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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/989,473	11/16/2004	Leon E. Moore	27441.008N1	5471

36122 7590 07/25/2008
THE OLLILA LAW GROUP LLC
2060 BROADWAY
SUITE 300
BOULDER, CO 80302

EXAMINER	
WRIGHT, PATRICIA KATHRYN	
ART UNIT	**PAPER NUMBER**
1797	

MAIL DATE	DELIVERY MODE
07/25/2008	PAPER

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

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

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7-25-08

dss

In re application of :
Leon E. Moore. : DECISION ON
Serial No.10/989,473 PETITION
Filed: November 16, 2004 :
For: ANALYTICAL ROTOR SYSTEM WITH A SAMPLE CHAMBER

This is a decision on the PETITION UNDER 37 CFR 1.144 filed April 09, 2008 to withdraw the restriction requirement mailed July 06, 2007 and made final in the office action mailed August 22, 2007.

On July 06, 2007, a three way restriction requirement was made by the examiner. The group of claims as set forth in the requirement were directed to combination/subcombination appratus(analytical rotor system and plurality of rotor blocks) in Group I and Group II, and Group III process of using an analytical rotor system. Applicants traversed the restriction requirement in a response filed August 03, 2007 by stating that the reasons supplied by the examiner to show distinctness of the groups was improper. The examiner prepared an office action based on the elected group I and made the restriction requirement final. This office action was mailed August 22, 2007.

On April 09, 2008, the instant petition under 37 CFR 1.144 was timely filed to formally request the withdrawal of the restriction requirement.

Applicant's position for the withdrawal of the restriction requirement is that the examiner has not shown that the separate groups are distinct.

DECISION

Sections 803 and 806.05(e) of the MPEP states:

803 Restriction - When Proper
Under the statute an application may properly be required to be restricted to one of two or more claimed inventions only if they are able to support separate patents and they are either independent (MPEP § 806.04 - § 806.04(i)) or distinct (MPEP § 806.05 - §806.05(i)).

If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

806.05(e) [R-5] Process and Apparatus for Its Practice
Process and apparatus for its practice can be shown to be distinct inventions, if either or both of the following can be shown: (A) that the process as claimed can be practiced by another materially different apparatus or by hand; or (B) that the apparatus as claimed can be used to practice another materially different process.

In the office action, the examiner stated that the claims directed to the analytical rotor system and the claims directed to the method of using are distinct because the process can be practiced by hand or another and materially different apparatus(rotating automatic analyzer).

Petitioner argues that such an alternative apparatus can not be used to practice the instantly claimed process and therefore, that Group I and Group III are not distinct. Petitioner argues that Group III can not be practiced by hand as the claims require specific apparatus structure and MPEP 806.05(e) states that in order to practice a process by hand it requires performing the steps without using any apparatus. This argument is found persuasive. Petitioner further argues that Group II process can not be practiced by a rotating automatic analyzer as found in Curtis et al(US Patent No. 4,390,499) cited by the examiner as an example in support of the reasoning that the two inventions are distinct. Per MPEP 806.05(e):

> The burden is on the examiner to provide reasonable examples that recite material differences.
>
> If applicant proves or provides convincing argument that there is no material difference or that a process cannot be performed by hand (if examiner so argued), the burden is on the examiner to document another materially different process or apparatus or withdraw the requirement.

Petitioner argues that claim 40 of Group III recites "manually installing the first rotor block and the second rotor block on a rotor base. Even assuming arguendo that the Examiner's interpretation is reasonable, it is unfathomable to Applicant how it could reasonably be construed that the compartments 3 and 4 are manually installed on the compartment 2." This argument is found persuasive in that first and second rotor blocks(3,4) are not manually installed on the rotor base(2) in Curtis but all being part of test pack 1 would be installed on the rotor 20 simultaneously see col. 8 lines 10-11. Accordingly, for at least this reason, an automatic rotating analyzer as in Curtis can not practice the process of Group III. This argument is found persuasive in that applicant has provided a convincing argument that there is no material difference and the examiner has not met the burden by documenting another materially different process or apparatus.

Accordingly, because the examiner has not shown distinctness between the apparatus claims Group I and the method of using claims Group III, the restriction as set forth by the examiner is improper and the petition is **GRANTED.**

The application is being forwarded to the examiner to prepare a new non-final office action which includes examination and action on the merits of the claims previously withdrawn from consideration due to the restriction requirement. Because Applicants have submitted an amendment filed May 12, 2008, the non-final office action should also address said response.

___/JACQUELINE STONE/___
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Jacqueline M. Stone, Director
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Chemical and Materials Engineering

Michael Pruden
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/989,474	11/16/2004	Leon E. Moore	27441.008N2	5469

36122 7590 05/06/2008

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EXAMINER	
WRIGHT, PATRICIA KATHRYN	

ART UNIT	PAPER NUMBER
1797	

MAIL DATE	DELIVERY MODE
05/06/2008	PAPER

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Mailed: 5-6-08

In re application of : DECISION ON
Leon E. Moore : PETITION
Serial No. 10/989,474 :
Filed: November 16, 2004 :
For: ANALYTIC ROTOR SYSTEM WITH A SAMPLE CHAMBER

This is a decision on the PETITION UNDER 37 C.F.R. § 1.181 REQUESTING WITHDRAWAL OF FINALITY OF OFFICE ACTION mailed February 13, 2008.

On August 22, 2007, a non-final office action was mailed to applicant which contained an objection to the specification, rejections of the claims under 35 U.S.C. § 112, first and second paragraphs, and rejections of the claims under 35 U.S.C. §§ 102 and 103. In this office action, the examiner rejected claims 1-12 and 15-23 as anticipated by Hammer (U.S. Patent No. 6,348,176). Subsequently, in a rejection under § 103 of claim 14, the examiner characterized Hammer as follows:

> Hammer does not teach the sample chamber is shaped so a fluid of the sample does not reach the sample port when the cartridge is at rest, but does reach the sample port when the sample port is spinning. [Non-Final Office Action mailed August 22, 2007 at page 11.]

It should be noted that these sample chamber limitations appear in claim 1.

On November 14, 2007, applicant responded by substantially amending the claims in order to address the outstanding rejections. The amended claims included the limitation regarding the shape of the sample chamber.

On February 13, 2008, a final office action was issued which included a new grounds for rejection under 35 U.S.C. § 102.

On March 7, 2008, the instant petition under 37 C.F.R. § 1.181 was timely filed to formally request the withdrawal of finality of the February 13, 2008 office action.

Applicant's position for the withdrawal of the finality is that no clear issue has been established between the examiner and applicant prior to the final rejection especially as it relates to the limitation regarding the sample chamber.

DECISION

Section 706.07 of the MPEP states:

> Before final rejection is in order a clear issue should be developed between the examiner and applicant. To bring the prosecution to as speedy conclusion as possible and at the same time to deal justly by both the applicant and the public, the invention as disclosed and claimed should be thoroughly searched in the first action and the references fully applied; and in reply to this action the applicant should amend with a view to avoiding all the grounds of rejection and objection. Switching from one subject matter to another in the claims presented by applicant in successive amendments, or from one set of references to another by the examiner in rejecting in successive actions claims of substantially the same subject matter, will alike tend to defeat attaining the goal of reaching a clearly defined issue for an early termination, i.e., either an allowance of the application or a final rejection.

In addition MPEP 706.07(a) states:

> Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

The first office action contained a rejection of claim 1 as anticipated by Hammer. Subsequently, the examiner rejected claim 14 (which depended from claim 1) under 103 and stated that Hammer did not teach the structure of the sample chamber. The cited structure was present in claim 1. Thus, the office action admits that the anticipation rejection of claim 1 is improper. In the final rejection, a new ground of rejection was made over a new reference. The discrepancy that was present in the first office action made it impossible for the applicant and the examiner to develop a clear issue. As a result, the final rejection was premature.

Accordingly, because no clear issue has been developed between the examiner and the applicants; and because the final rejection was not necessitated by Applicant's amendments, the finality was improper and the petition is **GRANTED.**

It is also pointed out that while the finality of the office action has been withdrawn, the rejection still stands. Applicant's time for response to the March 7, 2008 office action continues to run. Extensions of time may be obtained to file any amendments. Such amendments will be treated as an amendment under 37 C.F.R. § 1.111 or 1.112 and will be entered.

/JACQUELINE STONE/

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/989,474	11/16/2004	Leon E. Moore	27441.008N2	5469

36122 7590 07/25/2008
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EXAMINER	
WRIGHT, PATRICIA KATHRYN	

ART UNIT	PAPER NUMBER
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07/25/2008	PAPER

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7-25-08

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In re application of :
Leon E. Moore. : DECISION ON
Serial No.10/989,474 : PETITION
Filed: November 16, 2004 :
For: ANALYTICAL ROTOR SYSTEM WITH A SAMPLE CHAMBER

This is a decision on the PETITION UNDER 37 CFR 1.144 filed April 07, 2008 and the corrected petition filed April 10, 2008 to withdraw the restriction requirement mailed July 06, 2007 and made final in the office action mailed August 22, 2007.

On July 06, 2007, a three way restriction requirement was made by the examiner. The group of claims as set forth in the requirement were directed to related products(analytical rotor systems) in Group I and Group II, and Group III process of using an analytical rotor system. Applicants traversed the restriction requirement in a response filed August 03, 2007 by stating that the reasons supplied by the examiner to show distinctness of the groups was improper. The examiner prepared an office action based on the elected group and made the restriction requirement final. This office action was mailed August 22, 2007.

On April 7, 2008 and April 10, 2008, the instant petition under 37 CFR 1.144 was timely filed to formally request the withdrawal of the restriction requirement.

Applicant's position for the withdrawal of the restriction requirement is that the examiner has not shown that the separate groups are distinct.

DECISION

Sections 803 and 806.05(e) of the MPEP states:

803 Restriction - When Proper
Under the statute an application may properly be required to be restricted to one of two or more claimed inventions only if they are able to support separate patents and they are either independent (MPEP § 806.04 - § 806.04(i)) or distinct (MPEP § 806.05 - §806.05(i)).

If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

806.05(e) [R-5] Process and Apparatus for Its Practice
Process and apparatus for its practice can be shown to be distinct inventions, if either or both of the following can be shown: (A) that the process as claimed can be practiced by another materially different apparatus or by hand; or (B) that the apparatus as claimed can be used to practice another materially different process.

In the office action, the examiner stated that the claims directed to the analytical rotor system and the claims directed to the method of using are distinct because the process can be practiced by hand or another and materially different apparatus(rotating automatic analyzer).

Petitioner argues that such an alternative apparatus can not be used to practice the instantly claimed process and therefore, that Group I and Group III are not distinct. Petitioner argues that Group III can not be practiced by hand as the claims require specific apparatus structure and MPEP 806.05(e) states that in order to practice a process by hand it requires performing the steps without using any apparatus. This argument is found persuasive. Petitioner further argues that Group II process can not be practiced by a rotating automatic analyzer as found in Curtis et al(US Patent No. 4,390,499) cited by the examiner as an example in support of the reasoning that the two inventions are distinct. Per MPEP 806.05(e):

> The burden is on the examiner to provide reasonable examples that recite material differences.
>
> If applicant proves or provides convincing argument that there is no material difference or that a process cannot be performed by hand (if examiner so argued), the burden is on the examiner to document another materially different process or apparatus or withdraw the requirement.

Petitioner argues that claim 46 of Group III recites "the sample chamber is shaped so a fluid level of the sample does not reach the sample ports while the sample chamber is at rest, but the fluid level of the sample does reach the sample ports when the sample chamber is spinning. The rotor of Curtis does not possess this feature instead using seals to prevent fluid level of the sample from reaching the sample ports . Accordingly, for at least this reason, an automatic rotating analyzer as in Curtis can not practice the process of Group III. This argument is found persuasive in that applicant has provided a convincing argument that there is no material difference and the examiner has not met the burden by documenting another materially different process or apparatus.

Accordingly, because the examiner has not shown distinctness between the apparatus claims Group I and the method of using claims Group III, the restriction as set forth by the examiner is improper and the petition is **GRANTED.**

The application is being forwarded to the examiner to prepare a new non-final office action which includes examination and action on the merits of the claims previously withdrawn from consideration due to the restriction requirement. Because Applicants have submitted an amendment filed May 12, 2008, the non-final office action should also address said response.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/989,475	11/16/2004	Leon E. Moore	27441.008N3	5467

36122 7590 07/25/2008

THE OLLILA LAW GROUP LLC
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EXAMINER	
WRIGHT, PATRICIA KATHRYN	

ART UNIT	PAPER NUMBER
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MAIL DATE	DELIVERY MODE
07/25/2008	PAPER

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7-25-08

dss

In re application of :
Leon E. Moore. : DECISION ON
Serial No.10/989,475 PETITION
Filed: November 16, 2004 :
For: ANALYTICAL ROTOR SYSTEMFOR TITRATION TESTING

This is a decision on the PETITION UNDER 37 CFR 1.144 filed April 09, 2008 to withdraw the restriction requirement mailed Jul 06, 2007 and made final in the office action mailed August 22, 2007.

