appeared that some pages were missing. Therefore, the "Notice" mailed on 12 May, 2005, was correct in stating that Pages 18, 19, 20, 21, and 22 of the specification appeared to have been omitted. Therefore, the "Notice" was properly mailed and will not be withdrawn.

As this petition was not necessitated by an error on the part of the Office, the petition fee will not be refunded.

Receipt of the renumbered replacement pages filed with the present petition is acknowledged.

The application is being referred to the Office of Initial Patent Examination for further processing with a filing date of 15 November, 2004, using only the application papers present on filing.

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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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

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SEP 21 2009

OFFICE OF PETITIONS

In re Patent No. 7,511,000
Issued: March 31, 2009
Application No. 10/988,701
Filed: November 16, 2004
Attorney Docket No. 040302-0438

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705" filed May 20, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from six hundred sixty-two (662) days to one thousand one hundred thirty-seven (1137) days.

Patentees request that the decision on this request for reconsideration of patent term adjustment be deferred or delayed until a final decision has been rendered in Wyeth v. Dudas. There is no specific regulatory provision for requesting that a petition under 37 CFR 1.705(d) be held in abeyance.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On March 31, 2009, the above-identified application matured into US Patent No. 7,511,000 with a patent term adjustment of 662 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that in view of the decision in Wyeth, they are entitled to a total patent term adjustment of 1137 days, which includes an additional 501 days due to exceeding three year pendency.

The 501-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on November 16, 2004 and the patent having been issued on March

31, 2009, three years and 501 days later. Patentees assert that in addition to this 501 day period, they are entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a), of 695 days for the failure by the Office to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a), pursuant to 37 CFR 1.702(a)(1).

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, it is the period of Office delay reduced by the period of applicant delay. Patentees do not dispute the period of reduction of 33 days for applicant delay.

Patentees do not dispute that the total period of Office delay is the sum of the period of Three Years Delay (501 days) and the period of Examination Delay (695 days) to the extent that these periods of delay are not overlapping. However, in effect, patentees contend that 26 days of the Three Year Delay period overlaps with the period of 14-month examination delay. Accordingly, patentees submit that the total period of adjustment for Office delay is 1170 days, which includes the period of Three Year Delay (501 days) and the period of Examination Delay (695 days), reduced by the period of overlap (26 days). As such, patentees assert entitlement to a patent term adjustment of 1137 days (501 + 695 reduced by 26 overlap – 33 (applicant delay)).

Thus, as of the issuance of the patent on March 31, 2009, the application was pending three years and 501 days after its filing date. The Office agrees that the action detailed above was not taken within the specified time frame, and thus, a period of adjustment of 695 days was entered. At issue is whether patentees should accrue 501 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 695 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 501 days overlap. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 35 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in § 1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(I)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(I)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(I)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A),* 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of Patentees. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C.

154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding § 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3-year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[1]

As such, the period for over three-year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, November 16, 2004, to the date the patent issued on March 31, 2009. Prior to the issuance of the patent, 695 days of patent term adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application. All of the 501 days for Office delay in issuing the patent overlap with the 695 days of Office delay. During that time, the issuance of the patent was delayed by 695 days, not 695 + 501 days. The Office experienced 695 days of examination delay. Otherwise, the Office took all

[1] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

actions set forth in 37 CFR 1.702(a) within the prescribed time frames. Nonetheless, given the 695 days of Office delay and the time allowed within the time frames for processing and examination, as of the date the patent issued, the application was pending three years and 501 days. The Office did not delay 695 days and then an additional 501 days. Accordingly, 695 days of patent term adjustment (not 695 and 501 days) was properly entered since the period of delay of 501 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 695 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted. Thus, 695 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 501 days over three years to the issuance of the patent.

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment.

In view thereof, no adjustment to the patent term will be made.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

1170

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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

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MAR 11 2010

In re Patent of Morita et al.	:	DECISION ON REQUEST
Patent No. 7,568,272	:	FOR RECONSIDERATION OF
Issue Date: August 4, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/988,702	:	AND NOTICE OF INTENT TO
Filing Date: November 16, 2004	:	ISSUE CERTIFICATE OF
Attorney Docket No. 040302-0444	:	CORRECTION

This is a decision on the petition filed on October 2, 2009, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting that the patent term adjustment indicated on the patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by nine hundred fourteen (914) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by nine hundred fourteen (914) 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 period of delay under 35 U.S.C. § 154(b)(1)(B), the over three year period began on November 17, 2004, and ended on February 18, 2009, *the day before* the RCE was filed, and is 460 (not 461) days. See 35 U.S.C. § 154(b)(1)(B)(i). As such, the patent term adjustment is 913 days, not 914 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 C.F.R. § 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 37 C.F.R. § 1.136.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **nine hundred thirteen (913)** days.

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

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.	:	7,568,272 B2	
ISSUE DATE	:	August 4, 2009	**DRAFT**
INVENTOR(S)	:	Morita et al.	

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 453 days.

Delete the phrase "by 453 days" and insert - by 913 days--

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wk

Mailed: 8-14-06

In re application of	:	
Nishimura et al.	:	DECISION ON
Serial No. 10/988,708	:	PETITION
Filed: November 16, 2004	:	
For: ELECTROLUMNISCENT DEVICE	:	

This is a decision on applicant's Petition For Entry Of Substitute Specification under 37 CFR 1.181 filed June 20, 2006. Applicant requests entry of the substitute specification filed on November 16, 2004. The examiner denied entry of the substituted specification because it did not conform to 37 CFR 1.125(b) and (c) because it adds new matter by changing "film thickness" to "emissive wavelength" on pp. 15-17.

DECISION

The instant petition is accepted as a petition under 37 CFR 1.181(no fee).

The petition is **GRANTED**.

The First Preliminary Amendment filed along with the application papers presented the substituted specification for entry. The present application is a continuation of application 10/343,704. The language complained of within the Office Action of April 20, 2006 is found within the specification for the parent application, serial No. 10/343,704.

The substitute specification filed November 16, 2004 will be entered .

Jacqueline M. Stone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Ronald P. Kananen
Rader, Fishman & Grauer, PLLC.
Lion Building
1233 20th. Street N.W., Suite 501
Washington, D.C. 20036

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KRAMER LEVIN NAFTALIS & FRANKEL LLP
INTELLECTUAL PROPERTY DEPARTMENT
919 THIRD AVENUE
NEW YORK NY 10022

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MAR 08 2005

OFFICE OF PETITIONS

In re Application of
Stephen O. Friend et al.
Application No. 10/988,711
Filed: November 15, 2004
Attorney Docket No. 100647-03960

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition filed under 37 CFR 1.47(a) on November 15, 2004.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to respond, correcting the below-noted deficiencies. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a). and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on November 15, 2004, naming Stephen O. Friend, Edward W.S. Bryant and Harold C. Fowler as joint inventors but without an oath or declaration. The instant petition filed with the application, seeks status under 37 CFR 1.47 claiming that joint inventor Friend refuses to execute the declaration.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks items (1) set forth above.

In regards to item (1), petitioners have not provided sufficient proof that a copy of the complete application (specification, including claims, drawings, if any, and the declaration) was sent to the non-signing inventor.

A statement made by the attorney of record, John W. Kung, indicates that the declaration and power of attorney were sent to Mr. Friend, that on a number of occasions he either spoke with Mr. Friends wife or left messages regarding the documents sent, that he confirmed that Mr. Friend had in fact received the documents

and the messages but that Mr. Friend had not executed the oath or declaration and that he had not returned the calls. The evidence presented however is not sufficient to show that Mr. Friend had the benefit of reviewing the application, thus the requirements for status under 37 CFR 1.47(a) have not been met.

Petitioners may show proof that a copy of the application was sent or given to the non-signing inventor for review by providing a copy of the cover letter transmitting the application papers to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first hand knowledge of the details.

Likewise, before a *bona fide* refusal can be shown, the non-signing inventor must have been given an opportunity to review the application. Therefore, petitioners must show proof that the non-signing inventor refuses to sign the declaration after being sent or given a copy of the application papers. If there is a written refusal, petitioners should submit a copy of that refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

With respect to the petition fee, it appears that Mr. Kung is not an authorized user of the deposit account and thus, the petition fee has not been charged. Upon the filing of a request for reconsideration, the petition fee will need to be submitted or an authorization to charge deposit account 50-0540 by an authorized user will have to be forthcoming.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By fax: (703) 872-9306
ATTN: Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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919 THIRD AVENUE
NEW YORK NY 10022

FAX RECEIVED

MAY 25 2005

OFFICE OF PETITIONS

In re Application of
Stephen O. Friend et al.
Application No. 10/988,711
Filed: November 15, 2004
Attorney Docket No. 100647-03960

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the request for reconsideration filed under 37 CFR 1.47(a) on May 2, 2005.

The petition is again **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).

A petition seeking status under 37 CFR 1.47(a) was filed November 15, 2004 with the application and dismissed in a decision mailed March 8, 2005 because petitioners had not satisfied items (1) and (3) as set forth in the regulation.[1] Specifically, the petition claimed that joint inventor Stephen O. Friend, after not responding to correspondence mailed to him, refused to execute the declaration. The decision required proof that a copy of the complete application was sent or given to the non-signing inventor for review by providing a copy of the cover letter transmitting the application papers to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first hand knowledge of the details.

In response to the requirement, the instant petition shows that a complete copy of the application papers was sent to Mr. Friend at his last known address. However, petitioner claims now that the package sent to the last known address was returned by

[1] A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

FEDEX as undeliverable. Petitioner also shows that a google search and a white pages internet search were conducted to locate Mr. Friend, although unsuccessful.

Unfortunately, however, the proof submitted does not show that diligent efforts have been employed to forward a complete copy of the application papers to Mr. Friend and in the absence of that, it hasn't been shown that he is refusing to cooperate. A brief internet search conducted by the undersigned reveals that Mr. Friend may now be living in Middleton, MA.

Additional efforts to locate Mr. Friend such as Internet, e-mail, or telephone directory searches, will need to be undertaken. If repeated attempts to contact the non-signing inventor by telephone, mail, and e-mail, are unsuccessful, petitioners will have established that he cannot be found despite diligent efforts.

With respect to item (3), the petition fee has been applied to the finance records for the above-identified application.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITIONS
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Post Office Box 1450
Alexandria, VA 22313-1450

By fax: (703) 872-9306
ATTN: Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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INTELLECTUAL PROPERTY DEPARTMENT
1177 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

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JUL 26 2005

OFFICE OF PETITIONS

In re Application of
Stephen O. Friend et al.
Application No. 10/988,711
Filed: November 15, 2004
Attorney Docket No. 100647-03960

:DECISION NOTING JOINDER OF
:INVENTOR AND PETITION UNDER
:**37 CFR 1.47(a) DISMISSED** AS
:INVOLVING MOOT ISSUES

A request for reconsideration under 37 CFR 1.47(a) was filed May 2, 2005 and was dismissed in a decision mailed May 25, 2005.

Papers filed on July 11, 2005, in reply to the "Decision Refusing Status Under 37 CFR 1.47(a)" mailed May 25, 2005, included a declaration signed by the previously non-signing inventor, Stephen O. Friend, in compliance with 37 CFR 1.63.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is unnecessary.

The response filed July 11, 2005 is **DISMISSED** as involving moot issues.

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).