On July 06, 2007, a three way restriction requirement was made by the examiner. The group of claims as set forth in the requirement were directed to combination/ subcombination apparatus(analytical rotor systems and rotor blocks) in Group I and Group II, and Group III process of using an analytical rotor system. Applicants traversed the restriction requirement in a response filed August 03, 2007 by stating that the reasons supplied by the examiner to show distinctness of the groups was improper. The examiner prepared an office action based on the elected group and made the restriction requirement final. This office action was mailed August 22, 2007.

On April 09, 2008, the instant petition under 37 CFR 1.144 was timely filed to formally request the withdrawal of the restriction requirement.

Applicant's position for the withdrawal of the restriction requirement is that the examiner has not shown that the separate groups are distinct.

DECISION

Sections 803 and 806.05(e) of the MPEP states:

803 Restriction - When Proper .
Under the statute an application may properly be required to be restricted to one of two or more claimed inventions only if they are able to support separate patents and they are either independent (MPEP § 806.04 - § 806.04(i)) or distinct (MPEP § 806.05 - §806.05(i)).

If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

806.05(e) [R-5] Process and Apparatus for Its Practice
Process and apparatus for its practice can be shown to be distinct inventions, if either or both of the following can be shown: (A) that the process as claimed can be practiced by another materially different apparatus or by hand; or (B) that the apparatus as claimed can be used to practice another materially different process.

In the office action, the examiner stated that the claims directed to the analytical rotor system and the claims directed to the method of using are distinct because the process can be practiced by hand or another and materially different apparatus(rotating automatic analyzer).

Petitioner argues that such an alternative apparatus can not be used to practice the instantly claimed process and therefore, that Group I and Group III are not distinct. Petitioner argues that Group III can not be practiced by hand as the claims require specific apparatus structure and MPEP 806.05(e) states that in order to practice a process by hand it requires performing the steps without using any apparatus. This argument is found persuasive. Petitioner further argues that Group II process can not be practiced by a rotating automatic analyzer as found in Curtis et al(US Patent No. 4,390,499) as recited in the instant petition.

"Applicant respectfully points out that the rotating automatic analyzer of Curtis is not capable of performing the processes recited in Group III. Claim 19 of Group III recites "loading the sample into the rotor base" and "the rotor base transfers the sample to the rotor block". Curtis does not teach or suggest a rotor base that has a sample loaded therein or a rotor that transfers a sample to a rotor block. In Curtis, serum and diluent are injected via aperture 15 into the sample chamber 2 prior to placement of the test package 1 in the rotor 20. Curtis, Col. 9, 11.20-30. Thus, in Curtis, the serum and diluent are not placed within the rotor and transferred from the rotor to the test package 1. Accordingly, the rotor 20 of Curtis is incapable of performing these steps. Therefore, Applicant respectfully points out that the inventions of Group III could not be practiced in conjunction with the device of Curtis."

Per MPEP 806.05(e):

> The burden is on the examiner to provide reasonable examples that recite material differences.
>
> If applicant proves or provides convincing argument that there is no material difference or that a process cannot be performed by hand (if examiner so argued), the burden is on the examiner to document another materially different process or apparatus or withdraw the requirement.

This argument is found persuasive in that applicant has provided a convincing argument that there is no material difference and the examiner has not met the burden by documenting another materially different process or apparatus nor explained how an

automatic rotating analyzer would function in response to applicant's arguments that such would not work in the final restriction requirement of August 22, 2007..

Accordingly, because the examiner has not shown distinctness between the apparatus claims Group I and the method of using claims Group III, the restriction as set forth by the examiner is improper and the petition is **GRANTED.**

The application is being forwarded to the examiner to prepare a new non-final office action which includes examination and action on the merits of the claims previously withdrawn from consideration due to the restriction requirement.

/JACQUELINE STONE/

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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/7/09 Paper No.: —

TO SPE OF : ART UNIT 1794

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/989,478 Patent No.: 7,364,648 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.

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

Comments: All changes acceptable per review of prosecution history.

/Kevin M. Bernatz/ Primary Examiner, Art Unit 1794 10/22/09

OK TO ENTER: /KB/

2309.71965 PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Noma et al.
Serial No.:	10/989,478
Patent No.:	7,564,648 B2
Conf. No.:	5465
Filed:	11/16/2004
Issued:	July 21, 2009
For:	MAGNETIC FILM FOR MAGNETIC DEVICE
Art Unit:	1794
Examiner:	Bernatz, Kevin M.

REQUEST FOR CERTIFICATE OF CORRECTION UNDER RULE 323

Certificate of Corrections Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In accordance with 37 C.F.R. 1.323, patentees, through their attorneys, respectfully request that a Certificate of Correction be issued in the above-referenced patent to correct the following error(s):

In the Claims:

Col. 6, Line 43 Claim 1	Please delete "sputtering" and insert --spattering-- in its place.
Col. 7, Line 3 Claim 6	Please delete "sputtering" and insert --spattering-- in its place.
Col. 8, Line 8 Claim 9	Please delete "sputtering" and insert --spattering-- in its place.

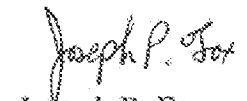
REMARKS

It is believed that an issuance of a Certificate of Correction would be appropriate to correct the above clerical error(s). A Certificate of Correction incorporating the above-delineated change(s) is enclosed herewith.

Patentees authorize the appropriate fee of $100.00, pursuant to 37 C.F.R. § 1.20(a), to be charged to Deposit Account No. 07-2069. The Commissioner is also authorized to charge any additional fees to Deposit Account No. 07-2069.

Respectfully submitted,

GREER, BURNS & CRAIN, LTD.

By 

Joseph P. Fox
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PTO/SB/44 (02-01)
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(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : 7,564,648 B2

DATED : July 21, 2009

INVENTOR(S) : Noma et al.

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

In the Claims:

Col. 6, Line 43 Claim 1	Delete "sputtering" and insert --spattering-- in its place.
Col. 7, Line 3 Claim 6	Delete "sputtering" and insert --spattering-- in its place.
Col. 8, Line 8 Claim 9	Delete "sputtering" and insert --spattering-- in its place.

MAILING ADDRESS OF SENDER:

Patrick G. Burns
GREER, BURNS & CRAIN, LTD.
300 South Wacker Drive, 25th Floor
Chicago, IL 60606

PATENT NO 7,564,648

No. of additional copies 1

2309.71965

Burden Hour Statement: This form is estimated to take 1.0 hour to complete. Time will vary depending upon the needs of the individual case. Any comment on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

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BAKER & HOSTETLER LLP
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1050 CONNECTICUT AVENUE, N.W.
WASHINGTON DC 20036

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MAY 1 2 2008

OFFICE OF PETITIONS

In re Application of	:	
Troy Liebl et al	:	
Application No. 10/989,503	:	DECISION GRANTING PETITION
Filed: November 17, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 87355.9240	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 9, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 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 3661 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the IDS filed March 14, 2008.

Karen Creasy
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE

Robert, Mlolkowski & Hobbes
P. O. Box 10064
McLean, Va. 22102-8064

In re Application of	:	
Ichiro Katayama, et al.	:	
Application No. 10/989,513	:	**DECISION ON PETITION**
Filed: November 17, 2004	:	
Attorney Docket No. 740107-180	:	

This is a decision on the Petition 1.181(b) To Revive Application Abandoned By USPTO Error, received in the United States Patent & Trademark Office (USPTO) via facsimile transmission on June 15, 2006, which is being Treated as a Petition To Withdraw Holding Of Abandonment under 37CFR 1.181.

The petition is **DISMISSED**.

The above-identified application was held abandoned for applicant's failure to timely pay the issue fee, as required in the Notice of Allowance and Fee(s) Due mailed January 17, 2006. The Notice of Abandonment, mailed on June 8, 2006 indicates, "The submitted fee of $300.00 is insufficient. A balance of $1400 is due".

The Office acknowledges receipt of Part B – Fee(s) Transmittal via facsimile transmission on March 15, 2006, authorizing that the Issue Fee be charged to Deposit Account No. 50-2478. On March 15, 2006, when an attempt was made by the Office of Finance to charge the fees, there were insufficient funds in the Deposit Account to charge the required fee.

37 CFR 1.25 (a) and (b), which states in part:

> 1.25(a) ...An amount sufficient to cover all fee, services, copies, etc., requested must always be on deposit. Charges to accounts with insufficient funds will not be accepted."
>
> 1.25 (b) ...An authorization to charge a fee to a deposit account will not be considered payment of the fee on the date the authorization to charge the fee is effective as to the particular fee to be charged unless sufficient funds are present in the account to cover the fee.

In light of the non-compliance with 37 CFR 1.25, the holding of abandonment cannot be withdrawn.

Applicant may seek relief by filing a petition for Revival of Abandoned Application under CFR § 1.137 (a) or (b). (Forms are available at USPTO website http://www.uspto.gov)

- Under 37 CFR 1.137(a), a petition for the revival of an ***unavoidable*** abandoned application
- Under 37 CFR 1.137(b), a petition for the revival of an ***unintentionally*** abandoned application

Further inquires with respect to filing a petition under 37 CFR § 1.137 may be directed to the Office of Petitions at 571-272-3282 or addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
Office of Petitions
P O Box 1450
Alexandria, VA 22313-1450

Telephone inquires concerning this decision matter may be directed to the undersigned at 703-308-9250 ext. 167.

Brenda J. Moore
Quality Operations Assistant
Office of the Director
Office of Patent Publications

UNITED STATES PATENT AND TRADEMARK OFFICE

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ROBERTS, MLOTKOWSKI & HOBBES
P. O. BOX 10064
MCLEAN VA 22102-8064

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JAN 31 2007

OFFICE OF PETITIONS

In re Application of
Katayama et al.
Application No. 10/989,513
Filed: November 17, 2004
Attorney Docket Number: 740107-180
Title of Invention: Method of Truing Chamfering Grindstone and Chamfering Device

ON PETITION

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

This application became abandoned for failure to timely submit the issue and publication fees, as required by the Notice of Allowance and Fee (s) Due which was mailed January 17, 2006. The Notice of Allowance and Fee (s) Due set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on April 18, 2006. A Notice of Abandonment was mailed was mailed on June 8, 2006. A petition under 37 CFR 1.181 was dismissed on August 30, 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 Patent Publication for processing into a patent.

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
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JONES DAY
222 East 41st Street
New York NY 10017-6702

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OCT 17 2007

OFFICE OF PETITIONS

In re Patent No. 7,214,684 :
Issue Date: May 8, 2007 :
Application No. 10/989,514 : ON PETITION
Filed: November 17, 2004 :
Attorney Docket No. 4821-557-999 :

This is a decision on (1) the petition under 37 CFR CFR 3.81(b) to permit the correct names of the assignees to be provided after issuance of the above-identified patent and (2) the petition under 37 CFR 1.182 to substitute a prior filed terminal disclaimer for the terminal disclaimer filed on May 30, 2007. The petitions were filed on May 30, 2007.

The request under 37 CFR 3.81(b)[1] to correct the names of the assignees on the front page of the above-identified patent by way of a Certificate of Correction is **granted**.

The petition under 37 CFR 1.182 that the USPTO accept a concurrently filed "replacement" Terminal Disclaimer is **granted** as indicated below.

Petitioner notes that the terminal disclaimer of record, filed March 29, 2006, inadvertently names only a partial assignee, Sepracor Inc., rather than the assignees of the entire interest at the time the disclaimer was filed, which were, and remain, Sepracor Inc. and University of Massachusetts. It is noted that both the instant patent and the patent referenced in the terminal disclaimer were at all relevant times then and are now commonly assigned. Petitioner seeks USPTO acceptance of the instant "replacement" disclaimer, which names Sepracor Inc. and University of Massachusetts as the assignees of both the referenced patent and the instant patent, to correct any inadvertent flaw in the original disclaimer.

While the USPTO will not grant a request to withdraw or amend a recorded terminal disclaimer in an issued patent on the grounds that the rules of practice and 35 U.S.C. 253 do not include a mechanism for withdrawal or amendment of such a terminal disclaimer, see MPEP 1490; Bayer AG v. Carlsbad Technology Inc., 298 F.3d 1377, 64 USPQ2d 1045, 1048-49 (CAFC 2002), as

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

the newly filed, corrective Terminal Disclaimer is regular in form and the requisite fee has been paid, the disclaimer is accepted, has been placed in this file, and thus has been recorded against the instant patent within the meaning of 35 U.S.C .253 and 37 CFR 1.321, as of its date of receipt. See Vectra Fitness Inc. v. TNWK Corp., 162 F.3d 1379, 49 USPQ2d 1144 (Fed. Cir. 1999).

As such, any flaw in the previous terminal disclaimer is overcome.

As the presentation of the instant disclaimer in proper form and its fee "dates back" under 35 U.S.C. 253 to the original patent date, it is redundant to also consider a Certificate of Correction. See In re Hyman, 185 USPQ 441 (Pat. Off. Sol. 1975); Vectra at 1384, 49 USPQ2d at 1148. Moreover, the instant patent already facially indicates that it is subject to a Terminal Disclaimer. As such, the instant patent file record, as it has been open to public inspection since the date of issuance, is adequate notice to the public of this decision, and of the acceptance of the corrective disclaimer. Vectra, Id.

The file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction to name both Sepracor, Inc. and University of Massachusetts as assignees. After issuance of the Certificate of Correction, it will be returned to the Files Repository.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3230. Inquiries regarding the issuance of a Certificate of Correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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JUL 23 2007

TECHNOLOGY CENTER 3600

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

In re Application of :
MICHAEL C. WELLS :
SERIAL NO.: 10/989,543 :
FILED: November 17, 2004 :
FOR: METHOD OF CALIBRATING AN ADAPTIVE ARRAY ANTENNA OF A SATELLITE NAGIVATION SYSTEM

DECISION ON PETITION
UNDER 37 CFR 1.181

This is a decision on the petition filed May 21, 2007 under 37 CFR 1.181 to invoke the supervisory authority of the Commissioner to withdraw the finality of the office action mailed May 10, 2007.

The petition is GRANTED.

On Sept. 28, 2006 a non-final action was made which included a rejection of claim 2 under 35USC 112 2nd paragraph because it was dependent on indefinite claim 1. Applicant's response on February 7, 2007 amended some claims but not claim 2. The May 10, 2007 Final office action contained a new 35USC 112 2nd paragraph rejection of claim 2 as indefinite for containing the phrase "unoptimized receiver data is sampled". This phrase was not previously identified by the examiner as indefinite.

Applicant correctly argued that the rejection was not necessitated by an amendment and thus the finality of the action is not proper.

Applicant is correct. The finality of the May 10, 2007 office action was not necessitated by an amendment as required by MPEP 706.07(a).

The finality of the office action is withdrawn. The 3 month period for response to the office action mailed May 10, 2007 continues to run.

Donald T. Hajec
Director, T.C. 3600
571-272-5150
tht: 7-11-2007

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JAMES W. WIEGAND
60 STATE STREET
SUITE 700
BOSTON, MA 02109

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JAN 18 2006

OFFICE OF PETITIONS

In re Application of	:	
Michael Phipps Guthrie	:	
Application No. 10/989,564	:	DECISION ON PETITION
Filed: November 16, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. Guthrie1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 12, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

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

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

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

This application became abandoned for failure to timely reply to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed December 15, 2004, which set a period for reply of two months, which required submission of the following items to avoid abandonment of the application:

1. $1 to complete the statutory basic filing fee;
2. $65 surcharge fee;
3. $25 additional claim fee;
4. replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121.

The Office received items 1-3 above; however, there is no indication that replacement drawings were submitted. Therefore, the petition cannot be granted as it lacks the complete reply necessary to satisfy the requirements of the Notice of December 15, 2004.

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

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

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

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

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

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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JAMES W. WIEGAND
60 STATE STREET
SUITE 700
BOSTON, MA 02109

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MAR 10 2006

OFFICE OF PETITIONS

In re Application of :
Michael Phipps Guthrie :
Application No. 10/989,564 : DECISION ON PETITION
Filed: November 16, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. Guthrie1 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed January 31, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed December 15, 2004, which set a period for reply of two months, which required submission of the following items to avoid abandonment of the application:

1. $1 to complete the statutory basic filing fee;
2. $65 surcharge fee;
3. $25 additional claim fee;
4. replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the above items required by the Notice of December 15, 2004; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of December 15, 2004 is accepted as having been unintentionally delayed.

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

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

Frances Hicks
Petitions Examiner
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/989,570	11/16/2004	Leon E. Moore	27441.008N4	2770

36122 7590 07/25/2008

THE OLLILA LAW GROUP LLC
2060 BROADWAY
SUITE 300
BOULDER, CO 80302

EXAMINER	
WRIGHT, PATRICIA KATHRYN	

ART UNIT	PAPER NUMBER
1797	

MAIL DATE	DELIVERY MODE
07/25/2008	PAPER

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

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

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7-25-08

dss

In re application of :
Leon E. Moore. : DECISION ON
Serial No.10/989,570 : PETITION
Filed: November 16, 2004 :
For: ANALYTICAL ROTOR SYSTEM FOR METHOD OF STANDARD ADDITIONS TESTING

This is a decision on the PETITION UNDER 37 CFR 1.144 filed April 07, 2008 to withdraw the restriction requirement mailed July 06, 2007 and made final in the office action mailed August 22, 2007.

On July 06, 2007, a three way restriction requirement was made by the examiner. The group of claims as set forth in the requirement were directed to combination/subcombination apparatus(analytical rotor system and plurality of rotor blocks) in Group I and Group II, and Group III process of using an analytical rotor system. Applicants traversed the restriction requirement in a response filed August 03, 2007 by stating that the reasons supplied by the examiner to show distinctness of the groups was improper. The examiner prepared an office action based on the elected group I and made the restriction requirement final. This office action was mailed August 22, 2007.

On April 07, 2008, the instant petition under 37 CFR 1.144 was timely filed to formally request the withdrawal of the restriction requirement.

Applicant's position for the withdrawal of the restriction requirement is that the examiner has not shown that the separate groups are distinct.

DECISION

Sections 803 and 806.05(e) of the MPEP states:

803 Restriction - When Proper
Under the statute an application may properly be required to be restricted to one of two or more claimed inventions only if they are able to support separate patents and they are either independent (MPEP § 806.04 - § 806.04(i)) or distinct (MPEP § 806.05 - §806.05(i)).

If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

806.05(e) [R-5] Process and Apparatus for Its Practice
Process and apparatus for its practice can be shown to be distinct inventions, if either or both of the following can be shown: (A) that the process as claimed can be practiced by another materially different apparatus or by hand; or (B) that the apparatus as claimed can be used to practice another materially different process.

In the office action, the examiner stated that the claims directed to the analytical rotor system and the claims directed to the method of using are distinct because the process can be practiced by hand or another and materially different apparatus(rotating automatic analyzer).

Petitioner argues that such an alternative apparatus can not be used to practice the instantly claimed process and therefore, that Group I and Group III are not distinct. Petitioner argues that Group III can not be practiced by hand as the claims require specific apparatus structure and MPEP 806.05(e) states that in order to practice a process by hand it requires performing the steps without using any apparatus. This argument is found persuasive. Petitioner further argues that Group II process can not be practiced by a rotating automatic analyzer as found in Curtis et al(US Patent No. 4,390,499) cited by the examiner as an example in support of the reasoning that the two inventions are distinct. Per MPEP 806.05(e):

> The burden is on the examiner to provide reasonable examples that recite material differences.
>
> If applicant proves or provides convincing argument that there is no material difference or that a process cannot be performed by hand (if examiner so argued), the burden is on the examiner to document another materially different process or apparatus or withdraw the requirement.

Petitioner argues that claim 32 of Group III recites "manually installing the rotor block on a rotor base. Even assuming arguendo that the Examiner's interpretation is reasonable, it is unfathomable to Applicant how it could reasonably be construed that the compartments 3 and 4 are manually installed on the compartment 2." of Curtis. This argument is found persuasive in that rotor blocks(3,4) are not manually installed on the rotor base(2) in Curtis but all being part of test pack 1 would be installed on the rotor 20 simultaneously see col. 8 lines 10-11. Accordingly, for at least this reason, an automatic rotating analyzer as in Curtis can not practice the process of Group III. This argument is found persuasive in that applicant has provided a convincing argument that there is no material difference and the examiner has not met the burden by documenting another materially different process or apparatus.

Accordingly, because the examiner has not shown distinctness between the apparatus claims Group I and the method of using claims Group III, the restriction as set forth by the examiner is improper and the petition is **GRANTED.**

The application is being forwarded to the examiner to prepare a new non-final office action which includes examination and action on the merits of the claims previously withdrawn from consideration due to the restriction requirement. Because Applicants have submitted an amendment filed April 07, 2008, the non-final office action should also address said response.

__/JACQUELINE STONE/__
Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Michael Pruden
THE OLLILA LAW GROUP LLC
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SUITE 300
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UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/989,570	11/16/2004	Leon E. Moore	27441.008N4	2770

36122 7590 08/20/2008
THE OLLILA LAW GROUP LLC
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SUITE 300
BOULDER, CO 80302

EXAMINER	
WRIGHT, PATRICIA KATHRYN	
ART UNIT	**PAPER NUMBER**
1797	

MAIL DATE	DELIVERY MODE
08/20/2008	PAPER

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

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8/20/08

caf

Mailed:

In re application of	:	
MOORE	:	DECISION ON
Serial No. 10/989,570	:	PETITION
Filed: November 16, 2004	:	
For: ANALYTICAL ROTOR SYSTEM FOR METHOD OF STANDARD ADDITIONS TESTING	:	

This is a decision on the PETITION UNDER 37 CFR §1.144 FROM FINAL DECISION OF EXAMINER REQUIRING RESTRICTION filed April 7, 2008.

On July 6, 2007, a restriction requirement was mailed to Applicant. Applicants traversed the requirement in a response filed on August 3, 2007. The examiner made the requirement final in an office action mailed August 23, 2007.

Petitioner argues that the examiner has not properly established that the process and apparatus for its practice are distinct inventions.

DECISION

Section 806.05 of the MPEP states:

806.05 Related Inventions
Where two or more related inventions are being claimed, the principal question to be determined in connection with a requirement to restrict or a rejection on the ground of double patenting is whether or not the inventions as claimed are distinct. If they are distinct, restriction may be proper. If they are not distinct, restriction is never proper. If nondistinct inventions are claimed in separate applications or patents, double patenting must be held, except where the additional applications were filed consonant with a requirement to restrict in a national application.
The various pairs of related inventions are noted in the following sections.

806.05(e) Process and Apparatus for Its Practice — Distinctness
In applications claiming inventions in different statutory categories, only one-way distinctness is generally needed to support a restriction requirement. See MPEP § 806.05(c).
Process and apparatus for its practice can be shown to be distinct inventions, if either or both of the following can be shown: (A) that the process as claimed can be practiced by

another materially different apparatus or by hand; or (B) that the apparatus as claimed can be used to practice another and materially different process.
If the apparatus claims include a claim to "means" for practicing the process, the claim is a linking claim and must be examined with the elected invention. If it is ultimately allowed, rejoinder is required. See MPEP § 809.04.

In the present application, there are two groups of claims. The first group of claims is directed towards an apparatus for performing the method. The second group is directed towards a method.

The examiner alleged in the restriction requirement that "In this case, the process as claimed can be practiced by another and materially different apparatus (rotating automatic analyzer) or by hand."

The burden is on the examiner to provide reasonable examples that recite material differences. The example provided by the examiner, i.e. a rotating automatic analyzer, does not recite material differences. The claimed analyzing device rotates (i.e. spins) and the word "automatic" does not establish a material difference. The fact that the claims would encompass the example provided by the examiner demonstrates that the claims are not in fact distinct for the reasons given by the examiner. Further, although the examiner alleged that the claimed method could be carried out by hand, the method recites several limitations which require apparatus. Because the examiner has not shown that the groups of claims are independent and distinct, the restriction requirement is not proper.

The instant petition is **GRANTED.** The examiner is directed to withdraw the requirement and prepare a new office action.

JMStone

Jacqueline M. Stone, Director
Technology Center 1700
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/989,581	11/16/2004	Leon E. Moore	27441.008N5	3593

36122 7590 02/10/2009

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BOULDER, CO 80302

EXAMINER	
WRIGHT, PATRICIA KATHRYN	

ART UNIT	PAPER NUMBER
1797	

MAIL DATE	DELIVERY MODE
02/10/2009	PAPER

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

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Mailed : 2/10/09

In re Application of
Moore
Serial No. 10/989,581
Filed: November 16, 2004
For: ANALYTICAL ROTOR SYSTEM WITH AN ANALYTICAL SIGNAL PATH

: DECISION ON
: PETITION

This is a decision on the PETITION FILED UNDER 37 CFR 1.144 and 1.181 TO WITHDRAW THE RESTRICTION REQUIREMENT made July 6, 2007 and made final on August 23, 2007.