This matter will be referred to Technology Center 1774 and examination of the application will occur in due course.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Casimir Jones, S.C.
2275 DEMING WAY, SUITE 310
MIDDLETON, WI 53562

Mail Date: 04/21/2010

Applicant	: Jeffrey S. Chamberlain	: DECISION ON REQUEST FOR
Patent Number	: 7655467	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/988,723	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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THE FARRELL LAW FIRM, LLP
290 Broadhollow Road
Suite 210E
Melville, NY 11747

Mail Date: 04/21/2010

Applicant	: Sung-Wook Park	: DECISION ON REQUEST FOR
Patent Number	: 7590089	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/988,734	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1019** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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LERNER GREENBERG
STEMER LLP
P.O. BOX 2480
HOLLYWOOD, FL 33022-2480

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JAN 3 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Jose PUENTES, et al	:	
Application No. 10/988,747	:	DECISION ON PETITION
Filed: November 15, 2004	:	TO WITHDRAW
Attorney Docket No. REL-8543	:	FROM RECORD
	:	

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 5, 2007.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because there remains less than 30 (thirty days) between the date of this decision and the maximum extendable time period for filing a response to the Office action mailed on August 1, 2007.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: PRICESTER.COM, INC.
3900 HOLLYWOOD BOULEVARD,
SUITE 203
HOLLYWOOD, FL 33021

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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
10/988,787	11/15/2004	2817	790	2004 P 51925 US	13	16	3

CONFIRMATION NO. 4827

CORRECTED FILING RECEIPT

OC000000015226106

48154
SLATER & MATSIL LLP
17950 PRESTON ROAD
SUITE 1000
DALLAS, TX 75252

Date Mailed: 02/22/2005

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)

Dietmar Gogl, Essex Junction, VT;
Hans-Heinrich Viehmann, Munich, GERMANY;

Power of Attorney: The patent practitioners associated with Customer Number **48154**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 01/28/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/988,787

Projected Publication Date: 05/18/2006

Non-Publication Request: No

Early Publication Request: No

Title

Sense amplifier bitline boost circuit

Preliminary Class

330

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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United States Patent and Trademark Office
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Robert D. Shedd, Patent Operations
THOMSON Licensing LLC
P.O. Box 5312
Princeton, NJ 08543-5312

Mail Date: 04/21/2010

Applicant	: Friedemann Hubler	: DECISION ON REQUEST FOR
Patent Number	: 7664105	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/988,803	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1064** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

Mail Date: 04/20/2010

Applicant	: Bradley P. Anderson	: DECISION ON REQUEST FOR
Patent Number	: 7608118	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/988,811	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1339** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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JJGJR.: 07-06

Paper No: __

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OFFICE OF PETITIONS

ROYLANCE, ABRAMS,
BERDO & GOODMAN, L.L.P.
1300 19TH STREET, N.W.
SUITE 600
WASHINGTON, DC 20036

In re Application of	:	
Tamm	:	DECISION
Application No.: 10/988,839	:	
Filing Date: 16 November, 2004	:	
Attorney Docket No. 47008	:	

This is a decision on the petitions filed on 23 May, 2006, as a request to withdraw the holding of abandonment considered under 37 C.F.R. §1.181.

For the reasons set forth below the petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Restriction requirement mailed on 15 November, 2005, with reply due absent extension of time on or before 15 December, 2005;

- the instant application went abandoned after midnight 15 December, 2005;

- the Office mailed the Notice of Abandonment on 18 May, 2006;[1]

- on 23 May, 2006, Petitioner filed the instant petition, seeking withdrawal of the holding of abandonment, and averred timely filing of a reply in the form of an Election, with a copy of a receipt card (see: MPEP §503[2]) evidencing Office receipt that is date stamped with what appears to be a "DEC 15 2005" OIPE date stamp, and the receipt card lists an Response; and what is averred to be a copy of the reply submitted;

- 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

---

[1] For reasons that are unclear, the Notice refers to a mailing date of 15 July, 2005.

[2] MPEP §503 provides in pertinent part:

§503 Application Number and Filing Receipt

* * *

A return postcard should be attached to *each* patent application for which a receipt is desired. It is important that the return postcard itemize all of the components of the application. If the postcard does not itemize each of the components of the application, it will not serve as evidence that any component which was not itemized was received by the United States Patent and Trademark Office (USPTO). It should be recognized that the identification of an application by application number does not necessarily signify that the USPTO has accepted the application as complete (37 C.F.R. §1.53(a)).

* * *

RETURN POSTCARD

If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

The identifying data on the postcard should be so complete as to clearly identify the item for which receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., and the number of pages being submitted. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).

The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as *prima facie* evidence of receipt of those items.

The person receiving the item(s) in the USPTO will check the listing on the postcard against the item(s) being filed to be sure they are properly identified and that all the items listed on the postcard are presently being submitted to the USPTO. If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the post-card initialed by the person receiving the items. Upon return of a postcard receipt from the USPTO, the postcard receipt should be promptly reviewed by the person who filed the items to ensure that every item specifically denoted on the postcard was received by the USPTO. If the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as *prima facie* evidence of receipt of that item in the USPTO. (Emphasis supplied.)

duty to disclose.[3]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[4]

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[3] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[4] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[5]

Delays in responding properly raise the question whether delays are unavoidable.[6] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[7] And the Petitioner must be diligent in attending to the matter.[8] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[9]))

Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[10]

The commentary at MPEP §711.03(c) provides:

* * *

B. Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed

---

[5] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[6] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[7] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[8] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[9] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[10] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), * (e), or (g) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. §1.8(b) and MPEP § 512. As stated in 37 C.F.R §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).

> 37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP § 512.
>
> * * *

And the regulation requires that relief be sought within two (2) months of the act complained of.

As of this writing Petitioner appears to have satisfied the showing and timing requirements described above.

CONCLUSION

Because Petitioner has satisfied the burdens set forth in Delgar v. Schulyer, the petition as considered under 37 C.F.R. §1.181 is **granted**.

The instant application is released to the Examiner in Technology Center 2800 for further processing in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON DC 20044-4300

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MAR 12 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of	:
Dirk Thormaehlen et al	:
Application No. 10/988,847	:
Filed: November 16, 2004	:
Attorney Docket No. 029300.52958US	:

This is a decision on the petition, filed March 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 January 17, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 1614 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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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON DC 20044-4300

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MAR 12 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Dirk Thormaehlen et al :
Application No. 10/988,847 :
Filed: November 16, 2004 :
Attorney Docket No. 029300.52958US :

This is a decision on the petition, filed March 12, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

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Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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www.uspto.gov

Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

Mail Date: 04/21/2010

Applicant	: Peter M. Allred	: DECISION ON REQUEST FOR
Patent Number	: 7611695	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/988,872	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **327** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : June 1, 2007

TO SPE OF : ART UNIT 2875

SUBJECT : Request for Certificate of Correction for Appl. No. 10/988877 patent no. 7193356

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

Sandra O'Shea
Supervisory Patent Examiner
Technology Center 2800

SPE

2875

Art Unit

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612 W. MAIN ST., SUITE 201
P.O. BOX 1667
MADISON, WI 53701-1667

Mail Date: 04/21/2010

Applicant	: Anthony D. Junck	: DECISION ON REQUEST FOR
Patent Number	: 7621268	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/988,888	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1403** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OFFICE OF PETITIONS

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

In re Patent No. 7,535,445	
Young Ho Jang	
Issue Date: May 19, 2009	
Application No. 10/988,906	DECISION ON REQUEST FOR
Filed: November 15, 2004	RECONSIDERATION OF
Attorney Dkt. No. 12580-4254	PATENT TERM ADJUSTMENT
Title: Liquid Crystal Display	
Device and Driving Method	

This is in response to the "Request for Reconsideration of Patent Term Adjustment" filed July 20, 2009. This petition is properly treated under 37 CFR 1.705(d). Patentee request that the patent term adjustment be changed from seven hundred thirty-two (732) days to one thousand two hundred nineteen (1219) days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On May 19, 2009, the above-identified application matured into US Patent No. 7,535,445 with a patent term adjustment of 732 days. This request for reconsideration of patent term adjustment (including the authorization to charge the required fee) was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

Patentee requests recalculation of the patent term adjustment. Patentees assert that PTO delay under 35 U.S.C. §154(b)(1)(A) overlaps with a delay under 35 U.S.C. §154(b)(1)(B) only if the delays "occur on the same day." Patentee maintains that a portion of the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), 487 of the 551 days, does not overlap with the 733 day period of adjustment due to examination delay, pursuant to 37 CFR §1.702(a), as these periods do not occur on the same day. Thus, patentee requests that the determination of patent term adjustment be increased from 732 days to 1219 days.

Thus, patentee requests that the determination of patent term adjustment be increased by 487 days to a total of one thousand two hundred nineteen (1219) days (the sum of the period of three-year delay (551 days) and the period of examination delay (733 days) less 64 days of overlap less 1 day of applicant delay).

The Office finds that as of the issuance of the patent on May 19, 2009, the application was pending three years and 551 days after its filing date. An entry of a period of adjustment of 733 days was entered for Office delay. Further, an undisputed reduction of 1 day for applicant's failure to engage in reasonable efforts to conclude prosecution was taken. At issue is whether patentees should accrue 551 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 733 days for Office failure to take certain actions within specified time frames (or examination delay).

The Office contends that the entire period of 551 days overlap. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C.

154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

As such, the period for over 3 year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, November 15, 2004 to the date the patent issued on May 19, 2009. The Office did not delay 733 days and then delay an additional 551 days. Accordingly, 733 days of patent term adjustment for Office delay (not 733 days and 551 days) was properly entered because the entire period of delay of 551 days attributable to the delay in the issuance of the patent under 37 CFR 1.702(b) overlaps with the 733 days attributable to grounds specified in § 1.702(a)(1).

Further, patentee failed to engage by an uncontested period of 1 day.

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent was 732 days (733-1).

The Office acknowledges authorization to charge deposit account no. 23-1925 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 for

Kery Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration

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CHERYL H AGRIS PHD
PO BOX 806
PELHAM NY 10803

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MAR 20 2006

OFFICE OF PETITIONS

In re Application of	:	
Holm, et al.	:	
Application No. 10/988,917	:	ON PETITION
Filed: November 15, 2004	:	
Attorney Docket No. LP-31001-CIP-ato/00103-US	:	

This is a decision on the petition under 37 CFR 1.181, filed January 30, 2006, requesting that the Office withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

This application was held abandoned for failure to respond in a timely manner to the Notice to File Missing Parts of Nonprovisional Application, mailed March 7, 2005, which set forth an extendable 2 month period for reply. The Office contended that this application became abandoned on May 8, 2005 for failure to reply. The filing of the instant petition precedes the mailing of a Notice of Abandonment.

Petitioners assert a reply was timely transmitted via facsimile to the Office on March 14, 2005. The Office has no record of receiving a reply. However, the copy of the "Certificate of Facsimile Transmission" submitted with the instant petition is itemized and contains a proper certificate of facsimile transmission citing a March 14, 2005 date of transmission.

Under 37 CFR 1.8(b), correspondence is considered timely filed if petitioner: supplies (1) a copy of the previously transmitted correspondence with a signed certificate of transmission affixed thereto (2) a statement which attests on a personal knowledge basis to the previous timely transmission. A copy of the sending unit's report confirming transmission may be used to support this statement. Furthermore, under 37 CFR 1.8(c), the Office may require additional evidence to determine if the correspondence was timely filed.

Petitioners have supplied persuasive evidence of facsimile transmission on March 14, 2005. The petition under 37 CFR 1.181 is **granted** and the holding of abandonment is withdrawn.