On July 6, 2007, the Examiner set forth a three-way requirement.

I. Claims 1-17, drawn to an analytical rotor system, classified in class 422, subclass 72;

II. Claims 18-31, drawn to a plurality of rotor blocks, classified in class 435, subclass 288.4;

III. Claims 32-43, drawn to a method of using an analytical rotor system, classified in class 436, subclass 45.

On August 3, 2007 applicant elected with traverse Group I, claims 1-17.

Applicant asserts that the restriction requirement between the claims of Group I and the claims of Group III was improper and should be withdrawn. Group III is not distinct from Group I. Claims 18-31 (Group II) were cancelled by applicant on November 14, 2007.

The Examiner states that the processes of Group III can be practiced by a materially different apparatus since it could be practiced by the rotating automatic analyzer or by hand. Applicant further asserts that the process of Group III cannot be practiced by hand. Applicant refers to claim 32 of Group III reciting a number of steps that require the use of at least one apparatus, which would necessarily preclude practice by hand. Applicant states that the processes of Group III cannot be practiced by a rotating automatic analyzer.

The Examiner contends that the processes of Group III could be practiced by a rotating automatic analyzer of U.S. Patent 4,390,499 to Curtis et al. Applicants asserts that Curtis does not teach or suggest a rotor base that has a sample loaded therein or a rotor that transfers a sample to a rotor block. Therefore the invention of Group III could not be practiced in conjunction with the device of Curtis.

The Examiner asserts that the restriction requirement does not assert that the process of Group III could be practiced by Curtis. Rather, the Curtis reference has been cited by the examiner to support the assertion that the subcombination (group II) has separate utility by itself as is required in establishing distinctness between combination (group I) and subcombination (group II) inventions (MPEP 806.05(c)) .

The Examiner has taken the position that inventions III and (I, II) are related as process and apparatus for its practice. In this case, the process as claimed can be practiced by another and materially different apparatus (rotating automatic analyzer) or by hand. The burden is on the examiner to provide reasonable examples that recite material differences.

If applicant proves or provides convincing argument that there is no material difference or that a process cannot be performed by hand (if examiner so argued), the burden is on the examiner to document another materially different process or apparatus or withdraw the requirement. The Examiner has not pointed to any example of rotating automatic analyzer that is capable of performing the claimed processes nor has the Examiner explained how the processes could be practiced by hand. This argument is found persuasive in that applicant has provided a convincing argument that there is no material difference and the examiner has not met the burden by documenting another materially different process or apparatus.

Accordingly, because the examiner has not shown distinctness between the apparatus claims Group I and the method of using claims Group III, the restriction as set forth by the examiner is improper and the petition is granted

DECISION

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

The application is being forwarded to the examiner to prepare a new office action which includes examination and action on the merits of the claims previously withdrawn from consideration due to the restriction requirement.

Jacqueline M. Stone

Jacqueline M. Stone, Director
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Chemical and Materials Engineering

Michael Pruden
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JUN 28 2010

OFFICE OF PETITIONS

JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

In re Application of :
Mehta, et al. :
Application No. 10/989,623 : ON APPLICATION FOR
Filed: November 15, 2004 : PATENT TERM ADJUSTMENT
Atty Docket No.11825-007-999 :
(CAM: 24697

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)" filed March 29, 2010, which is properly treated under 37 CFR 1.705(b). Applicants submit that the patent term adjustment to be indicated on the patent is seven hundred and twenty-six (726) days, not two hundred and four (204) 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 § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

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

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

It is noted that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including –

---

[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.

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

It is further noted that a Request for Continued Examination (RCE) was filed in this application on April 21, 2009.

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 specific to this decision should be directed to the undersigned (571) 272-3222.

Kenya A. McLaughlin
Senior 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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APR 2 0 2005

Director's Office
Group 3700

Anthony M. Palazzolo Jr.
The Law Office of Anthony M. Palazzolo Jr.
285 Pendleton Hill Road
North Stonington, CT 06359

In re application of
Theodore B. Tomaiuolo

Serial Number: 10/989626
Filed: November 16, 2004

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 CFR. 1.102(c)

For: **PUNCTURE WOUND BANDAGE**

This is a decision on the petition filed on November 16, 2004, under 37 CFR. 1.102(c) to make special the above identified application because of the age/health of the applicant. Since the requirements of the M.P.E.P Section 708.02 IV have been met, the petition will be GRANTED.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only is Petitioner makes a prompt bona-fide effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the Examiner to accomplish this purpose.

Summary: Decision on Petition **GRANTED**.

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

rt: 4/20/05

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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PCE INDUSTRY, INC.
ATT. CHENG-JU CHIANG JEFFREY T. KNAPP
458 E. LAMBERT ROAD
FULLERTON CA 92835

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MAY 21 2007

OFFICE OF PETITIONS

In re Application of :
Chen, et al. :
Application No. 10/989,694 : ON PETITION
Filed: November 16, 2004 :
Attorney Docket No. 14963-47521 :

This is a decision on the request under 37 CFR 3.81(b)[1], filed January 29, 2007, to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) so that the Letters Patent will issue to the assignee.

The request is **DISMISSED**.

Petitioner states that the correct second assignee's name is Foxconn Technology Co., Ltd. (TW) and that an incorrect second assignee's name was included on the Part B - Fee(s) Transmittal form at the time of payment of the issue fee. Accordingly, petitioner requests that the patent issue to Fu Zhun Precision Industry (Shen Zhen) Co., Ltd. (China) and Foxconn Technology Co., Ltd. (TW).

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a)) and the processing fee set forth in § 1.17(i) of this chapter.

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

The request under 37 CFR 3.81(b) was not accompanied by a request for a certificate of correction (and fee) as required by 3.81(b). *See also* MPEP 1481.01. As petitioner has failed to comply with the provisions of 37 CFR 3.81(b), the request cannot be granted at this time.

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

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

7-16-07

Patent No. : 7,180,743
Ser. No. : 10/989,694
Inventor(s) : Chen, et. al.
Issued : February 20, 2007
Title : FASTENER FOR HEAT SINK
Docket No:

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 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 is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

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

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

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

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

Eva James
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext. 124** or 105

Tim Tingkang Xia
Morris, Manning & Martin
1600 Atlanta Financial Center
3343 Peachtree Road, NE
Atlanta, Georgia 30326-1044

ej

See attached letter

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PCE INDUSTRY, INC.
ATT. CHENG-JU CHIANG JEFFREY T. KNAPP
458 E. LAMBERT ROAD
FULLERTON CA 92835

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MAY 21 2007

OFFICE OF PETITIONS

In re Application of
Chen, et al.
Application No. 10/989,694
Filed: November 16, 2004
Attorney Docket No. 14963-47521

ON PETITION

This is a decision on the request under 37 CFR 3.81(b)[1], filed January 29, 2007, to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) so that the Letters Patent will issue to the assignee.

The request is **DISMISSED**.

Petitioner states that the correct second assignee's name is Foxconn Technology Co., Ltd. (TW) and that an incorrect second assignee's name was included on the Part B - Fee(s) Transmittal form at the time of payment of the issue fee. Accordingly, petitioner requests that the patent issue to Fu Zhun Precision Industry (Shen Zhen) Co., Ltd. (China) and Foxconn Technology Co., Ltd. (TW).

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a)) and the processing fee set forth in § 1.17(i) of this chapter.

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

The request under 37 CFR 3.81(b) was not accompanied by a request for a certificate of correction (and fee) as required by 3.81(b). *See also* MPEP 1481.01. As petitioner has failed to comply with the provisions of 37 CFR 3.81(b), the request cannot be granted at this time.

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

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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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MORRIS MANNING MARTIN LLP
3343 PEACHTREE ROAD, NE
1600 ATLANTA FINANCIAL CENTER
ATLANTA GA 30326

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NOV 26 2007

OFFICE OF PETITIONS

In re Patent No. 7,180,743 :
Issue Date: February 20, 2007 :
Application No. 10/989,694 : ON PETITION
Filed: November 16, 2004 :
Attorney Docket No. 14963-47521 :

This is a decision on the petition filed July 9, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

A review of Office financial records indicates that petitioner has paid two $130.00 processing fees. Only one is required. Petitioner's credit card will be refunded $130.00.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3230. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Christopher Tuason
1447 Pirates Cove
Houston TX 77058

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JUL 21 2008

OFFICE OF PETITIONS

In re Application of :
Tuason et al. :
Application No. 10989,707 : ON PETITION
Filed: November 15, 2004 :
Attorney Docket No. CT-242u :

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

The petition is **DISMISSED**.

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

This above-identified application became abandoned for failure to timely file a response to a final Office Action, which was mailed on June 13, 2007. The 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 September 14, 2007. A Notice of Abandonment was mailed on December 28, 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) (3).

The examiner has determined that the amendment submitted on petition does not place the application in condition for allowance. 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 on renewed petition must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(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

The centralized facsimile number is **(571) 273-8300.**

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

Charlema Grant
Petitions Attorney
Office of Petitions

Enclosure: advisory action

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 10/989,707	**Applicant(s)** TUASON, CHRISTOPHER	
	Examiner SEAN KAYES	**Art Unit** 2833	

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

THE REPLY FILED 31 December 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

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

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

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

NOTICE OF APPEAL

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

AMENDMENTS

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

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

   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1-20*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

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

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:

    _____.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☒ Other: See attached sheet.

Continuation of 13. Other:

The amendments of claims 14, 15, and 19 would require additional search and consideration.

The amendment to claim 1 is taught by Van Selst (see figure 7 and paragraph 29 page 2). The arguments that claims 2-13 are patentable because they depend from claim 1 is thus not persuasive.

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2200 ROSS AVENUE
SUITE 2800
DALLAS TX 75201-2784

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MAR 10 2006

OFFICE OF PETITIONS

In re Application of :
Colleran et al. :
Application No. 10/989,715 : ON PETITION
Filed: November 16, 2004 :
Attorney Docket No. 65677-P013CP2-PENDING :

This is a decision on the petition under 37 CFR 1.137(b), filed January 30, 2006, to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **DISMISSED.**

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

Petitioner states that the present nonprovisional application is the subject of an application filed in an eighteen-month publication country. Petitioner indicates that 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.

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

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

The present petition lacks item (1). In the present petition, petitioner did not indicate the filing date of the subsequently filed foreign or international application. The Office is unable to evaluate the petition on its merits without petitioner providing the correct filing date of the foreign or international application. This information must be provided with any renewed petition. Accordingly, the present application remains abandoned.

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

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

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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SUITE 2800
DALLAS TX 75201-2784

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OFFICE OF PETITIONS

In re Application of :
Colleran et al. :
Application No. 10/989,715 : ON PETITION
Filed: November 16, 2004 :
Attorney Docket No. 65677-P013CP2-PENDING :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed March 16, 2005, to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of an application filed in an eighteen-month publication country. Petitioner indicates that 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.

A petition to revive an application abandoned pursuant to
35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c) 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(f). The nonpublication request has been rescinded.

Accordingly, the failure to timely notify the Office of a foreign filing within 45 days as provided by 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

A Corrected Filing Receipt which sets forth the projected publication date accompanies this decision on petition.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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SUITE 2800
DALLAS TX 75201-2784

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APR 25 2006
OFFICE OF PETITIONS

In re Application of
Colleran et al.
Application No. 10/989,715
Filed: November 16, 2004
Attorney Docket No. 65677-P013CP2-PENDING

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed March 16, 2005, to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of an application filed in an eighteen-month publication country. Petitioner indicates that 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.

A petition to revive an application abandoned pursuant to
35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c) 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(f). The nonpublication request has been rescinded.

Accordingly, the failure to timely notify the Office of a foreign filing within 45 days as provided by 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

A Corrected Filing Receipt which sets forth the projected publication date accompanies this decision on petition.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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MIDDLETON & REUTLINGER
2500 BROWN & WILLIAMSON TOWER
LOUISVILLE, KY 40202

Mail Date: 04/21/2010

Applicant	: Dennis Colleran	: DECISION ON REQUEST FOR
Patent Number	: 7588575	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/989,715	: 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 **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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OFFICE OF PETITIONS

Liniak, Berenato & White
6550 Rock Spring Drive, Suite 240
Bethesda, MD 20817

In re Application of :
Alberto MONSONE, et al. :
Application No. 10/989,726 : DECISION ON PETITION
Filed: November 17, 2004 : TO WITHDRAW
Attorney Docket No. 4235.420 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 5, 2006.

The request is **APPROVED**.

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

The request was signed by Thomas P. Liniak.

Thomas P. Liniak has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The 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 Monica Graves at 571-272-7253.