After the mailing of this decision, the application file will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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BOSTON MA 02116-3889

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APR 23 2009

OFFICE OF PETITIONS

In re Application of	:	
Theodore V. Rokosz	:	
Application No.: 10/988924	:	ON PETITION
Filing or 371(c) Date: 11/15/2004	:	
Attorney Docket Number:	:	
LOT9-2004-0096-US1	:	

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed February 23, 2009.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely reply to the non-final Office action, mailed November 16, 2007. The Office action set a three (3) period for reply. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the application became abandoned on February 17, 2008. A Notice of Abandonment was mailed July 2, 2008.

Applicant files the present petition and includes an Amendment in response to the Office action. 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 is filed with the present petition; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

It is noted that Applicant filed a three (3) month extension of time with the petition. Applicant is advised that an extension of time is only available to extend the period to reply to an Office action during the extendable period. Once the reply period, including the maximum extendable period, has lapsed, the application becomes abandoned (as of the day after the reply was due). No extensions of time are available. Applicant may request a refund of the extension of time fee by writing to the Office of Finance, Refund Section. A copy of this Decision should accompany Applicant's request.

This application is being referred to Technology Center Art Unit 2191 for processing of the Amendment filed with the petition 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

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IBM CORPORATION
LOTUS SOFTWARE
ONE ROGERS STREET
CAMBRIDGE, MA 02142

Mail Date: 04/20/2010

Applicant	: Vaughn Theodore Rokosz	: DECISION ON REQUEST FOR
Patent Number	: 7627857	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/988,924	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1416** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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AUG 1 5 2005

OFFICE OF PETITIONS

In re Application of Eric Robb, Richard Hill, William Gioia and Edward Kukulski Application No.10/988,944 Filed: November 15, 2004 Attorney Docket Number: 83702 Title of Invention: Automatic Gate Operator	DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed June 23, 2005.

The petition is GRANTED.

Petitioner has shown that the non-signing inventor Hill has refused to join in the filing of the above-identified application after having been presented with the application papers. The petition attest a copy of the application papers was sent to non-signing inventor's last known address. The non-signing inventor's failure to respond to the application mailing sufficiently establishes that he refuses to execute the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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P.O. Box 1450
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Richard Hill
2915 Gregg Drive
Mc Henry, Illinois 60050

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AUG 1 5 2005

OFFICE OF PETITIONS

In re Application of
Eric Robb, Richard Hill, William Gioia and Edward Kukulski
Application No.10/988,944
Filed: November 15, 2004
Attorney Docket Number: 83702
Title of Invention: Automatic Gate Operator

LETTER

Dear Mr. Hill:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, attorney/agent (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (571) 272-3215. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant
Petitions Attorney
Office of Petitions

FITCH EVEN TABIN AND FLANNERY
120 SOUTH LA SALLE STREET
SUITE 1600
CHICAGO IL 60603-3406
ATTN: KENNETH H. SAMPLES

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OFFICE OF PETITIONS

In re Application of Eric Robb et al Application No. 10/988,944 Filed: November 15, 2004 Attorney Docket No. 83702	DECISION GRANTING PETITION UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed September 26, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue fee and publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance of April 21, 2006, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Patent Publication.

Karen Creasy
Petitions Examiner
Office of Petitions

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RUDEN, MCCLOSKY, SMITH, SCHUSTER & RUSSELL, P.A.
222 LAKEVIEW AVENUE, SUITE 800
WEST PALM BEACH, FL 33401-6112

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SEP 02 2008

In re Application of	:	
Richard **WILEN**	:	
Application No. 10/988,945	:	DECISION ON PETITION
Filed: November 15, 2004	:	
Attorney Docket No.	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 31, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed April 19, 2007, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 20, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election, (2) the petition fee of $770; and (3) the required statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 3677 for appropriate action by the Examiner in the normal course of business on the reply received January 31, 2008.

Thurman Page
Petitions Examiner
Office of Petitions

cc: PAUL LIM
FELDMAN LAW GROUP, P.C.
12 EAST 41ST STREET
NEW YORK, NY 10017

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Alexandria, VA 22313-1450
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RUDEN, MCCLOSKY, SMITH, SCHUSTER & RUSSELL, P.A.
222 LAKEVIEW AVE.
SUITE 800
WEST PALM BEACH FL 33401-6112

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DEC 1 0 2008

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In re Application of	:	
Richard Wilen	:	
Application No. 10/988,945	:	DECISION DISMISSING
Filed: November 15, 2004	:	PETITION UNDER 37 CFR 1.10(c)
Attorney Docket No. 59987-0005	:	

This is a decision on the petition filed September 30, 2008, under 37 CFR 1.181 which is properly treated as a petition under 37 CFR 1.10(c) requesting that the above-identified application be considered as filed on November 12, 2004, instead of the currently accorded filing date of November 15, 2004.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely (see 37 CFR 1.181(f)). No extensions of time pursuant to the provisions of 37 CFR 1.136 are permitted. If reconsideration is not requested within the time period specified above, this application will be referred to Technology Center AU 3677 with the presently accorded filing date of November 15, 2004.

37 CFR 1.10(c) sets forth procedures for filing a petition to the Director for a filing date as of the date of deposit with the USPS, where there is a discrepancy between the filing date initially accorded by the Office and the "date in" entered by the USPS or other official USPS notation.

To be grantable, a petition must:

(1) be filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) include a showing that the number of the "Express Mail" mailing label was placed on each piece of correspondence prior to the original mailing; and

(3) include a true copy of the "Express Mail" mailing label showing the "date in" or other official notation by the USPS.

This petition lacks items (1, 2 and 3) above.

Petitioner requests the filing date of November 12, 2004 on the basis that there is a discrepancy between the filing date the USPTO has currently accorded this application and the date on the copy of the certificate of mailing and application transmittal letter submitted with the petition..

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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P.O. Box 1450
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AUG 1 5 2005

OFFICE OF PETITIONS

In re Application of Eric Robb, Richard Hill, William Gioia and Edward Kukulski Application No.10/988,946 Filed: November 15, 2004 Attorney Docket Number: 83703 Title of Invention: Automatic Gate Operator	DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed June 23, 2005.

The petition is GRANTED.

Petitioner has shown that the non-signing inventor Hill has refused to join in the filing of the above-identified application after having been presented with the application papers. The petition attest a copy of the application papers was sent to non-signing inventor's last known address. The non-signing inventor's failure to respond to the application mailing sufficiently establishes that he refuses to execute the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Richard Hill
2915 Gregg Drive
Mc Henry, Illinois 60050

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AUG 1 5 2005

OFFICE OF PETITIONS

In re Application of
Eric Robb, Richard Hill, William Gioia and Edward Kukulski
Application No.10/988,946
Filed: November 15, 2004
Attorney Docket Number: 83703
Title of Invention: Automatic Gate Operator

LETTER

Dear Mr. Hill:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, attorney/agent (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (571) 272-3215. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant
Petitions Attorney
Office of Petitions

FITCH EVEN TABIN AND FLANNERY
120 SOUTH LA SALLE STREET
SUITE 1600
CHICAGO IL 60603-3406
ATTN: KENNETH H. SAMPLES

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

OGI FREESCALE SEMICONDUCTOR, INC.
LAW DEPARTMENT
7700 WEST PARMER LANE MD:TX32/PL02
AUSTIN TX 78729

COPY MAILED

JUN 16 2005

OFFICE OF PETITIONS

In re Application of :
Omar Zia, Nigel G. Cave, and Lawrence Cary Gunn :
Application No. 10/988,963
Filed: November 15, 2004 :
Attorney Docket No. SC13270TP :
Title: METHOD OF INTEGRATING OPTICAL DEVICES AND ELECTRONIC DEVICES ON AN INTEGRATED CIRCUIT :

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 May 23, 2005.

On November 15, 2004, the application was deposited, identifying Omar Zia, Nigel G. Cave, and Lawrence Cary Gunn as joint inventors. A fully executed oath or declaration was not included on filing[2]. On March 7, 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.

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 None of the inventors executed he declaration.

With the present petition, Petitioner has submitted the petition fee, the associated surcharge, replacement drawings, a statement of facts, a one-month extension of time to make timely this response, and a declaration which has been signed by the first two named joint inventors.

Petitioner has met requirements (1) – (4) above.

Regarding the fifth requirement above, the declaration Petitioner submitted cannot be accepted as it contains non-dated and non-initialed alterations by joint inventor Cave. See 37 C.F.R. 1.52(c).

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)," as well as a properly executed 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 (703) 872-9306 - please note this is a central facsimile number.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

OGI FREESCALE SEMICONDUCTOR, INC.
LAW DEPARTMENT
7700 WEST PARMER LANE MD:TX32/PL02
AUSTIN TX 78729

COPY MAILED

JUN 29 2005

OFFICE OF PETITIONS

In re Application of :
Omar Zia, Nigel G. Cave, and Lawrence Cary Gunn :
Application No. 10/988,963
Filed: November 15, 2004 :
Attorney Docket No. SC13270TP :
Title: METHOD OF INTEGRATING :
OPTICAL DEVICES AND ELECTRONIC :
DEVICES ON AN INTEGRATED CIRCUIT

CORRECTED DECISION ON
PETITION UNDER 37 C.F.R. §1.47(a)

This is a corrected decision on the petition under 37 C.F.R. §1.47(a)[1], filed May 23, 2005.

On November 15, 2004, the application was deposited, identifying Omar Zia, Nigel G. Cave, and Lawrence Cary Gunn as joint inventors. A fully executed oath or declaration was not included on filing[2]. On March 7, 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.

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 None of the inventors executed he declaration.

A decision was mailed on June 16, 2005, which indicated that the petition was dismissed for failing to meet the fifth requirement above. The decision of June 16, 2005 is hereby **VACATED**.

The petition is **GRANTED** and this application is hereby accorded Rule §1.47(a) status.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 08/05/09

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction for Appl. No.: 10988979 Patent No.: 7534902 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9C62-D
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

x**Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

/Janet L. Andres/ 1625
SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/16/08

TO SPE OF : ART UNIT 2821

SUBJECT : Request for Certificate of Correction for Appl. No.: 10988989 Patent No.: 7030827

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

V 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: _____

Doug L. Owen
SPE

2821
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WARD & OLIVO
SUITE 300
382 SPRINGFIELD AVENUE
SUMMIT, NJ 07901

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DEC 21 2006
OFFICE OF PETITIONS

In re Application of	:	
Douglas Schoon	:	
Application No. 10/988,990	:	
Filing or 371(c) Date: 11/15/2004	:	
Attorney Docket Number: 222-027	:	ON PETITION

This is a decision on the "Petition to Revive Abandoned Application", filed September 18, 2006. The petition is properly treated as a petition to withdraw the holding of abandonment under 37 C.F.R. § 1.181. The delay in treating this petition is regretted.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice to File Missing parts of Nonprovisional Application ("Notice"), mailed January 18, 2005. The Notice set a two (2) month period for reply. No response having been received, the application became abandoned on March 19, 2005. A Notice of Abandonment was mailed September 22, 2005.

With the instant petition, Applicant has demonstrated non-receipt of the Office action by a preponderance of the evidence.

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

No petition fee has been charged and none is due.

Applicant is advised that the correspondence address associated with customer number 2776, identified in the Change of Correspondence Address, is that listed above. A review of the attorneys associated with customer number 2776 reveal that two are located in New Jersey, at the above address, and two are located in New York, at the address below and to which a courtesy copy of this Decision is being mailed.