David Bucci
Petitions Examiner
Office of Petitions

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DIGIMARC CORPORATION
9405 SW GEMINI DRIVE
BEAVERTON OR 97008

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OFFICE OF PETITIONS

In re Patent No. 7,537,170
Issued: May 26, 2009
Application No. 10/989,737
Filed: November 15, 2004
Attorney Docket No. P1043L

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT (Request for Reconsideration of PTO's Patent Term Adjustment Determination) (37 CFR 1.705(d))" filed May 29, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from seven hundred eight (708) days to one thousand ninety-three (1093) days.

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

On May 26, 2009, the above-identified application matured into US Patent No. 7,537,170 with a patent term adjustment of 708 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 1093 days, which includes 385 days of patent term adjustment due to exceeding three year pendency and 760 days due to USPTO delay in prosecution."

The 385-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on November 15, 2004, and the RCE being filed on December 4, 2008, three years and 385 days later. Patentees assert that in addition to this 385-day period, they are entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a), of 760 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 52 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 (385 days) and the period of Examination Delay (760 days) to the extent that these periods of delay are not overlapping. However, in effect, patentees contend that no portion of the Three Year Delay period overlaps with the period of 14-month examination delay. Accordingly, patentees submit that the total period of adjustment for Office delay is 1093 days, which is the sum of the period of Three Year Delay (385 days) and the period of Examination Delay (760 days), reduced by the period of overlap (0 days). As such, patentees assert entitlement to a patent term adjustment of 1093 days (760 + 385 reduced by 0 overlap – 52(applicant delay)).

The Office agrees that as of the filing of the RCE on December 4, 2008, the application was pending three years and 385 days after its filing date. The Office agrees that the action detailed above was not taken within the specified time frame, and thus, the entry of a period of adjustment of 708 days is correct. At issue is whether patentees should accrue 385 days of patent term adjustment for the Office taking in excess of three years to issue the patent under 37 CFR 1.702(b), as well as 760 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 385 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) (I) (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 until the filing of the RCE, November 15, 2004 to December 4, 2008. During that time, the issuance of the patent was delayed by 760 days, not 760 + 385 days. The Office took 14 months and 760 days to issue a first Office action. Otherwise, the Office took all actions set forth in 37 C.F.R. § 1.702(a) within the prescribed timeframes. Nonetheless, given the initial 760 days of Office delay and the 52 days of applicant delay and the time allowed within the timeframes for processing and examination, at the time of filing of the RCE, the application was pending three years and 385 days until the filing of the RCE. The Office did not delay 760 days and then an additional 385 days. Accordingly, 760 days of patent term adjustment (not 760 and 385 days) was properly entered since the period of delay of 385 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 760 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted. 760 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 385 days over three years.

---

[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).

Accordingly, at issuance, the Office properly entered no additional days of patent term pursuant to 37 CFR 1.702(b).

In view thereof, no adjustment to the patent term will be made.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Examination Policy

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HUNTON & WILLIAMS LLP
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1445 ROSS AVENUE
FOUNTAIN PLACE, SUITE 3700
DALLAS, TX75202-2799

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OFFICE OF PETITIONS

In re Application of :
Randal W. HILL :
Application No. 10/989,739 : DECISION ON PETITION
Filed: November 15, 2004 : TO WITHDRAW
Attorney Docket No. 64778.4 : 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 November 24, 2008.

The request is **NOT APPROVED.**

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

The request cannot be approved because there is no indication that all of the acts noted above have been performed.

The request cannot be approved because the record is not clear as to whether all the attorneys of record are to be withdrawn (please see attached form PTO/SB/83).

The Associate Power of Attorney dated January 30, 2007, was filed after June 25, 2004, the effective date of a rule change eliminating the Associate Power of Attorney practice (37 CFR 1.34(b) was eliminated). *See* MPEP § 402.02 and Revision of Power of Attorney and Assignment Practice, 69 Fed. Reg. 29865 (May 26, 2004); 1283 Off. Gaz. 148 (June 22, 2004). Although the paper has been placed in the file, the names of the patent practitioners listed on the Associate Power of Attorney have not been made of record.

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: THOMAS E. ANDERSON
HUNTON & WILLIAMS LLP
1900 K STREET, NW
WASHINGTON, DC 20006-1109

Attachment: Petition to Withdraw Attorney or Agent (PTO/SB/83)

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 05/22/07

TO SPE OF : ART UNIT 2863

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/989771** Patent No.: **7089124**

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

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

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

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 183

Thank You For Your Assistance

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

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

Comments: OK JB

John Barlow
Supervisory Patent Examiner
Technology Center 2800

2863
Art Unit

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OFFICE OF PETITIONS

CARR LLP (IST)
670 FOUNDERS SQUARE
900 JACKSON STREET
DALLAS, TX 75202

In re Application of
Dennis Colleran, et al.
Application No. 10/989,782
Filed: November 16, 2004
Attorney Docket No. 03-005-US1

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 26, 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 Gregory W. on behalf of all attorneys of record who are associated with customer No. 57004. All attorneys/agents associated with the Customer Number 57004 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There are no pending Office actions at the present time.

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

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

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

cc: INNOVATIVE SPINAL TECHNOLOGIES
2745 N. DALLAS PARKWAY
SUITE 460
PLANO, TX 75093

cc: ECKERT, SEAMANS, CHERIN & MELLOTT
600 GRANT STREET
44TH FLOOR
PITTSBURGH, PA 15219

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
10/989,782	11/16/2004	Dennis Colleran	03-005-US1

CONFIRMATION NO. 5094

POWER OF ATTORNEY NOTICE

57004
CARR LLP (IST)
670 FOUNDERS SQUARE
900 JACKSON STREET
DALLAS, TX 75202

Date Mailed: 08/24/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/26/2009.

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

/amwise/

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

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OFFICE OF PETITIONS

DUNLAP CODDING, P.C.
PO BOX 16370
OKLAHOMA CITY OK 73113

In re Application of	:	
Lee H. ANGROS	:	
Application No. 10/989,785	:	DECISION ON PETITION
Filed: November 16, 2004	:	
Attorney Docket No. 233.041	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 25, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed July 14, 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. 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). Accordingly, the date of abandonment of this application is October 15, 2008.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a

grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item 1.

Petitioner failed to provide an amendment that *prima facie* places the application in condition for allowance.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $555.00 extension of time fee submitted with the petition on June 25, 2009 was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the following address: Mail Stop 16, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

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.

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

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

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

The centralized facsimile number is **(571) 273-8300**

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

Attachment: Courtesy copy of examiners Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/989,785	ANGROS, LEE H.	
	Examiner	Art Unit	
	LYLE A. ALEXANDER	1797	

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

THE REPLY FILED 25 June 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

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

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

NOTICE OF APPEAL

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

AMENDMENTS

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

   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: *none*.
   Claim(s) objected to: *none*.
   Claim(s) rejected: *1,2,8-12,16,49,50,56-60,222,223,228,229,270,272 and 273*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

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

REQUEST FOR RECONSIDERATION/OTHER

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

/LYLE A ALEXANDER/
Primary Examiner, Art Unit 1797

Continuation of 3. NOTE: New claim 275 has not been previously considered and would require further searchi.

Continuation of 11. does NOT place the application in condition for allowance because: Additionally, the 4/22/08 terminal disclaimer was not proper and the Obviousness type double patenting rejections remain.

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MAR 16 2010

OFFICE OF PETITIONS

DUNLAP CODDING, P.C.
PO BOX 16370
OKLAHOMA CITY OK 73113

In re Application of :
Lee H. ANGROS :
Application No. 10/989,785 : DECISION ON PETITION
Filed: November 16, 2004 :
Attorney Docket No. 233.041 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed November 23, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed July 14, 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. 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). Accordingly, the date of abandonment of this application is October 15, 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 continuing application under 37 CFR 1.53(b); (2) the petition fee of 810.00; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 12/624,202, flied November 23, 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.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at (571) 272-4331.

This application is being referred to Technology Center AU 1797 for processing of the continuation application.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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POPOVICH, WILES & O'CONNELL, PA
8519 EAGLE POINT BLVD
Suite 180
LAKE ELMO, MN 55042

Mail Date: 04/26/2010

Applicant	: Richard S. Kusleika	: DECISION ON REQUEST FOR
Patent Number	: 7578830	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/989,787	: 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 **1317** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

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SEP 09 2008

OFFICE OF PETITIONS

In re Application of	:	
Eugene Tudor Gharis	:	
Application No. 10/989,795	:	DECISION ON PETITION
Filed: November 16, 2004	:	
Attorney Docket No. TI-37729	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 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 November 30, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed August 30, 2007. Accordingly, the date of abandonment of this application is December 1, 2007. The Notice of Abandonment was mailed December 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 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.

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 Terri Williams at (571) 272-2991.

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

Chris Bottorff
Petitions Examiner
Office of Petitions

cc: **TUM THACH**
7839 CHURCHILL WAY
MAIL STATION 3999
DALLAS, TX 75251

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Driggs, Hogg, Daugherty & Del Zoppo Co., L.P.A.
38500 CHARDON ROAD
DEPT. LEN
WILLOUGHBY HILLS, OH 44094

Mail Date: 04/21/2010

Applicant	: Satoshi Itoh	: DECISION ON REQUEST FOR
Patent Number	: 7593350	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/989,812	: 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 **1002** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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KEVIN L. RUSSELL
601 SW SECOND AVENUE
SUITE 1600
PORTLAND, OR 97204-3157

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APR 11 2006
OFFICE OF PETITIONS

In re Application of :
Matthew A. Katzer :
Application No. 10/989,815 : DECISION GRANTING PETITION
Filed: November 16, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 7431.0080 :

This is a decision on the petition, filed April 3, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 16, 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 3661 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\Apr9\989815.wpd

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

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Paper No.

JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

COPY MAILED
MAR 01 2010

In re Application of	:	
Milanov et al.	:	
Application No. 10/989,824	:	ON APPLICATION FOR
Filed: November 15, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. 11825-008-999	:	
(CAM: 24697	:	
Title: ISOXAZOLYL UREA	:	
DERIVATIVES AS KINASE	:	
MODULATORS	:	

This is in response to the "REQUEST FOR RECONSIDERTAION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)," filed November 20, 2009. Applicant submits that the correct patent term adjustment to be indicated on the patent is one thousand, one hundred and eighteen (1118) days, not two hundred and eighty-one (281) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

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

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

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

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

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

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months

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

after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/989,838	11/16/2004	Donald J. Stavely	200400002-2	5687

7590 04/14/2008

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

EXAMINER	
CHON, PETER	

ART UNIT	PAPER NUMBER
2622	

NOTIFICATION DATE	DELIVERY MODE
04/14/2008	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: 04/15/2008 DTERRY
11/19/2004 EHAILE1 00000011 10989838
02 FC:1201 88.00 CR 082025
03 FC:1202 54.00 CR

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KLARQUIST SPARKMAN LLP
121 S.W. SALMON STREET
SUITE 1600
PORTLAND, OR 97204

Mail Date: 04/21/2010

Applicant	: Regis J. Crinon	: DECISION ON REQUEST FOR
Patent Number	: 7609762	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/989,843	: 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 **1177** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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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
10/989,852	11/15/2004	2127	395	250318-1150	3	20	3

CONFIRMATION NO. 3751

CORRECTED FILING RECEIPT

OC000000014939473

24504
THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
100 GALLERIA PARKWAY, NW
STE 1750
ATLANTA, GA 30339-5948

Date Mailed: 01/12/2005

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)

Wei-Hsin Tseng, Sindian City, TAIWAN;

Assignment For Published Patent Application

Cyberlink Corp.

Power of Attorney: The patent practitioners associated with Customer Number **24504**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/611,876 09/21/2004

Foreign Applications

If Required, Foreign Filing License Granted: 12/15/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/989,852

Projected Publication Date: 03/23/2006

Non-Publication Request: No

Early Publication Request: No

** SMALL ENTITY **

Title

System and method for loading an operating system on a personal computer

Preliminary Class

718

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

Scott Boalick
USPTO
600 Dulany Street
Alexandria, VA 22313

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AUG 20 2007

OFFICE OF PETITIONS

In re Application of :

Richard E. Main :
Application No. 10/989,863 : DECISION ON PETITION
Filed: November 15, 2004 : TO WITHDRAW
Attorney Docket No. 96818 : FROM RECORD
:

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 2, 2007.

The request is **APPROVED**.

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

The request was signed by Scott Boalick. Scott Boalick has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There is no outstanding Office action at this time.