Because the correspondence address was changed, the address in the petition differs from the correspondence address of record. This Office does not engage in dual correspondence. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

The application will be referred to the Office of Initial patent Examination for re-mailing of the Notice and re-setting the period for reply.

Telephone inquiries concerning this Decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BACON & THOMAS, PLLC
625 SLATERS LANE, FOURTH FLOOR
ALEXANDRIA VA 22314

COPY MAILED

MAR 2 0 2008

OFFICE OF PETITIONS

In re Application of :
NADLER, Donald S. :
Application No. 10/988,998 : DECISION ON PETITION
Filed: November 12, 2004 : UNDER 37 CFR 1.313(c)(1)
Attorney Docket No. **70027120-0006** :

This is a decision on the petition under 37 CFR 1.313(c), filed March 18, 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.

The substitute declaration concurrently filed with this petition has been made of record.

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA22313-1450
www.uspto.gov

BERENATO, WHITE & STAVISH,
6550 ROCK SPRING DRIVE
SUITE 240
BETHESDA MD 20817

COPY MAILED

MAR 2 8 2007

OFFICE OF PETITIONS

In re Application of :
Patricia Mendez et al. :
Application No. 10/988,999 : ON PETITION
Filed: November 16, 2004 :
Attorney Docket No.: 02135.570 :

This is a decision on the petition under 37 CFR 1.182, filed August 24, 2006, to change the order of the names of the inventors.

The petition is **GRANTED**.

The order of the names of the inventors will be changed as follows:

1. Patricio Mendez
2. Stuart Brown
3. Jason Clevenger

A corrected filing receipt reflecting the correct order of the names of the inventors is attached.

Additionally, while the petition was accompanied by a check in the amount of$130, effective December 8, 2004, the fee for a petition under 37 CFR 1.182 was set at $400. Pursuant to a telephone conversation between the undersigned and Attorney Matthew Stavish on March 26, 2006, and per Attorney Stavish's verbal authorization, the difference between that which was paid and that which is due, $270.00, has been charged to petitioner's deposit account no. 50-0548.

This matter is being referred to Technology Center 1725.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/988,999	11/16/2004	1725	1664	2135.570	22	4

CONFIRMATION NO. 3224

CORRECTED FILING RECEIPT

OC000000023139976

28410
BERENATO, WHITE & STAVISH, LLC
6550 ROCK SPRING DRIVE
SUITE 240
BETHESDA, MD 20817

Date Mailed: 03/28/2007

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)

Patricio Mendez, Lakewood, CO;
Stuart Brown, Needham, MA;
Jason Clevenger, Watertown, MA;

Assignment For Published Patent Application

Exponent, Inc.

Power of Attorney: The patent practitioners associated with Customer Number **28410**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 12/16/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/988,999

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Electron beam welding method and apparatus using controlled volumetric heating

Preliminary Class

219

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

REED SMITH, LLP
TWO EMBARCADERO CENTER
SUITE 2000
SAN FRANCISCO CA 94111

COPY MAILED
OCT 1 0 2006
OFFICE OF PETITIONS

In re Application of	:	
Berman, et al.	:	
Application No. 10/989,012	:	DECISION ON PETITION
Filed: November 15, 2004	:	TO WITHDRAW
Attorney Docket No. 356508.04000	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 15, 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 John Carpenter 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.

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: ARTHUR BERMAN
5635 SNOWDON PLACE
SAN JOSE, CA 95138

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/989,012	11/15/2004	Arthur Berman	356508.04000

CONFIRMATION NO. 3213

OC000000020685362

OC000000020685362

58076
REED SMITH, LLP
TWO EMBARCADERO CENTER
SUITE 2000
SAN FRANCISCO, CA 94111

Date Mailed: 10/03/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/15/2006.

- 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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SEP 14 2009

OFFICE OF PETITIONS

ALTMAN & MARTIN
6 BEACON ST, STE 600
BOSTON, MA 02108

In re Application of	:	
ANGSTROM, Jane et al.	:	
Application No. 10/989,015	:	DECISION ON PETITION
Filed: November 15, 2004	:	TO WITHDRAW
Attorney Docket No. **84084-382403**	:	FROM RECORD
	:	

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 28, 2009.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to ALTMAN & MARTIN has been revoked by the assignee of the patent application on August 13, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **FAEGRE & BENSON LLP**
PATENT DOCKETING - INTELLECTUAL PROPERTY
2200 WELLS FARGO CENTER
90 SOUTH SEVENTH STREET
MINNEAPOLIS MN 55402-3901

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REED SMITH, LLP
TWO EMBARCADERO CENTER
SUITE 2000
SAN FRANCISCO CA 94111

In re Application of	:	
Berman	:	
Application No. 10/989,019	:	DECISION ON PETITION
Filed: November 15, 2004	:	TO WITHDRAW
Attorney Docket No. 56508.04200	:	FROM RECORD
	:	

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 14, 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 Doyle B. Johnson on behalf of all attorneys of record.

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.

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise

April M. Wise
Petitions Examiner
Office of Petitions

cc: ARTHUR BERMAN
10440 BUBB ROAD
SUITE B
CUPERTINO, CA 95014

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/989,019	11/15/2004	Arthur Berman	356508.04200

CONFIRMATION NO. 3194

OC000000020661687

OC000000020661687

58076
REED SMITH, LLP
TWO EMBARCADERO CENTER
SUITE 2000
SAN FRANCISCO, CA 94111

Date Mailed: 10/02/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/14/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

April M Wise

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

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AUG 3 2007

ROSS J. OEHLER
SANOFI-AVENTSI US LLC
1041 ROUTE 202-206
MAIL CODE: D303A
BRIDGEWATER, NJ 08807

In re Application of	:
Heniz-Werner Kleemann et al	:
Serial No.: 10/989,027	: PETITION DECISION
Filed: November 15, 2004	:
Attorney Docket No.: DEAV2003/0079	:

This is in response to the petition under 37 CFR 1.144, filed March 29, 2007, requesting withdrawal of an improper restriction requirement.

BACKGROUND

A review of the file history shows that this application was filed under 35 U.S.C. 111 on November 15, 2004, and contained claims 1-5. In a first Office action, mailed June 15, 2006, the examiner required restriction between the inventions claimed, as follows:

> Group I – claims 1-3, drawn to products of Formula I; and
> Group II – claims 4-5, drawn to methods of preparing the compounds of Formula I.
>
> An election of species was also required for whichever group was elected.

The examiner reasoned that the compounds of Groups I and II were related as product and process of making and properly subject to restriction. The examiner advised of potential rejoinder of product and method claims. The examiner, in making the election of species requirement also indicated that upon election of a species, the examiner would determine the scope of the claim to be examined.

Applicants replied on September 15, 2006, electing Group I and a species and traversing the requirement, but also requesting rejoinder when the product claims were determined allowable.

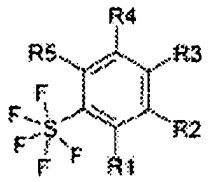
The examiner mailed a new Office action to applicants on November 20, 2006, acknowledging the election of Group I and the species, and the traversal of the requirement. The examiner responded to the traversal by arguing that R1 of the claims represents three Markush Groups and would be classified in various areas and that restriction would impose a serious search burden on

the Office. The examiner then defined applicants claim 1 as being directed to compounds with the variables as defined in claim 1 except that part (c) of variables R1 and R5 was excluded. The examiner then made the requirement Final. The examiner rejected claims 1-3 under 35 U.S.C. 102(b) as anticipated by Bowden et al, and for obvious double patenting over SN 10/429,810.

This petition was filed on March 29, 2007, traversing the restriction requirement as being in error. Applicants also filed a reply to the Office action which has not yet been considered by the examiner pending decision on this petition.

DISCUSSION

Applicants' petition is directed primarily to the election of species and the examiner's limitation of the claims based on Formula I as shown:



The above compounds are all pentafluorosulfanyl benzenes which may be substituted at each ring position. The pentafluorosufanyl substituted benzene ring is the only common core structure among the compounds. While not claimed, the compounds are alleged to have pharmaceutical properties or activity. By the examiner's action in requiring an election of species within the Groups the examiner indicated that examination would proceed under the guidelines of M.P.E.P. 803.02, relating to examination of Markush groups.

However, the examiner's indication in the first Office action and action in the second Office action limiting the scope of the Markush group to be examined, were improper. The examiner is not authorized to limit the scope of applicants' claims. In addition, the examiner's statements appear to indicate that a restriction requirement within the Markush group of Claim 1 has been made; however no such requirement has been formally set forth. Such requirement could only be justified on the basis of lack of common structure among the claimed compounds or lack of common activity, neither of which has been set forth by the examiner. The examiner's limitation and subsequent determination of non-elected subject matter in claims 1-3 is withdrawn.

The restriction between product claims (elected) and method of making claims is deemed to be proper and is maintained. As indicated by the examiner the non-elected method of making claims are subject to rejoinder upon allowance of product claims.

DECISION

The petition is **GRANTED** with respect to applicants' petition of the examiner's actions following the election of species, as requested. The entire genus of claim 1 will be considered in accordance with M.P.E.P. 803.02.

The application will be forwarded to the examiner for consideration of applicants' reply filed March 29, 2007, and further action not inconsistent with this decision.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number, 571-273-8300.

John LeGuyader
Director, Technology Center 1600

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GATES & COOPER LLP
HOWARD HUGHES CENTER
6701 CENTER DRIVE WEST, SUITE 1050
LOS ANGELES, CA 90045

Mail Date: 04/21/2010

Applicant	: Rajiv Shah	: DECISION ON REQUEST FOR
Patent Number	: 7577470	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/989,038	: OF WYETH
Filed	: 11/15/2004	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5-25-06

TO SPE OF : ART UNIT 3752

SUBJECT : Request for Certificate of Correction on Patent No.: ~~7000853~~ 10/989,043

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: [signature]

Art Unit: 3752

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DARREN J. JONES
BLACK LOWE & GRAHAM PLLC
SUITE 4800
701 FIFTH AVENUE
SEATTLE WA 98104

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OCT 27 2006

OFFICE OF PETITIONS

In re Application of	:
Kwong Dong Chil et al	:
Application No. 10/989,044	: DECISION GRANTING PETITION
Filed: November 15, 2004	: UNDER 37 CFR 1.137(b)
Attorney Docket No. MLLR-1005	:

This is a decision on the petition under 37 CFR 1.137(b), filed June 13, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Office letter of July 28, 2005, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 3728.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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Paper No.

Robert E. Bushnell,
Attorney-at-Law
Suite 300
1522 "K" Street, N.W.
Washington DC 20005-1202

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DEC 17 2008

OFFICE OF PETITIONS

In re Application of	:	
Kim et al.	:	DECISION ON PETITION
Application No. 10/989,056	:	
Filed: November 16, 2004	:	
Attorney Docket No. P57245	:	

This is a decision on the PETITION TO WITHDRAW HOLDING OF ABANDONMENT filed August 11, 2008.

The above-identified application became abandoned for failure to file a reply to the non-final Office action mailed November 1, 2007. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under §1.136(a). No reply timely filed and no extension of time obtained, the application became abandoned effective February 2, 2008. The instant petition was filed prior to the mailing of a courtesy Notice of Abandonment on August 18, 2008.

Applicant filed the instant petition to withdraw the holding of abandonment based on nonreceipt of the Office action mailed November 1, 2007. Attorney for applicant states that a search of the file jacket and docket records indicates that the Office action mailed on November 1, 2007[sic] was never received. In support thereof, the practitioner submits copies of docket records for all actions due on the relevant due dates, the file jacket for this application and relevant mail log records for all mail received at the correspondence address. Citing the 7th Ed. (July 1998) of the MPEP, practitioner argues that the requirements to establish nonreceipt of an Office action have been met.

A review of the application file reveals no irregularities in the mailing of the Office action mailed November 1, 2007. Thus, there is a strong presumption that the correspondence was properly mailed to the applicant at the correspondence address of record. In the absence of demonstrated irregularities in mailing of this Notice, petitioner must submit evidence to overcome this presumption. The following showing is required (Practitioner should take note that although the requirements are substantially as quoted on petition, MPEP 711.03(c) has been revised as follows):

> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

Petitioner has adequately supported his claim of non-receipt with such evidence.

In view thereof, the Notice of Abandonment mailed August 18, 2008 and the holding of abandonment are hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center AU 2629 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical support staff to withdraw the holding of abandonment and for re-mailing of the non-final Office action mailed November 1, 2007 and for restarting of the period for reply.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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AUG 15 2005
Director's Office
Group 3700

J. Nevin Shaffer, Jr.
913 Gulf Breeze Parkway, Suite 43
Gulf Breeze, FL 32561

In re Application of	:	
Norman W. Holman, Jr.	:	
Serial No. 10/989,089	:	DECISION ON PETITION
Filed: November 15, 2004	:	TO MAKE SPECIAL

For: COMBINATION AC/HP-REFRIGERATIOR APPARATUS AND METHOD

Applicant's petition, filed January 04, 2005, seeks to have this application made special based upon the Energy Conservation 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(VI) of the Manual of Patent Examining Procedure (MPEP).

PETITION GRANTED.

Richard A. Bertsch, Director
Technology Center 3700

rt/ 8/12/05

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Paper No. None

Thomas P. Liniak
Liniak, Berenato & White, LLC
Suite 240
6550 Rock Spring Dr.
Bethesda MD 20817

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SEP 2 6 2005
OFFICE OF PETITIONS

In re Application of
James Allen Hill
Application No. 10/989,110
Filing Date: November 16, 2004
Attorney Docket No.: 12342.323
Title: TAPPING ASSIST FASTENING ELEMENT AND METHOD

DECISION ON PETITION

This is a decision on the petition under 37 CFR § 1.78(a)(3), filed September 2, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of the prior-filed nonprovisional application set forth in the concurrently filed amendment.

The petition is **DISMISSED AS MOOT**.

A petition under 37 CFR § 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000.

Along with the instant petition under 37 CFR § 1.78(a)(3), petitioner has submitted an amendment to the first sentence of the specification following the title to include a reference to the prior-filed application.

The instant pending nonprovisional application was filed on November 16, 2004, and was pending at the time of filing of the instant petition. While a reference to the prior-filed applications was not included in an ADS or in the first sentence of the specification

following the title, reference nevertheless was made in the transmittal letter filed with the above-identified application.

The current procedure where a claim for priority under 37 CFR § 1.78(a)(3) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR § 1.78(a)(2)(ii). However, on the other hand, if the USPTO does not note the claim for priority to the prior-filed application(s) set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR § 1.78(a)(3)[1]. In the instant case, the Office noted the claim for priority of the prior-filed application in the transmittal letter filed with the application, as shown by its inclusion on the filing receipt.

In view of the above, the $1,370 petition fee submitted is unnecessary and will be refunded to petitioner's deposit account in due course.

This application is being forwarded to Technology Center Art Unit 3677 for appropriate action on the amendment filed September 2, 2005, including consideration by the Examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application.

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.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
United States Patent and Trademark Office

---

[1] *Note* MPEP 201.11 (III)(D) , pages 200-59 and 200-60 (Rev. 2. May 2004) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

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LINIAK BERENATO & WHITE
6550 ROCK SPRING DRIVE, SUITE 240
BETHESDA, MD 20817

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OFFICE OF PETITIONS

In re Application of	:	
James A. Hill	:	
Application No. 10/989,110	:	DECISION ON REQUEST
Filed: November 16, 2004	:	TO WITHDRAW
Attorney Docket No. 1403.00039	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 5, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that Thomas P. Liniak does not have power of attorney in this patent application, in view of a revocation and power of attorney filed by the assignee on April 17, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Sherry D. Brinkley at 571-272- 3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Conferee: David Bucci

cc: BLISS MCGLYNN, P.C.
2075 WEST BIG BEAVER ROAD
SUITE 600
TROY MI 48084

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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 300
MCLEAN, VA 22102

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AUG 18 2006

OFFICE OF PETITIONS

In re Application of	:	
Ho, et al.	:	
Application No. 10/989,111	:	DECISION ON PETITION
Filed: November 16, 2004	:	TO WITHDRAW
Attorney Docket No. 268422001000	:	FROM RECORD
	:	

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 31, 2005.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, "application is being transferred to another at the request of the assignee", does not meet any the conditions set forth in 37 CFR 10.40.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being

submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

David Bucei
Petitions Examiner
Office of Petitions

cc: James Remenick
Powell Goldstein, LLP
901 New York Avenue, NW
Third Floor
Washington, DC 20001-4413

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MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND, WA 98052

Mail Date: 04/20/2010

Applicant	: Alexander Frank	: DECISION ON REQUEST FOR
Patent Number	: 7610631	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/989,122	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **83** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN, TX 78767-0398

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JUN 16 2008

OFFICE OF PETITIONS

In re Application of :
Richard C. Counts :
Application No. 10/989,128 :
Filed: November 15, 2004 :
Attorney Docket No. 5919-00200 :
:

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 15, 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 a final Office action mailed August 7, 2007. On February 15, 2008, the present petition was filed. A Notice of Abandonment was subsequently mailed on March 19, 2008.

The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), including the fee of $405 and the submission required by 37 CFR 1.114; (2) the petition fee of $770; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 2612 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

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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LADAS & PARRY
26 WEST 61ST STREET
NEW YORK, NY 10023

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DEC 11 2006

OFFICE OF PETITIONS

In re Application of	:	
LEE, et al.	:	
Application No. 10/989,157	:	DECISION ON PETITION
Filed: November 15, 2004	:	TO WITHDRAW
Attorney Docket No. U 015476-0	:	FROM RECORD
	:	

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 25, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by William R. Evans on behalf of all attorneys of record who are associated with Customer No. 00140. All attorneys/agents associated with the Customer No. 00140 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is no outstanding Office action that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6825.

Patricia Volpe
Petitions Examiner
Office of Petitions

cc: **JAMES LEE**
12Fl., No. 396, Sec. 1, Nei-Hu Rd.
Taipei 114, Taiwan R.O.C.

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
10/989,157	11/15/2004	James Lee	U 015476-0

CONFIRMATION NO. 2777

OC000000021546679

00140
LADAS & PARRY
26 WEST 61ST STREET
NEW YORK, NY 10023

Date Mailed: 12/11/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/25/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

PATRICIA A VOLPE
OP (571) 272-6825

FORMER ATTORNEY/AGENT COPY

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SCHLUMBERGER OILFIELD SERVICES
200 GILLINGHAM LANE
MD 200-9
SUGAR LAND, TX 77478

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APR 2 7 2005

OFFICE OF PETITIONS

In re Application of :
Follini and Pop :
Application No.10/989,158 :
Filed: November 15, 2004 :
Attorney Docket No. 20.2826DIV2 :

DECISION DISMISSING PETITION

This is a decision on the petition under 37 CFR 1.182, filed March 14, 2005, requesting that the above-identified application retain the filing date of November 15, 2004, with Figure 16A, as described in the specification, as part of the original disclosure.

The petition is **dismissed**.

On November 15, 2004, applicants filed the above-identified application. On January 14, 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 November 15, 2004, and advising applicants that figure 16A, as described in the specification, appeared to have been omitted.

In response, on March14, 2005, applicants submitted the present petition, a preliminary amendment, and Figure 16A. Applicant requests that the application retain the filing date of November 15, 2004, with figure 16A included as part of the original disclosure. Applicant appears to concede the Figure 16A was not included with the original disclosure, but maintains that Figure 16A is not new matter.

The Notice of Omitted Items in Nonprovisional Application ("Notice") gives the applicant four options. These options are:

I. file a petition arguing that the omitted items was filed with the original application,
II. file the omitted item and accept the date the omitted items was filed as the application filing date, or
III. do nothing and accept the application as deposited.

If option three is accepted, the Notice states that, "[i]n the absence of a timely petition in reply to this, the application will maintain a filing date as of the date of deposit of the application papers in the USPTO, and the original application papers . . . will include only those application present in the USPTO on the date of deposit." Although applicant has filed the instant petition, applicant has neither argues that the omitted figure was filed with the original disclosure, nor does applicant wish to accept the date the omitted figure was filed as the application filing date. Rather, applicant seeks to have the omitted figure included with the original application papers, by way of amendment, and retain the original filing date. Absent *prima facie* evidence that the omitted figure was filed on the November 15, 2004, the omitted figure cannot be included as part of the original disclosure and the application retain a filing date of November 15, 2004. As conveyed by the Notice, applicant must either establish that the omitted figure was filed, or file the omitted figure and accept the date the omitted figure is filed as the application filing

date, or accept the application as filed and amend the application later. Applicant's request appears to be most akin to the later of the aforementioned options. Accordingly, applicant's petition will be treated as a request to retain the filing date of November 15, 2004, with only those papers filed on that date and for the omitted figure to be entered as per the preliminary amendment filed March 14, 2005.

The application file will be directed to the Office of Initial Patent Examination for further processing. Thereafter, the application file will be directed to Technology Center 3600, GAU 3672 for treatment of the preliminary amendment.

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BLACK LOWE & GRAHAM, PLLC
701 FIFTH AVENUE
SUITE 4800
SEATTLE WA 98104

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OFFICE OF PETITIONS

In re Application of :
Chil et al. :
Application No. 10/989,170 : ON PETITION
Filed: November 15, 2004 :
Attorney Docket Number: MLLR-1-1004

This is a decision on the petition under 37 CFR 1.137(b), filed June 28, 2006, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a reply to the non-final Office Action of July 28, 2005. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on October 29, 2005. A Notice of Abandonment was mailed on August 15, 2005.

This petition is hereby **Granted**.

The office hereby acknowledges the receipt of the amendment submitted with the instant petition.

This decision is being forwarded to Technology Center 3700 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

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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 04/20/2010

Applicant	: Paul F. Rodney	: DECISION ON REQUEST FOR
Patent Number	: 7650269	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/989,179	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **539** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

Carole A. Mulchinski
M1/040
The Aerospace Corporation
2350 East El Segundo Boulevard
El Segundo, CA 90245

In re Application of
O'Brien, et al.
Application No. 10/989,180
Filed: November 15, 2004
Attorney Docket No. D524

ON PETITION

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed April 3, 2007. This is also a decision on the petition under 37 CFR 1.137(b) filed in the alternative.

The petition to withdraw the holding of abandonment is **DISMISSED**.

The petition under 37 CFR 1.137(b) is also **DISMISSED.**

The application became abandoned on November 12, 2006, after no response was received to the non-final Office action (copy enclosed) mailed August 11, 2006, which 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 November 12, 2006.