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

J. Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **NAVAL SURFACE WARFARE CENTER DAHLGREN DIVISION**
OFFICE OF COUNSEL, CODE XDC1
17632 DAHLGREN ROAD
SUITE 121
DAHLGREN VA 22448-5110

UNITED STATES PATENT
AND TRADEMARK OFFICE

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

Date Mailed: June 5, 2008
Patent No. :7,355,057 B1
Ser. No. :10/989864
Inventor(s) :Thomas M. Cooper, et al.
Issued :April 8, 2008
Title: LIQUID TRANSITION METAL ACETYLIDE CHROMOPHORES

Re: Request for Certificate of Correction

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

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

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

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

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

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

By fax: (571) 273-0025
ATTN: Office of Petitions

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

Magdalene Talley
For Mary F. Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 116

Bart S. Hersko
Bldg. 11, Room D18
2240 B Street
Wright-Patterson AFB-OH 45433-7109

MD/mt

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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CRAIG J. COX
FULBRIGHT & JAWORSKI L.L.P.
SUITE 2800
2200 ROSS AVENUE
DALLAS TX 75201-2784

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JUN 18 2007

OFFICE OF PETITIONS

In re Application of :

PHILLIPS, Leland et al. :
Application No. 10/989,878 : DECISION ON PETITION
Filed: November 20, 2004 : TO WITHDRAW
Attorney Docket No. **69761/P001US/10600064** : FROM RECORD
:

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 25, 2007.

The request is **APPROVED**.

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

The request was signed by Craig J. Cox on behalf of all attorneys of record who are associated. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Leland Phillips at the address indicated below.

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **LEE PHILLIPS**
2301 N. GREENVILLE AVENUE
SUITE 400
RICHARDSON, TX 75082

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JAMES M. BAGARAZZI
DORITY & MANNING, P.A.
P.O. BOX 1449
GREENVILLE, SC 29602

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MAR 0 9 2005

OFFICE OF PETITIONS

In re Application of :
Colin Leslie Perry et al :
Application No. 10/989,896 : ON PETITION
Filed: November 16, 2004 :
Attorney Docket No. WRZ-16 :

This is in response to the petition under 37 CFR 1.47(a), filed February 15, 2005.

The petition is dismissed

Rule 47 applicant is given ONE MONTH from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

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

As to item (1), petitioner has failed to establish that inventor Alessandro F. Deidda has refused to join in the filing of the above-identified application.

According to petitioner James M. Bagarazzi's affidavit and the accompanying Exhibits:

- On or about January 19, 2005, Mr. Deidda indicated his refusal to sign the declaration for this application due to uncertainty of his legal status and request for the document refers to on page 1 be sent to the address provided on the E-mail (Exhibit D).

- On January 22, 2005, Mr. Deidda received the documents thru E-mail as an attachment but merely states that he refused to join in this application. As matter of fact, he states that he needs to clarify his "residence" and "citizenship" and will get back to Amanda soon.

Since Mr. Deidda did not refuse to join this application, the petition is thus dismissed.

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

James M. Bagarazzi
DORITY & MANNING, P.A.
P.O. Box 1449
Greenville SC 29602

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SEP 30 2005

OFFICE OF PETITIONS

In re Application of :
Perry et al. :
Application No. 10/989,897 : DECISION ON PETITION
Filed: November 16, 2004 :
Attorney Docket No. WRZ-17 :
Title: CIRCUIT ARRANGEMENT :

This is in response to the petition under 37 CFR 1.47(a), filed February 14, 2005. The petition was recently forwarded to the Office of Petitions for decision on the merits. The Office sincerely apologizes for any inconvenience to applicant.

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

Applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor(s). **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 CFR 1.136(a). No additional petition fee is required for filing a Request for Reconsideration.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor(s). The present petition does not satisfy requirement (1).

As to item (1), applicant failed to establish that non-signing inventor, Alessandro F. Deidda, refused to join in the filing of the above-reference application.

The Affidavit of James M. Bagarazzi and the accompanying Exhibits demonstrated the following:

- On January 20, 2005, Mr. Deidda indicated by E-mail that he received the Declaration, but that he could not sign the Declaration because his address was incorrect; he was uncertain of his own legal status; and, he had not reviewed the Application. Mr. Deidda asked for a copy of the Application to be sent to a postal address in Wales. A copy of the e-mail received from Mr. Deidda is included as Exhibit D.

- On January 22, 2005, Mr. Deidda received an electronic copy of the Application and the Declaration as attachments via E-mail. Mr. Deidda stated that he would review the documents and get back to Amanda Canavan to approve them. Mr. Deidda indicated that he was waiting for clarification of his present legal position with regards to his "residence" and "citizenship," and that he would not sign the document without these corrections being made.

In any renewed petition, applicant should show that applicant attempted to correct the deficiencies indicated in the Declaration by Mr. Deidda, and in despite of the corrections, Mr. Deidda continued to refuse to join in the filing of the application. Additionally, the circumstances of any refusal to join in the filing of the application must be made by all persons with firsthand knowledge of the events. In this case, applicant only provided an affidavit of James M. Bagarazzi.

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

Further correspondence with respect to this matter should be addressed as follows and **to the attention of Christina Tartera Donnell, Senior Petitions Attorney**:

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

By FAX: (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 Donnelle

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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INTEL CORPORATION
C/O INTELLEVATE, LLC
P.O. BOX 52050
MINNEAPOLIS, MN 55402

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FEB 12 2007

OFFICE OF PETITIONS

In re Application of Dulin et al. :
Application No. 10/989,909 : Decision on Petition
Filing Date: November 16, 2004 :
Attorney Docket No. P15409XC :

This is a decision on the petition under 37 CFR 1.181, filed November 20, 2006, to withdraw the holding of abandonment.

The petition is **granted.**

The Office mailed a non-final Office action on July 25, 2005.

A reply to the Office action was not matched with the file. As a result, a Notice of Abandonment was mailed October 11, 2006.

Petitioner contends a reply and request for an extension of time were timely filed on January 25, 2006.

Petitioner has provided a showing in compliance with 37 CFR 1.8(b). Therefore, petitioner has established a reply was timely filed on January 25, 2006, but not matched with the file.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The extension of time fee of $1,020 has been charged to petitioner's deposit account.

Technology Center Art Unit 2616 will be informed of the instant decision and the examiner will consider the amendment filed by petitioner in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJr: 07-05

Paper No: __

FREESCALE SEMICONDUCTOR, INC.
LAW DEPARTMENT
7700 WEST PARMER LANE MD:TX32/PL02
AUSTIN TX 78729

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JUL 28 2005

OFFICE OF PETITIONS

In re Application of	:	
Zia, et al.	:	
Application No. 10/989,937	:	DECISION ON PETITION
Filed: 15 November, 2004	:	
Attorney Docket No.: SC13288TP	:	

This is a decision on the petition filed on 23 May, 2005, under 37 C.F.R. §1.47(a).

The petition is **GRANTED**.

BACKGROUND AND ANALYSIS

The record reflects that:

- the instant application was filed on 15 November, 2004, absent, *inter alia*, a fully executed oath/declaration;
- on 23 December, 2004, the Office mailed a Notice of Missing Parts;
- on 23 May, 2005, Petitioner replied with the instant petition and fee (with a request and fee for extension of time) with an oath/declaration signed by Messrs. Zia and Chen (for themselves and on behalf of the non-signing inventor Lawrence Cary Gunn III (Mr. Gunn), and with a statement by Petitioner Michael J. Balconi-Lamica (Reg. No. 34,291) and transmittal documents evidencing that a copy of the entire application (description,

claims, abstract and drawings) had been transmitted to the non-signing inventor Mr. Gunn, and setting forth therein Mr. Gunn's last known and current address and support for alleging that currency.

Lastly, Petitioner has submitted a declaration in compliance with 37 C.F.R. §1.63 and §1.64 and Petitioner has shown that such action is necessary to prevent irreparable damage.

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

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

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

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

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

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

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

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

Lawrence Cary Gunn, III
1385 Hymettus Avenue
Encinitas, California 92024

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JUL 29 2005

OFFICE OF PETITIONS

In re Application of
Omar Zia and Lawrence Cary Gunn
Application No.10/989,947
Filed: November 15, 2004
Attorney Docket No. SC13271TP
Title of Invention: Method of Forming a Semiconductor Device

: LETTER

Dear Mr. Gunn:

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 or 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

FREESCALE SEMICONDUCTOR, INC.
LAW DEPARTMENT
7700 WEST PARMER LANE MD:TX32/PL02
AUSTIN TX 78729
ATTN: MICHAEL J. BALCONI-LAMICA

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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JUL 2 9 2005

OFFICE OF PETITIONS

FREESCALE SEMICONDUCTOR, INC.
LAW DEPARTMENT
7700 WEST PARMER LANE MD:TX32/PL02
AUSTIN TX 78729

In re Application of :
Omar Zia and Lawrence Cary Gunn : DECISION GRANTING STATUS UNDER
Application No.10/989,947 : 37 CFR 1.47(A)
Filed: November 15, 2004 :
Attorney Docket No. SC13271TP :
Title of Invention: Method of Forming a Semiconductor Device :

This is in response to the petition under 37 CFR 1.47(a) filed May 16, 2005.

The petition is GRANTED.

Petitioner has shown that non-signing inventor Gunn has refused to join in the filing of the above-identified application after having been presented with the application papers. The petition attest a copies of the application were sent to non-signing inventor's last known address. The non-signing inventor's failure to respond to the application mailing sufficiently establishes that they refuse to execute the application papers.

The current petition fee is $200.00. Accordingly, deposit account no. 50-3079 will be charged the $70.00 difference.

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
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

MEDICINELODGE INC.
180 SOUTH 600 WEST
LOGAN UT 84321

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JUL 17 2006

OFFICE OF PETITIONS

In re Application of :
Triplett et al. :
Application No. 10/989,971 : DECISION ON PETITION
Filed: November 15, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. FSI-08 :

This is a decision on the petition, filed April 21, 2006, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **DISMISSED**.

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

Petitioner states that the instant non-provisional application is the subject of an application filed in a foreign country and the U. S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country. A review of the file record shows that a Request to Rescind was filed on April 21, 2006. However, petitioner has not provided the exact filing date of the foreign application. Before a proper determination on the merits of the petition can be decided, petitioner must supply the filing date of the foreign application.

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

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

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

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

Liana Chase
Petitions Examiner
Office of Petitions

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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MEDICINELODGE INC.
180 SOUTH 600 WEST
LOGAN UT 84321

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OCT 1 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Triplett et al.	:	
Application No. 10/989,971	:	DECISION GRANTING PETITION
Filed: November 15, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. FSI-08	:	

This is a decision on the renewed petition, filed July 21, 2006, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant non-provisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on May 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 January 18, 2007, accompanies this decision on petition.

This matter is being referred to Technology Center Art Unit 3738 for examination in due course.

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

Liana Chase-Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

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

IMDS, INC.
124 SOUTH 600 WEST
LOGAN, UT 84321

Mail Date: 04/23/2010

Applicant	: Daniel J. Triplett	: DECISION ON REQUEST FOR
Patent Number	: 7588578	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/989,971	: 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 **1320** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 : 10/02/07

TO SPE OF : ART UNIT 3725

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/989977** Patent No.: **7021097**

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

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

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

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

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

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

Comments: _____

DERRIS H. BANKS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

SPE

3725
Art Unit

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

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MAR 2 9 2005

OFFICE OF PETITIONS

In re Application of	:	
Dixon et al.	:	
Application No. 10/989,982	:	ON PETITION
Filed: 15 November, 2004	:	
Atty Docket No. 18922-09615	:	

This is a decision on the petition, filed on 14 February, 2005, requesting that the above-identified application be accorded a filing date of 15 November, 2004, with Page 6 of the specification as a part of the original disclosure.

The petition is granted.

On 15 November, 2004, the application was filed.

Accordingly, on 31 January, 2005, 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 Page 6 of the specification (description and claims) appeared to have been omitted.

In response, on 14 February, 2005, the present petition and a copy of the application were filed. Petitioners argue that Page 6 of the specification was filed with the other application papers on 15 November, 2004, but was subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' postcard receipt was supplied with the present petition. The postcard receipt shows an "Office-date" stamp of 11/15/04 with the above-identified application number, and identifies the application by the inventors' names, invention title, and attorney docket number, and acknowledges receipt of, *inter alia*, 113 pages of specification. Petitioners request that the application, including Page 6 of the specification, be accorded a filing date of 15 November, 2004.

A review of the record reveals that no Page 6 of the specification have been located among the application papers received on 15 November, 2004. However, the evidence is convincing that the application papers deposited on 15 November, 2004, included Page 6 of the specification (including the abstract), which was subsequently misplaced in the Office. Therefore, the application, including Page 6 of the specification, is entitled to a filing date of 15 November, 2004.

The "Notice" mailed on 31 January, 2005, is vacated.

In view of the above, the petition is granted. As the petition was necessitated by Office error, the petition fee is unnecessary and will be refunded to counsel's deposit account, No. 19-2555.