TREATMENT UNDER 37 CFR 1.181

In the instant petition, petitioner maintains that the Notice to File Missing Parts of Non-provisional Application was never received.

When, as in this case petitioner is arguing that an Office communication was not received, petitioner must establish non-receipt of the Office communication in accordance with section 711.03(c) of the *Manual of Patent Examining Procedure* that requires the following:

> [t]he showing requires to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

Petitioner must provide a copy of petitioner's docket records showing where the Office communication would have been entered if it had been received. If petitioner does not keep a log, petitioner may file a copy of the contents of the incoming correspondence petitioner has

received for this application. Petitioner may also file a copy of any calendar notations petitioner maintains relative to this patent application that may corroborate petitioner's allegation that the notice was not received. This documentation must accompany any renewed petition filed under 37 CFR 1.181(a).

TREATMENT UNDER 37 CFR 1.137(b)

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. A proper response would be in form of an amendment or a continuing application. A proper response to the non-final Office action must accompany a renewed petition filed under 37 CFR 1.137(b).

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition" under 37 CFR 1.137(b)."

The petition fee of $750.00 will be charged to deposit account 01-0428.

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 should be directed to the undersigned (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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THE AEROSPACE CORPORATION
2350 EAST EL SEGUNDO BOULEVARD
MAIL STOP MI/040
EL SEGUNDO, CA 90245

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OFFICE OF PETITIONS

In re Application of

O'Brien, et al. :

Application No. 10/989,180

: DECISION ON PETITION

Filed: November 15, 2004

:

Attorney Docket No. D524

This is a decision on the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed December 12, 2007.

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 August 11, 2006, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on November 12, 2006. A Notice of Abandonment was mailed on March 28, 2007. A petition under 37 CFR 1.181was first filed on April 3, 2007, and dismissed by a decision mailed August 6, 2007. The instant renewed petition was filed on December 12, 2007, with a request for an extension of time within the third month.

Section 711.03(c)(II) of the *Manual of Patent Examining Procedure* ("MPEP") provides that in order to establish non-receipt of an Office action so as prove that the imposition of a holding of abandonment is improper, petitioner must: 1) provide a statement to the Office indicating that the Office action was not received by petitioner; 2) include in the statement an attestation to the fact that a review of the file jacket and docket records maintained by petitioner indicates that the Office action was not received; and 3) provide a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is, therefore, withdrawn.

The application file is being forwarded to Technology Center 2800, GAU 2856 for resetting of the time period for responding to the non-final Office action and remailing of the non-final Office action.

Questions concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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JAN 18 2007

OFFICE OF PETITIONS

Ladas & Parry
26 West 61st Street
New York, NY 10023

In re Application of	:	
James Lee et al.	:	
Application No. 10/989,182	:	DECISION ON PETITION
Filed: November 15, 2004	:	TO WITHDRAW
Attorney Docket No. U 015475-2	:	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 September 25, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by all the attorneys of record.

All attorneys/agents have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor James Lee at the address indicated below.

There is an outstanding Office action mailed August 25, 2006 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: **James Lee**
121Fl., No. 396, Sec.1
Nei-Hu Rd.
Taipei 114, Taiwan
R.O.C.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/989,182	11/15/2004	James Lee	U 015475-2

CONFIRMATION NO. 5451

OC000000022022652

OC000000022022652

140
LADAS & PARRY
26 WEST 61ST STREET
NEW YORK, NY 10023

Date Mailed: 01/17/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/25/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Terri S Williams

TERRI S WILLIAMS
OP (571) 272-2991

FORMER ATTORNEY/AGENT COPY

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OFFICE OF PATENT COUNSEL
SCHLUMBERGER OILFIELD SERVICES
PO BOX 2175
HOUSTON, YX 77252-2175

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APR 2 7 2005

OFFICE OF PETITIONS

In re Application of	:	
Jean-Marc Follini	:	
Application No. 10/989,185	:	ON PETITION
Filed: November 15, 2004	:	
Attorney Docket No.:	:	
20.2826DIV3	:	

This is a decision on the Response to Notice of Omitted Item(s) in a Nonprovisional Application, filed March 14, 2005, requesting the application be accorded a filing date of November 15, 2004, including Figure 16A described in the specification. The response is properly treated an a petition under 37 CFR 1.53.

The petition is **dismissed**.

The application was filed on November 15, 2004. However, on January 25, 2005, the Office of Initial Patent Examination mailed a Notice of Omitted Item(s) in a Nonprovisional Application ("Notice"), noting that a filing date had been accorded the application; however, Figure 16A described in the specification appeared to have been omitted from the application. The Notice set a two-month period for reply, with extensions of time available under 37 CFR §1.136(a).

The mailing of a 'Notice of Omitted Item(s)' will permit the applicant to either: (1) promptly establish prior receipt in the USPTO of the drawing(s) at issue (generally by way of date-stamped postcard receipt (MPEP 503)) (by filing a petition under 37 CFR 1.53); (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date such submission as the application filing date (by filing a petition under 37 CFR 1.182); or (3) "accept the application as deposited in the USPTO [and not] respond to the 'Notice of Omitted Item(s)'", thereby constructively accepting the application as deposited with this Office. Amendment of the specification is required . . . to cancel all references to the omitted drawing[s]. . . ." See MPEP 601.01(g).

In response to the Notice, Applicant files the instant petition and Preliminary Amendment seeking to add Figure 16A on the basis that the additional drawing Figure 16A is not new matter. As such, Applicant requests that the drawing Figure 16A be accorded a filing date of November 15, 2004.

Applicant is advised that a petition is not necessary in this instance to enter the preliminary amendment on the basis that the preliminary amendment contains no new matter. The issue of new matter is one appropriately addressed by the examiner. Nor is a petition necessary to add the drawing figure. Applicants may also add figure(s) described in the specification on the basis that the drawings are not new matter. New drawings may be entered by the primary examiner without a petition so long as the drawings contain no new matter. *See*, MPEP 608.02(a).

The petition is dismissed.

Since the present petition was not necessitated by any error on the part of the Office, the petition fee has been charged to deposit account 19-0610.

The application will be returned to the Office of Initial Patent Examination for further processing as a nonprovisional application with a filing date of November 15, 2004, using the application papers filed on that date. Thereafter, the file will be referred to an Examiner for consideration of the amendment.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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MAR 30 2007

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HUGHES LAW FIRM, PLLC
PACIFIC MERIDIAN PLAZA, SUITE 302
4164 MERIDIAN STREET
BELLINGHAM, WA 98226-5583

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MAR 30 2007
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In re Application of	:	
Rotnes et al.	:	
Application No 10/989189	:	DECISION
Filing or 371(c) Date: 11/15/2004	:	ON PETITION
Atty Docket No.:	:	
P315060	:	

This is a decision on the "Petition to Withdraw Holding of Abandonment Pursuant to 37 CFR 1.181(a)," filed January 3, 2007. The delay in treating this petition is regretted..

The petition is **granted.**

Background

The above-identified application became abandoned for failure to timely and properly reply to the Office communication, mailed April 3, 2006. The Office communication set a one (1) month period for reply. No reply having been received, this application became abandoned on May 4, 2006. A Notice of Abandonment was mailed October 31, 2006.

The present petition

Applicant files the present petition and asserts that a timely response was filed on May 2, 2006. Applicant provides that the application number on the electronic acknowledgment receipt differs from that of the present application. Applicant fails to offer an explanation as to how this difference may have occurred. Applicant states that the correct serial number, 10/989,189, was posted on the header portion of the response to the Office communication, and other identifiers, such as the inventor, attorney docket number and title of the invention, were correct on the acknowledgment receipt.

A review of the acknowledgment receipt reveal that the serial number placed thereon was 11/381300, and not 10/989189. A further review of the correspondence filed May 2, 2006 reveal that the correct inventor, attorney docket number and title of the invention were included on the Acknowledgment receipt.

In view of the above, it is apparent that the Response to Office communication was filed in this Office on May 2, 2006, and due to errors on the part of Applicant and this Office, was inadvertently misplaced. Accord MPEP 502.

Accordingly, the holding of abandonment is hereby withdrawn.

The application will be referred to the Technology Center Art Unit 3643 for continued processing in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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UNITED STATES PATENT AND TRADEMARK OFFICE
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OFFICE OF PATENT COUNSEL
SCHLUMBERGER OILFIELD SERVICES
PO BOX 2175
HOUSTON, YX 77252-2175

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MAY 11 2005
OFFICE OF PETITIONS

In re Application of :
Jean-Marc Follini :
Application No. 10/989,190 : ON PETITION
Filed: November 15, 2004 :
Attorney Docket No.: :
20.2826DIV3 :

This is a decision on the Response to Notice of Omitted Item(s) in a Nonprovisional Application, filed March 14, 2005, requesting the application be accorded a filing date of November 15, 2004, including Figure 16A described in the specification. The response is properly treated an a petition under 37 CFR 1.53.

The petition is **dismissed**.

The application was filed on November 15, 2004. However, on January 14, 2005, the Office of Initial Patent Examination mailed a Notice of Omitted Item(s) in a Nonprovisional Application ("Notice"), noting that a filing date had been accorded the application; however, Figure 16A described in the specification appeared to have been omitted from the application. The Notice set a two-month period for reply, with extensions of time available under 37 CFR §1.136(a).

The mailing of a 'Notice of Omitted Item(s)' will permit the applicant to either: (1) promptly establish prior receipt in the USPTO of the drawing(s) at issue (generally by way of date-stamped postcard receipt (MPEP 503)) (by filing a petition under 37 CFR 1.53); (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date such submission as the application filing date (by filing a petition under 37 CFR 1.182); or (3) "accept the application as deposited in the USPTO [and not] respond to the 'Notice of Omitted Item(s)'", thereby constructively accepting the application as deposited with this Office. Amendment of the specification is required . . . to cancel all references to the omitted drawing[s]. . . ." See MPEP 601.01(g).

In response to the Notice, Applicant files the instant petition and Preliminary Amendment seeking to add Figure 16A on the basis that the additional drawing Figure 16A is not new matter. As such, Applicant requests that the drawing Figure 16A be accorded a filing date of November 15, 2004.

Applicant is advised that a petition is not necessary in this instance to enter the preliminary amendment on the basis that the preliminary amendment contains no new matter. The issue of new matter is one appropriately addressed by the examiner. Nor is a petition necessary to add the drawing figure. Applicants may also add figure(s) described in the specification on the basis that the drawings are not new matter. New drawings may be entered by the primary examiner without a petition so long as the drawings contain no new matter. *See*, MPEP 608.02(a).

The petition is dismissed.

Since the present petition was not necessitated by any error on the part of the Office, the petition fee has been charged to deposit account 19-0610.

The application will be returned to the Office of Initial Patent Examination for further processing as a nonprovisional application with a filing date of November 15, 2004, using the application papers filed on that date. Thereafter, the file will be referred to an Examiner for consideration of the amendment.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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Cozen O'Connor, P.C.
1900 Market Street
Philadelphia, PA 19103-3508

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OFFICE OF PETITIONS

In re Application of	:	
Vasulinga Ravikumar et al.	:	
Application No. 10/989,197	:	DECISION ON PETITION
Filed: November 15, 2004	:	TO WITHDRAW
Attorney Docket No. ISIC0107-100	:	FROM RECORD
(DVDM0023US)	:	

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 13, 2006.

The request is **moot because a revocation of power of attorney has been filed**.

A review of the file record indicates that the power of attorney to Paul K. Legaard and all attorneys/agents of record has been revoked by the assignee of the patent application on July 12, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Isis Pharmaceuticals, Inc.
1896 Rutherford Road
Carlsbad, CA 92008

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GIBSON & DERNIER LLP
900 ROUTE 9 NORTH
SUITE 504
WOODBRIDGE NJ 07095

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DEC 2 2 2009

OFFICE OF PETITIONS

In re Application of

REIMERT, Scott et al.
Application No. 10/989,216
Filed: November 16, 2004
Attorney Docket No. **300/11**

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 02, 2009.

The request is **NOT APPROVED**.

The Office has revised its change in procedure for request to withdraw from representation applies to requests filed on or after May 12, 2008.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because there is no indication that acts (1) thru (3) noted in the above-identified certifications have been performed. See PTO/SB/83 (11-08).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272- 2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **CENTERBEAM, INC.**
30 RIO ROBLES DRIVE
SAN JOSE CA 95134

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VERTEX PHARMACEUTICALS, INC.
130 WAVERLY STREET
CAMBRIDGE, MA 02139-4242

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JUN 27 2008

OFFICE OF PETITIONS

In re Application of :
MILLER, et al. :
Application No. 10/989,218 :
Filed: November 15, 2004 :
Attorney Docket No. **VPI/03-151US** :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 7, 2007, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely pay the issue and publication fees on or before July 2, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed March 30, 2007. Accordingly, the date of abandonment of this application is July 3, 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 appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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.

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, the signature of Michael J. DiVerdi 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 in accordance with 37 CFR 1.34(a).

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to the Office of Data Management for processing into a patent.

Brian W. Brown
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Thomas J. Perkowski, Esq., PC
Soundview Plaza
1266 East Main Street
Stamford, CT 06902

In re Application of Zhu, et al. Application No. 10/989,220 Filed: November 15, 2004 Atty. Dkt. No.: 108-216USA000 For: HAND-SUPPORTABLE DIGITAL IMAGING-BASED BAR CODE SYMBOL READER EMPLOYING AN EVENT-DRIVEN SYSTEM CONTROL SUBSYSTEM, AUTOMATIC IR-BASED OBJECT DETECTION, AND TRIGGER-SWITCH ACTIVATED IMAGE CAPTURE AND PROCESSING SUBSYSTEM	DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

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SEP 14 2005

OFFICE OF PETITIONS

This decision is in response to the petition under 37 CFR 1.47(a), filed July 29, 2005.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the legal representative of the deceased 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 November 15, 2004 without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed January 26, 2005 requiring, *inter alia*, an executed oath or declaration and a surcharge.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2)

an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The instant petition fails to satisfy requirements (1) and (4) set forth above.

As to item (1), petitioners have failed to establish that the non-signing inventor cannot be reached or located for presentation of the application papers or that the inventor refused to sign the oath or declaration after having been presented with the application papers. Petitioners state that the non-signing inventor cannot be reached to execute an assignment document.

Petitioners are advised that where inability to reach or locate a non-signing inventor is alleged, petitioners are required to establish that diligent effort was made to locate the non-signing inventor and provide the non-signing inventor with a complete copy of the patent application (specification, including claims, drawings, and oath or declaration). Petitioners have not established that diligent effort has been made to locate the non-signing inventor for presentation of the application papers.

Any renewed petition must be supported by evidence that sufficiently establishes that despite diligent effort, the non-signing inventor cannot be located. A statement of facts should be submitted that fully describes the exact facts that are relied on to establish that a *diligent effort* was made to locate the non-signing inventor. The statement of facts must be signed, where at all possible, by a person having *firsthand knowledge* of the facts recited therein. Statements based on hearsay, will not normally be accepted. At the very least, a search of the internet, human resource records, telephone directories, and international registries should be undertaken in regions where it is suspected the non-signing inventor may reside. Petitioner should reference and supply evidence of any such searches in a renewed petition. *See*, MPEP 409.03(d).

As to requirement (4), petitioners have failed to set forth the last known address of the non-signing inventor. Any renewed petition should indicate the last known address of said inventor.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300

By hand: U.S. Patent and Trademark Office
Customer Window
Mail Stop Petition
Randolph Building
Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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Thomas J. Perkowski, Esq., PC
Soundview Plaza
1266 East Main Street
Stamford, CT 06902

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MAR 20 2006

OFFICE OF PETITIONS

In re Application of Zhu, et al. Application No. 10/989,220 Filed: November 15, 2004 Atty. Dkt. No.: 108-216USA000 For: HAND-SUPPORTABLE DIGITAL IMAGING-BASED BAR CODE SYMBOL READER EMPLOYING AN EVENT-DRIVEN SYSTEM CONTROL SUBSYSTEM, AUTOMATIC IR-BASED OBJECT DETECTION, AND TRIGGER-SWITCH ACTIVATED IMAGE CAPTURE AND PROCESSING SUBSYSTEM	DECISION NOTING JOINDER OF INVENTOR, PETITION UNDER 37 CFR 1.47(a), PETITION UNDER 37 CFR 1.137(b) MOOT, and PETITION UNDER 37 CFR 1.136(a) GRANTED

This decision is in response to the petition renewed under 37 CFR 1.137(b), filed February 8, 2006. The petition is being treated as follows: petition under 37 CFR 1.137(b); petition under 37 CFR 1.136(a), and renewed petition under 37 CFR 1.47(a).

DECISION UNDER 37 CFR 1.137(b)

The application was improperly held abandoned for failure to timely reply to the Notice to File Missing Parts mailed January 26, 2005. As a proper reply and extension of time were timely filed July 29, 2005, the holding of abandonment is hereby withdrawn.

Review of finance records indicates that the previously submitted petition fee was returned to petitioner.

Accordingly, the petition under 1.137(b) is **DISMISSED AS MOOT**.

The holding of abandonment is withdrawn and notice of abandonment is hereby vacated.

DECISION UNDER 37 CFR 1.136(a)

The instant application is currently pending. The decision mailed September 14, 2005 set a two month shortened statutory period of time for reply making a reply due on or before November 14, 2005. As indicated in the decision, however, the period of time for reply was extendible under 37 CFR 1.136(a).

The instant reply was submitted February 8, 2006. Thus, the instant reply requires a three month extension of time in the amount of $1,020.00 which has been charged to petitioners' deposit account as authorized.

Accordingly, the petition under 37 CFR 1.136(a) is **GRANTED**.

DECISION UNDER 37 CFR 1.47(a)

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is not necessary and the petition is considered to be moot. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

Accordingly, the petition under 37 CFR 1.47(a) is **DISMISSED AS MOOT**.

This application 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) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Soundview Plaza
1266 East Main Street
Stamford CT 06902

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AUG 13 2007

OFFICE OF PETITIONS

In re Application of
Zhu, et al.
Application No. 10/989,220
Filed: November 15, 2004
Attorney Docket No. 108-216USA000

DECISION DISMISSING PETITION

~~In re Application of~~
~~Zhu, et al.~~
~~Application No. 11/818,155~~
~~Filed May 11, 2007~~
~~Attorney Docket No. 108-216USANGO~~

This is a decision on the petition filed July 17, 2007, requesting that the application papers filed on May 11, 2007 be accorded a filing date and application number.

The present petition was filed in application no. 10/989,220, parent to the application deposited on May 11, 2007.

A review of Office databases reveals that the application filed on May 11, 2007, a continuation of application no. 10/989,220, was assigned application no. 11/818, 155.

An official Filing Receipt for application no. 11/818,155 was mailed to applicants on August 2, 2007. In view of the above, the petition is **DISMISSED AS MOOT.**

Application No. 11/818,155 is being referred to the Office of Initial Patent Examination for further pre-examination processing.

Application No. 10/989,220 is being referred to Technology Center A.U. 2876 for examination in due course.

Telephone inquiries relating to this decision should be directed to the undersigned at (571)272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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ANTONELLI TERRY STOUT & KRAUS LLP
1300 NORTH SEVENTEENTH STREET, SUITE 1800
ARLINGTON, VA 22209-3873

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MAR 1 5 2006

OFFICE OF PETITIONS

In re Application of	:	
Naruhiko Kasai et al	:	
Application No. 10/989,263	:	DECISION GRANTING PETITION
Filed: November 17, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 566.31929CC9	:	

This is a decision on the petition, filed March 13, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 6, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

The petition is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.34(a), the signature of Mr. Carl I. Brundidge appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. However, if Mr. Brundidge desires to receive correspondence regarding this file, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being mailed to Mr. Brundidge, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record. Petitioner is

---

[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).*

advised that the change of correspondence address received on December 30, 2004 has not been entered since it was not submitted by an attorney of record.

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2673 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Mattingly, Stanger & Malur, PC
1800 Diagonal Road, Suite 370
Alexandria, VA 22314

C:\Documents and Settings\FHicks\My Documents\470\313\989263.wpd

OIPE JC104
JUN 0 6 2005
PATENT & TRADEMARK OFFICE

PATENTS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application Of:	)	
Robert Moskovich	)	Group Art Unit: 1744
Serial No.: 10/989,267	)	Examiner: TBA Spisich, Mark
Filed: November 17, 2004	)	Attorney Docket No. 006427.00131
For: TOOTHBRUSH WITH TONGUE CLEANER	)	

PETITION TO MAKE SPECIAL UNDER 37 C.F.R. §1.102(d)
AND SUPPORTING INFORMATION DISCLOSURE STATEMENT

U.S. Patent and Trademark Office
Randolph Building
401 Dulany Street
Customer Window
Alexandria, VA 22314

Dear Sir:

Applicant hereby petitions the Commissioner to make the above-identified application special under 37 CFR § 1.102(d) and under the guidelines of MPEP § 708.02(VIII). Please charge the petition fee of $130.00 in accordance with 37 CFR §1.17(h) and any other fees that may be required for this Petition to Deposit Account No. 19-0733.

Pre-examination Search

A pre-examination search was conducted by a professional searcher in March 2005. The search was conducted in the following class and subclasses: 15, subclasses 110, 111, 117, 121, 167.1, 236.01, 236.05, 236.06, 236.07 and 245. Class 606, subclass 161.

06/08/2005 MBEYENE1 00000009 190733 10989267
01 FC:1464 130.00 DA

PETITION GRANTED

William Krynski
Special Program Examiner
Technology Center 1700
MAY 2 9 2007

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090424

DATE : April 24, 2009

TO SPE OF : ART UNIT 2628

SUBJECT : Request for Certificate of Correction on Patent No.: 7362327

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:

/XIAO M. WU/
Supervisory Patent Examiner, Art Unit 2628

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BRUCE H. TROXELL
SUITE 1404
5205 LEESBURG PIKE
FALLS CHURCH, VA 22041

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JUN 13 2005

OFFICE OF PETITIONS

In re Application of
Hsueh
Application No. 10/989,309
Filed: November 17, 2004
Attorney Docket No. BHT/3167-232

Decision on Petition

This is a decision on the petition filed February 22, 2005, to accord the above-identified application a filing date of November 17, 2004, the date the papers were mailed to the Office.

The petition is **dismissed**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.182."

The application was filed on November 17, 2004.

On December 20, 2004, the Office of Initial Patent Examination mailed a Notice stating that Figures 9 and 10 appeared to be missing. The Notice stated that, unless a petition was filed, the application would be examined without the missing Figures.

In response, the present petition supplies Figures 9 and 10 and requests that the date that the missing Figures are being supplied be the filing date of the application.