The application will be processed with the copy of Page 6 of the specification supplied on 14 February, 2005, as a part of the original disclosure. The copies of the other application papers supplied with the present petition will not be used for processing or examination, but will be retained in the application file.

The application is being referred to Initial Patent Examination Division for further processing with a filing date of 15 November, 2004, using the application papers filed on that date, and the copy of Page 6 of the specification supplied with the present petition.

Telephone inquires 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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United States Patent and Trademark Office
P.O. Box 1450
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 :

SOTO, Carlos :
Application No. 10/990,017 : DECISION ON PETITION
Filed: November 16, 2004 : TO WITHDRAW
Attorney Docket No. **300/14** : FROM RECORD
:

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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 04/20/2010

Applicant	: William J. Chimitt	: DECISION ON REQUEST FOR
Patent Number	: 7570698	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/990,026	: 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 **1296** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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HODGSON RUSS LLP
ONE M&T PLAZA, SUITE 2000
BUFFALO, NY 24203-2391

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APR 0 6 2007

OFFICE OF PETITIONS

In re Application of :
Henry Guy Stevens :
Application No. 10/990,062 : DECISION ON PETITION
Filed: November 16, 2004 :
Attorney Docket No. 18872.0102 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 12, 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 September 7, 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 December 8, 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 (and terminal disclaimer), (2) the petition fee of $750, and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of September 7, 2006 is accepted as being unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $510 extension of time fee submitted with the petition on March 12, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary. Accordingly, the $510 extension of time fee will be refunded to petitioner's deposit account in due course.

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

This application is being referred to Technology Center AU 1713 for appropriate action in the normal course of business on the reply received March 12, 2007.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Law Firm of Peter V.D. Wilde
301 East Landing
Williamsburg VA 23185

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NOV 16 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
DIGIOVANNI :
Application No. 10/990,088 :
Filed: November 16, 2004 :
Attorney Docket No. 73-8 :

This is a decision on the petition under 37 CFR 1.313(a), filed September 5, 2006, to withdraw the above-identified application from issue.

The petition is **DISMISSED**.

Petitioner requests that the present application be withdrawn from issue for consideration of an IDS filed on September 5, 2006.

37 CFR 1.313(a) states, in part:

> Applications may be withdrawn from issue for further action at the initiative of the Office or upon petition by the applicant. To request that the Office withdraw an application from issue, applicant must file a petition under this section including the fee set forth in § 1.17(h) and a showing of good and sufficient reasons why withdrawal of the application from issue is necessary.

As such, a grantable petition requesting withdrawal of an application from issue must be accompanied by: (1) a showing of good and sufficient reasons why withdrawal of the application from issue is necessary; and (2) the requisite petition fee under 37 CFR 1.17(h). The petition fee of $130.00 has been charged to petitioner's deposit account.

However, the petition does not set forth good and sufficient reasons as to why withdrawal of the application from issue is necessary. The mere submission of an IDS with the petition does not make withdrawal of the application from issue necessary. There are other avenues open to applicant to have an IDS considered other than by way of petition.

Following the part of 37 CFR 1.313(a) cited above, 37 CFR 1.313(a) goes on to state:

> A petition under this section is not required if a request for continued examination under § 1.114 is filed prior to payment of the issue fee.

The filing of a request for continued examination (RCE) under 37 CFR 1.114 with a submission and the fee set forth in 37 CFR 1.17(e) would have been a proper available option to have the IDS considered. It is well documented that an IDS satisfies the submission requirement under 37 CFR 1.114. *See* MPEP 706.07(h)(II).

For the above reasons, this application will not be withdrawn from issue under the provisions of 37 CFR 1.313(a).

Since the issue fee has been paid, petitioner may consider filing under 37 CFR 1.313(c)(2).

Any inquiries regarding this decision should be directed to Monica A. Graves at (571) 272-7253.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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Honeywell International, Inc.
Law Dept. AB2
P.O. Box 2245
Morristown, NJ 07962-9806

Mail Date: 04/21/2010

Applicant	: Trung N. Tran	: DECISION ON REQUEST FOR
Patent Number	: 6997974	: RECALCULATION of PATENT
Issue Date	: 02/14/2006	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/990,092	: 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.

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CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO, CA 94303

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SEP 29 2008

OFFICE OF PETITIONS

In re Application of :
BALASUBRAMANIAN, Mukund et al. :
Application No. 10/990,097 : DECISION ON PETITION
Filed: November 15, 2004 : TO WITHDRAW
Attorney Docket No. **5493.02 (SMC)** : FROM RECORD
:

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 11, 2008.

The request is not approved because it is **moot**.

A review of the file record indicates that the power of attorney to CARR & FERRELL LLP has been revoked by the assignee of the patent application on August 01, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **PETERS VERNY , L.L.P.**
425 SHERMAN AVENUE
SUITE 230
PALO ALTO CA 94306

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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
10/990,118	11/15/2004	1614	458	016336-003300US	14	27	3

CONFIRMATION NO. 4244

CORRECTED FILING RECEIPT

OC000000015022058

20350
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Date Mailed: 01/25/2005

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

Applicant(s)

John K. Amory, Seattle, WA;
William J. Bremner, Seattle, WA;

Assignment For Published Patent Application

University of Washington, Seattle, WA

Power of Attorney: None

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/542,895 02/09/2004

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 US10/990,118

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

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Oral androgen therapy using modulators of testosterone bioavailability

Preliminary Class

514

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

GRANTED

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

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

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

NOT GRANTED

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

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SoCAL IP LAW GROUP LLP
310 N. WESTLAKE BLVD. STE 120
WESTLAKE VILLAGE, CA 91362

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JUN 27 2007

OFFICE OF PETITIONS

In re Application of :
Kazumasa Yasui :
Application No. 10/990,126 : DECISION ON PETITION
Filed: November 15, 2004 : UNDER 37 CFR 1.55(c)
Attorney Docket No. TX00-P04264US :

This is a decision on the petition under 37 CFR 1.55(c), filed February 28, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of priority to the filing date of foreign Japanese Patent Application No. 2003-387773, filed November 18, 2003.

The petition is **DISMISSED**.

Petitioner states that a claim for priority was timely filed since a certified copy of the priority document was submitted on filing, along with a transmittal sheet indicating that a priority document was attached to the application. However, petitioner offers the present petition under 37 CFR 1.55(c).

It is conceded that no special language is required in making the claim for priority, and any expression which can be reasonably interpreted as claiming the benefit of the foreign application is accepted as the claim for priority. However, 37 CFR 1.55(a)(1)(i) states that the claim must identify the foreign application for which priority is claimed by specifying the application number, country (or intellectual Priority authority), day, month, and year of its filing. As this was not done on the transmittal sheet in question or in an oath or declaration or an application data sheet within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application, this is an appropriate petition under the provisions of 37 CFR 1.55(c).

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, **and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6))**;

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional (the Director may require additional information where there is a question whether the delay was unintentional); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The petition fails to comply with item (2) above. In this regard, a review of the file record fails to disclose that the priority information was included in an oath or declaration or in an Application Data Sheet (ADS) in accordance with 37 CFR 1.76(b)(6). Unless provided in an ADS, 37 CFR 1.63(c)(2) requires that the oath or declaration must identify the foreign application for patent (or inventor's certificate) for which priority is claimed under 37 CFR 1.55, and any foreign application having a filing date before that of the application on which priority is claimed, by specifying the application number, country, day, month, and year of its filing. *Note* MPEP 201.14.

In view of the above, compliance with 37 CFR 1.63(c)(2) or 37 CFR 1.76(b)(6) must be satisfied if applicant desires to claim priority to the foreign application noted in the petition. Any future petition should include a cover letter and be entitled "Renewed Petition under 37 CFR 1.55(c)."

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

By mail:
Mail Stop 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 Sherry D. Brinkley at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Frances M. Hicks
Lead, Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

SoCAL IP LAW GROUP LLP
310 N. WESTLAKE BLVD. STE 120
WESTLAKE VILLAGE, CA 91362

In re Application of :
Kazumasa Yasui :
Application No. 10/990,126 :
Filed: November 15, 2004 :
Attorney Docket No. TX00-P04264US :

DECISION GRANTING PETITION
UNDER 37 CFR 1.55(c)

This is a decision on the renewed petition under 37 CFR 1.55(c), filed July 6, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for the benefit of priority to foreign Japanese Patent Application No. 2003-387773, filed November 18, 2003.

The petition is **GRANTED**.

This pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Director may

require additional information where there is a question whether the delay was unintentional.); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

This application was filed on November 14, 2004, which is after November 29, 2000 and within 12 months of November 18, 2003 (the filing date of the foreign application to which benefit is now being claimed). On July 6, 2007, an Application Data Sheet was received which identifies the foreign application for which priority is claimed by application number, country and filing date. The required surcharge of $1,370 will be charged to counsel's deposit account as authorized and petitioner has provided an adequate statement of unintentional delay.

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

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.55(c) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 119(a)-(d) and 37 CFR 1.55(a)(1) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

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

This application is being referred to Technology Center AU 2854 for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a)-(d). Thereafter the application will be referred to the Office of Publications for further processing as a patent.

Any inquiries directly pertaining to this matter may be directed to Sherry D. Brinkley at (571) 272-3204 .

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/990,126	11/15/2004	2854	1290	TX00-P04264US	20	2

CONFIRMATION NO. 4238

CORRECTED FILING RECEIPT

33356
SoCAL IP LAW GROUP LLP
310 N. WESTLAKE BLVD. STE 120
WESTLAKE VILLAGE, CA 91362

OC000000025471259

Date Mailed: 08/21/2007

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)

Kazumasa Yasui, Tokyo, JAPAN;

Assignment For Published Patent Application

Kabushiki Kaisha Toshiba, Minato-ku, JAPAN
Toshiba Tec Kabushiki Kaisha, Chiyoda-ku, JAPAN

Power of Attorney: The patent practitioners associated with Customer Number **33356**.

Domestic Priority data as claimed by applicant

Foreign Applications

JAPAN 2003-387773 11/18/2003

If Required, Foreign Filing License Granted: 12/21/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/990,126

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

IMAGE FORMING APPARATUS

Preliminary Class

399

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

GRANTED

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

under 37 CFR 5.13 or 5.14.

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign 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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APR 29 2010

OFFICE OF PETITIONS

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

In re Application of	:	
Scott Olive	:	
Application No. 10/990,129	:	ON PETITION
Filed: November 16, 2004	:	
Attorney Docket No. 15737US02	:	

This is a decision on the petitions under the unintentional provisions of 37 CFR 1.137(b), filed April 1, 2010 to revive the above-identified application, and under 37 CFR 1.182, filed April 27, 2010 to expedite the decision on the petition.

The petition under 37 CFR 1.182 is **GRANTED**.

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

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

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, July 13, 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 October 14, 2006. The Notice of Abandonment was mailed April 10, 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 required reply to the non-final Office action mailed July 13, 2006 was not filed herewith petition.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,110 extension of time fee submitted with the petition on April 1, 2010 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited 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 hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

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

Terri Johnson
Petitions Examiner
Office of Petitions

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SUITE 3400
CHICAGO IL 60661

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JUN 0 8 2010

OFFICE OF PETITIONS

In re Application of :
Scott Olive :
Application No. 10/990,129 : DECISION ON PETITION
Filed: November 16, 2004 :
Attorney Docket No. 15737US02 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed May 10, 2010 and resubmitted on May 24, 2010, to revive the above-identified application and under 37 CFR 1.182, filed May 24, 2010 to expedite the decision on the petition.

The petition under 37 CFR 1.182 is **GRANTED**.

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

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, July 13, 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 October 14, 2006. The Notice of Abandonment was mailed April 10, 2007.

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,110 extension of time fee submitted with the petition on May 10, 2010 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account. The $1620 petition fee paid herewith this renewed petition will also be credited to petitioner's deposit account because it was previously paid with the first petition on April 27, 2010.

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

This application is being referred to Technology Center AU 3714 for appropriate action by the Examiner in the normal course of business on the reply received.