As stated on the Notice of Omitted Items, a petition under 37 CFR 1.182 must be accompanied by a declaration specifically referring to the missing items. The instant declaration states the specification consists of the application papers filed on November 17, 2004, and accorded application no. 10/959,309. However, petitioner wishes for the application to include not only the papers filed November 17, 2004, but also the missing items supplied with the instant petition.

As a courtesy, the Office attaches a supplemental declaration form. Since petitioner is seeking to amend the application to add the drawing sheets, petitioner may wish to have the declaration include the following language, "the specification of which was filed on November 17, 2004, as .... Application Number 10/989,309, and was amended on February 22, 2005. I hereby declare the subject matter of the ... amendment filed on February 22, 2005, was part of the invention...."

Effective November 1, 2004, the fee for a petition under 37 CFR 1.182 was increased to $400.[1] Therefore, a total of $400 has been charged to petitioner's deposit account for the petition fee. Since the application has not been accorded a later filing date, the new fees (filing/search/examination/excess claims) have not been charged to petitioner's deposit account.

---

[1] See Revision of Patent Fees for Fiscal Year 2005, 69 Fed. Reg. 52604 (Aug. 27, 2004) and Changes to Support Implementation of the United States Patent and Trademark Office 21st Century Strategic Plan, 1287 Off. Gaz. Pat. Office 67 (Oct. 12, 2004).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 872-9306
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
220 20th Street South
Customer Window, Mail Stop Petition
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

If a request for reconsideration is filed, and a decision on the new petition is not received within three months, petitioner may wish to call the number below to check on the status of the renewed petition.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Attached: PTO/SB/04

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BRUCE H. TROXELL
SUITE 1404
5205 LEESBURG PIKE
FALLS CHURCH, VA 22041

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OFFICE OF PETITIONS

In re Application of
Hsueh
Application No. 10/989,309
Filed: February 22, 2005
Attorney Docket No. BHT/3167-232

Decision on Petition

This is a decision on the petition filed August 11, 2005, to consider Figures 9 and 10 to be part of the application and to accord the above-identified application a filing date of February 22, 2005, the date Figures 9 and 10 were filed with the Office.

The petition is **granted**.

The application was filed on November 14, 2004.

On December 20, 2004, the Office mailed a Notice stating that Figures 9 and 10 described in the specification did not appear to be included as part of the application filed. The Notice stated that, unless a petition was filed, the application would be examined without the missing Figures.

In response, petitioner has supplied the omitted items and has requested that the date that the omitted items were supplied be the filing date of the application.

The application will be accorded a filing date of February 22, 2005. Figures 9 and 10 will be entered as part of the application.

The Office of Initial Patent Examination will further process the file with a filing date of February 22, 2005, using the application papers filed on November 17, 2004, and the copy of the two sheets of drawings including Figures 9 and 10 filed on February 22, 2005.

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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Date Mailed: February 23, 2010
Patent No. :7,553,487 B2
Ser. No. :10/989313
Issued : June 30, 2009
Inventor(s) : Mary Collins, et al.
Title :METHOD AND COMPOSITIONS FOR TREATING ASTHMA

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, attorney agent/firm) 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 certificate of correction will issue for the remaining errors noted in your request.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.17(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
(571) 272-0423

Diana M. Collazo
Lando & Anastasi, LLP
Riverfront Office Park
One Main St.
Cambridge, MA 02142

MD/mt

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LANDO & ANASTASI, LLP
ONE MAIN STREET, SUITE 1100
CAMBRIDGE MA 02142

MAILED
JUN 29 2010
OFFICE OF PETITIONS

In re Patent No. 7,553,487 :
Issue Date: June 30, 2009 :
Application No. 10/989,313 : DECISION ON PETITION
Filed: November 15, 2004 :
Attorney Docket No. W2023–701340/G152268A :

This is a decision on the Request For Issuance To Co-Assignee Under 37 C.F.R. §3.81(b), filed April 14, 2010, requesting correction on the Title Page of the subject patent, via issuance of a Certificate of Correction under 37 CFR 1.323, to identify the correct co-assignee's city and state. The Request is being treated as a Petition. A completed Certificate of Correction Form (PTO/SB/44) was submitted with the petition.

The petition under 37 CFR §3.81 is **DISMISSED**.

Petitioner urges that the present Petition was submitted to correct co-assignee's city and state on the previously submitted PTOL-85B and that such error was inadvertently. Accordingly, petitioner requests, in effect, that the Title Page of the above-identified patent be corrected, via issuance of a Certificate of Correction (PTO/SB/44), to correct co-assignee's city and state from "Madison, NJ" to –Cambridge, MA-.

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.

U.S. Patent and Trademark Office assignments records disclose that an assignment *Genetics Institute, LLC, Cambridge MA* was submitted for recordation on June 10, 2010. Therefore, the recorded assignment was **after the date of issuance of this patent**. Accordingly, since the assignment was not submitted for recordation until after issuance of this patent, issuance of a certification of correction would not be proper.

Inquiries related this communication should be directed to the undersigned at (571)272-3213.

Cheryl Gibson Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

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FALLS CHURCH VA 22041

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OFFICE OF PETITIONS

In re Application of :
Nien, Leslie :
Application No. 10/989,333 :
Filed: November 17, 2004 :
Attorney Docket No. BHT-3125-253 :

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 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 the Issue Fee Transmittal with payment of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to the Publishing Division for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

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OBLON, SPIVAK, McCLELLAND
MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Application of	:
Yoshiaki Asao et al	:
Application No. 10/989,339	: DECISION GRANTING PETITION
Filed: November 17, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 262031US2S	:

This is a decision on the petition, filed October 31, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 23, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2814 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\fhicks\My Documents\470\Oct11\989339.wpd

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment.*

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ERIC ROBINSON
PMB 955
21010 SOUTHBANK ST.
POTOMAC FALLS VA 20165

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OFFICE OF PETITIONS

In re Application of	:	
Shunpei Yamazaki	:	
Application No. 10/989,361	:	DECISION GRANTING PETITION
Filed: November 17, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 0756-7443	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 6, 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 October 28, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 2629 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Williams
Terri Williams
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON, DC 20001-5303

Mail Date: 04/21/2010

Applicant	: Robin Gruber	: DECISION ON REQUEST FOR
Patent Number	: 7650187	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/989,381	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/17/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **468** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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JAN 25 2006

TECHNOLOGY CENTER 2100

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

In re Application of: SHITOMI et al.
Application No. 10/989,392
Filed: November 17, 2004
For: METHOD FOR CREATING AN OBJECT-LEVEL SNAPSHOT IN A STORAGE SYSTEM

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed 22 December 2005 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in **37 CFR 1.17(h)**;

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

In those instances where the request for this special status does not meet all the prerequisites set forth above, **applicant will be notified and the defects in the request will be stated**. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Technology Center (TC) Special Program Examiner.

The petition filed 22 December 2005 fails to adequately meet requirement (e) of the criteria set forth above. The discussion of the references does not point out with the particularity required by 37 CFR 1.111(b) and (c) how the claimed subject matter is patentable over the references. Some of the limitations purporting to distinguish independent claim 19 from each reference do not appear to be in this claim. Claim 19 fails to require "sending a write command including the PID and the OID *of an object associated with the FID* to a snapshot module at a storage system" (emphasis added).

Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

ds

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SUITE 370
ALEXANDRIA, VA 22314

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AUG 18 2006

Technology Center 2100

In re Application of: Shitomi, et al.
Application No. 10/989,392
Filed: November 17, 2004
For: SYSTEM AND METHOD FOR CREATING AN OBJECT-LEVEL SNAPSHOT IN A STORAGE SYSTEM

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER M.P.E.P. §708.02 (VIII)

This is a decision on the Request for Reconsideration filed February 8, 2006 on the petition to make special under 37 C.F.R. §102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, originally filed on December 22, 2005, and dismissed on January 25, 2006.

The Petition is **GRANTED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Petition to Make Special **GRANTED** since all of the requirements for special status under MPEP § 708.02(VIII) have been met.

The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

PEARL COHEN ZEDEK LATZER, LLP
1500 BROADWAY, 12TH FLOOR
NEW YORK NY 10036

In re Application of:
GINZBURG, BORIS, et al.
Application Serial No.: 10/989,409
Filed: November 17, 2004
For: **METHOD AND APPARATUS OF SCANNING CONTROL SIGNAL**

ACCEPTANCE OF PAPERS

This is a decision on the petition filed August 1, 2008 to accept the a response to a non-final Office action originally filed on May 5, 2008 pursuant to 37 C.F.R.§ 1.6. No fee is required.

The petition is **GRANTED.**

Petitioner requests that a copy of a response to the non-final Office action mailed February 4, 2008, setting a three month shortened statutory period for response, be entered into the record of the application as being timely filed. Petitioner provides evidence including a facsimile receipt showing receipt of an original response on May 5, 2008 (May 4, 2008 being a Sunday.) Also included with the petition is a copy of the response.

Accordingly, the copy of the response will be entered as being timely in response to the non-final Office action mailed February 4, 2008.

Kenneth A. Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

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Shiloh et al.
C/O INTELLEVATE , LLC
P.O BOX 52050
MINNEAPOLIS, MN 55402

Mail Date: 04/21/2010

Applicant	: Boris Ginzburg	: DECISION ON REQUEST FOR
Patent Number	: 7602755	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/989,409	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/17/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **890** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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HONEYWELL/IFL
Patent Services
101 Columbia Road
P.O.Box 2245
Morristown, NJ 07962-2245

Mail Date: 04/20/2010

Applicant	: Jyh-Woei J. Lu	: DECISION ON REQUEST FOR
Patent Number	: 7635405	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/989,446	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1400** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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BOSTON MA 02110

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OFFICE OF PETITIONS

In re Application of
Wang et al.
Application No. 10/989,448
Filed: November 12, 2004
For: GRATINGS, RELATED OPTICAL DEVICES AND SYSTEMS, AND METHODS OF MAKING SUCH GRATINGS
Attorney Docket No. 17142-007001

: Decision on
: Petition

The above-identified application has been forwarded to this office for consideration of the paper styled "Request to Rescind Request For Early Publication Request" received on March 18, 2005, which is being treated as a petition under 37 CFR 1.182 for Questions Not Specifically Provided For.

The petition is granted.

Applicant requested early publication on November 12, 2004. The application was scheduled for early publication on June 23, 2005. The application has been rescheduled for publication on January 5, 2006.

The petition fee of $400.00 under 37 CFR 1.17(f) has been charged to petitioners' Deposit Account No. 06-1050. The publication fee will not be refunded, as the fee was properly paid by applicant. See 37 CFR 1.26(a). Applicant requested early publication and he was properly charged the publication fee.

Telephone inquiries regarding this communication should be directed to Mark O. Polutta at (571) 272-7709.

Mark O. Polutta for KF

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

In re Application of	:	
Albert Behar et al	:	
Application No. 10/989,455	:	DECISION ON PETITION
Filed: November 17, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. JHN-1560-43	:	

This is a decision on the petition, filed July 20, 2007 and supplemented on November 1, 2007, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on November 8, 2005. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of February 7, 2008 accompanies this decision on petition.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This application is being referred to Technology Center Art Unit 2628 for examination in due course.

Irvin Dingle
Petition Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/989,455	11/17/2004	Albert Behar	JHN-1560-43

CONFIRMATION NO. 4616

23117
NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

NONPUBLICATION RESCISSION LETTER

OC000000026572328

Date Mailed: 11/01/2007

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 02/07/2008.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".