Terri Johnson
Petitions Examiner
Office of Petitions

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RG and Associates
1103 Twin Creeks
Allen, TX 75013

Mail Date: 05/03/2010

Applicant	: Jonathan Huffman	: DECISION ON REQUEST FOR
Patent Number	: 7613395	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/990,157	: 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 **1212** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 Patent
United States Patent and Trademark Office
P.O. Box 145
Alexandria, VA 22313-145
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SEP 1 8 2005

GREENBERG TRAURIG LLP
MET LIFE BUILDING
200 PARK AVENUE, 14TH FLOOR
NEW YORK, NY 10166

In re application of Robert Charles Colvin Application No. 10/990,160 Filed: November 15, 2004 For: METHODS AND SYSTEMS FOR SECURITIZATION OF CERTIFICATES OF DEPOSIT	:	**DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)**

This is in response to the petition filed on July 25, 2005 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are no directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED.**

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
571-272-6619

RAR/dew: 10/13/05

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FREUDENBERG-NOK GENERAL PARTNERSHIP
LEGAL DEPARTMENT
47690 EAST ANCHOR COURT
PLYMOUTH MI 48170-2455

COPY MAILED

SEP 0 3 2008

OFFICE OF PETITIONS

In re Application of :
Edmund D. Seder et al. :
Application No. 10/990,168 : DECISION ON PETITION
Filed: November 15. 2004 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. **06-0907/CPC(8470H-000007/** :

This is a decision on the petition filed May 27, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of prior-filed provisional application 60/344,444 as set forth in the concurrently filed amendment and Application Data Sheet (ADS). The petition is treated pursuant to 35 U.S.C. §119(e) and under 37 CFR 1.78(a)(6).

The petition is **GRANTED**.

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

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

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

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

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed 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) 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 provisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 1797 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

Anthony Knight
Supervisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/990,168	11/15/2004	1797	504	06-0907/CPC(8470H-000007/	14	4

CONFIRMATION NO. 8025

CORRECTED FILING RECEIPT

29293
FREUDENBERG-NOK GENERAL PARTNERSHIP
LEGAL DEPARTMENT
47690 EAST ANCHOR COURT
PLYMOUTH, MI 48170-2455

Date Mailed: 08/29/2008

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

Applicant(s)

- Edmund V. Seder, Santa Barbara, CA;
  Jesse N. Nelson, Oxnard, CA;

Power of Attorney: The patent practitioners associated with Customer Number 29293

Domestic Priority data as claimed by applicant

This application is a CIP of 09/833,961 04/11/2001 ABN
and is a CIP of 10/487,614 02/19/2004 PAT 6,948,526
which is a 371 of PCT/US02/41274 12/20/2002
which claims benefit of 60/344,444 12/28/2001

Foreign Applications

If Required, Foreign Filing License Granted: 02/19/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/990,168**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
** SMALL ENTITY **

Title

Medical devices having antimicrobial properties

Preliminary Class

623

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

LICENSE FOR FOREIGN FILING UNDER

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Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

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Valeo Climate Control Corp.
Intellectual Property Dept.
4100 North Atlantic Boulevard
Auburn Hills MI 48326

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SEP 0 5 2006

OFFICE OF PETITIONS

In re Application of :
Vincent Philippe et al. :
Application No. 10/990,171 : DECISION ON PETITION
Filed: November 16, 2004 : TO WITHDRAW
Attorney Docket No. TFR0266 : FROM RECORD
:

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 06, 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 attorney/agent of record on behalf of himself.

Thomas P. Liniak has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

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

David Bucci
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/31/2007

TO SPE OF : ART UNIT 3600 (3644)

SUBJECT : Request for Certificate of Correction on Patent No.: 7,100,533

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

Please complete this form and return with file *(PFW), within 7 days to:
Certificates of Correction Branch – 2900 South Tower ste.9A43A
Palm location **7580** or forward *(IFW) to scanning using document code **COCX**.

*ok to enter references, as req. in Cof C ?

Ernest C. White, LIE (703) 308-9390x122

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.

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

Comments:

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SPE

3644
Art Unit

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JAN 31 2005

In re Application of :
HOGAN. :
Serial Number: 10/990,182 : PETITION UNDER
Filed: November 16, 2004 : M.P.E.P.708.02 IV
For: METHOD AND APPARATUS FOR CLEANING :
A GAS :

This is in response to the petition filed November 16, 2004, requesting that the above-identified application be granted Special Status under Sections 708.02 IV of the MPEP and 37 CFR 1.102(c) (**no fee required**).

The request for Special Status considered under Section 708.02 IV has been granted because the criteria under 37 CFR 1.102(c) have been met; Mr. Rogalsky's date of birth is June 28, 1934.

Accordingly the petition is **GRANTED.**

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

David M. Davis
P.O. Box 18852
Tucson, AZ 85731

UNITED STATES PATENT AND TRADEMARK OFFICE

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KATHY MANKE
AVAGO TECHNOLOGIES LIMITED
4380 ZIEGLER ROAD
FORT COLLINS CO 80525

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SEP 10 2007

OFFICE OF PETITIONS

In re Application of
Hongjun Feng et al.
Application No. 10/990,201
Filed: November 15, 2004
Attorney Docket No: **10041166-02**

ON PETITION

This is a decision on the petition filed January 22, 2007, under 37 CFR 1.59(b) to expunge information inadvertently submitted with the application, which is being treated as a petition under 37 CFR 1.182.

Petitioners seek to have the Appeal brief timely filed on December 21, 2006, after the filing of the Notice of Appeal expunged as petitioners did not know that the Notice of Allowance had been mailed on November 27, 2006 and that the application had been allowed.

In view of the above and since the application has been allowed and the issue fee has been paid, there is no need to further consider the appeal and the appeal brief, the APPEAL BRIEF will be disregarded, such that it will not be further processed or acted upon by the USPTO.

Accordingly, the petition is **GRANTED**.

The matter is therefore being referred to the Publishing Division to be processed into a Patent.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CHAPIN & HUANG L.L.C.
WESTBOROUGH OFFICE PARK
1700 WEST PARK DRIVE
WESTBOROUGH MA 01581

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AUG 16 2006
OFFICE OF PETITIONS

In re Application of
Mark David Hardy
Application No. 10/990,205
Filed: November 16, 2004
Attorney Docket No: SNZ04-01

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 13, 2006, to revive the present nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **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)." No additional petition fee is necessary for filing a renewed petition.

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

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

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

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

The present petition lacks item (1) above.

In the present petition, petitioner did not set forth the subsequently filed foreign or international application or its filing date. The Office is unable to evaluate the petition on its merits without

petitioner identifying the foreign or international application and its filing date. This information must be provided with any renewed petition. The appropriate form (PTO/SB/64a) accompanies this decision for petitioner's convenience. The present application remains abandoned.

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Form PTO/SB/64a - Petition for Revival of an Application for Patent Abandoned for Failure to Notify the Office of a Foreign or International Filing (37 CFR 1.137(f))

PTO/SB/64a (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 FOR FAILURE TO NOTIFY THE OFFICE OFA FOREIGN OR INTERNATIONAL FILING (37 CFR 1.137(f))	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 pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to timely notify the Office of the filing of an application in a foreign country or under a multinational international treaty that requires publication of applications eighteen months after filing. The date of abandonment is the day after the expiration date of the forty-five (45) day period set in 35 U.S.C. 122(b)(2)(B)(iii).

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

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

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

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

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

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

WARNING:

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

☐ Additional sheets containing statements establishing unintentional delay

☐ Other:_____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date	Signature
	Typed or printed name of person signing certificate

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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WESTBOROUGH OFFICE PARK
1700 WEST PARK DRIVE
WESTBOROUGH MA 01581

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DEC 2 8 2006

OFFICE OF PETITIONS

In re Application of :
Mark David Hardy :
Application No. 10/990,205 : DECISION ON PETITION
Filed: November 16, 2004 :
Attorney Docket No: SNZ04-01 :

This is a decision on the renewed petition, filed October 16, 2006, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on November 15, 2005. Nevertheless, 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 present petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 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 April 5, 2007, accompanies this decision on petition.

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

This matter is being referred to Technology Center Art Unit 2112 for examination in due course.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/990,205	11/16/2004	Mark David Hardy	SNZ04-01

CONFIRMATION NO. 5809

22468
CHAPIN & HUANG L.L.C.
WESTBOROUGH OFFICE PARK
1700 WEST PARK DRIVE
WESTBOROUGH, MA 01581

Date Mailed: 12/28/2006

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 04/05/2007.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

UNITED STATES PATENT AND TRADEMARK OFFICE

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FREESCALE SEMICONDUCTOR, INC.
LAW DEPARTMENT
7700 WEST PARMER LANE MD:TX32/PL02
AUSTIN TX 78729

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JUN 14 2005

OFFICE OF PETITIONS

In re Application of	:
Zia & Gunn	:
Application No. 10/990,215	: DECISION ACCORDING STATUS
Filed: November 15, 2005	: UNDER 37 CFR 1.47(a)
Attorney Docket No. SC13710TP	:
For: METHOD OF FORMING A SEMICONDUCTOR DEVICE	:

This is in response to the petition under 37 CFR 1.47(a), filed May 20, 2005.

The petition is granted.

Petitioner has shown that the non-signing inventor, Lawrence Cary Gunn, III, has constructively refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration/statement of facts of Attorney Michael J. Balconi-Lamica and accompanying exhibits establish that the inventor was successfully mailed the application papers, including the specification, claims and drawings, but failed to respond to numerous requests that he sign the declaration for patent application. Petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64. Regarding the petition fee, the current fee due for filing a petition under 37 CFR 1.47(a) is $200.00. Petitioner believes it to be $130.00. Petitioner's deposit account was charged the full petition fee on May 25, 2005.

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

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

After this decision is mailed, the above-identified application will be forwarded Technology Center GAU 2811 for examination in due course.

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LAWRENCE CARY GUNN, III
1385 HYMETTUS AVENUE
ENCINITAS, CA 92024

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JUN 14 2005

OFFICE OF PETITIONS

In re Application of :
Zia & Gunn :
Application No. 10/990,215 : LETTER
Filed: November 15, 2005 :
Attorney Docket No. SC13710TP :
For: METHOD OF FORMING A SEMICONDUCTOR :
DEVICE

Dear Mr. Gunn:

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

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

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

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: FREESCALE SEMICONDUCTOR, INC.
LAW DEPARTMENT
7700 WEST PARMER LANE MD:TX32/PL02
AUSTIN TX 78729

UNITED STATES PATENT AND TRADEMARK OFFICE

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DALLAS OFFICE OF FULBRIGHT & JAWORSKI L.L.P.
2200 ROSS AVENUE
SUITE 2800
DALLAS TX 75201-2784

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MAR 15 2006

OFFICE OF PETITIONS

In re Application of :
Spitler et al. :
Application No. 10/990,221 : ON PETITION
Filed: November 16, 2004 :
Attorney Docket No. 65677-P013US :

This is a decision on the petition under 37 CFR 1.137(b), filed January 30, 2006, to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **DISMISSED.**

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

Petitioner states that the present nonprovisional application is the subject of an application filed in an eighteen-month publication country. Petitioner indicates that 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.

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

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

The present petition lacks item (1). In the present petition, petitioner did not indicate the filing date of the subsequently filed foreign or international application. The Office is unable to evaluate the petition on its merits without petitioner providing the correct filing date of the foreign or international application. This information must be provided with any renewed petition. Accordingly, the present application remains abandoned.

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

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

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DALLAS OFFICE OF FULBRIGHT & JAWORSKI L.L.P.
2200 ROSS AVENUE
SUITE 2800
DALLAS TX 75201-2784

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APR 25 2006

OFFICE OF PETITIONS

In re Application of :
Spitler et al. :
Application No. 10/990,221 : ON PETITION
Filed: November 16, 2004 :
Attorney Docket No. 65677-P013US :

This is a decision on the petition under 37 CFR 1.137(b), filed March 22, 2006, 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).

A petition under 37 CFR 1.137(f) must be accompanied by: (1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty; (2) the petition fee as set forth in 37 CFR 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional. The director may require additional information where there is a question whether the delay was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(f). The nonpublication request has been rescinded.

Accordingly, the failure to timely notify the Office of a foreign filing within 45 days as provided by 35 USC 122(b)(2)(B)(iii) is accepted as having been unintentionally delayed.

Petitioner was inadvertently charged a duplicate petition fee. Accordingly, deposit account 06-2380 will be refunded $750.00.

A Corrected Filing Receipt which sets forth the projected publication date accompanies this decision on petition.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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DALLAS OFFICE OF FULBRIGHT & JAWORSKI L.L.P.
2200 ROSS AVENUE
SUITE 2800
DALLAS TX 75201-2784

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APR 25 2006
OFFICE OF PETITIONS

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APR 26 2006
OFFICE OF PETITIONS

In re Application of
Spitler et al.
Application No. 10/990,221
Filed: November 16, 2004
Attorney Docket No. 65677-P013US

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 22, 2006, 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).

A petition under 37 CFR 1.137(f) must be accompanied by: (1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty; (2) the petition fee as set forth in 37 CFR 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional. The director may require additional information where there is a question whether the delay was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(f). The nonpublication request has been rescinded.

Accordingly, the failure to timely notify the Office of a foreign filing within 45 days as provided by 35 USC 122(b)(2)(B)(iii) is accepted as having been unintentionally delayed.

Petitioner was inadvertently charged a duplicate petition fee. Accordingly, deposit account 06-2380 will be refunded $750.00.

A Corrected Filing Receipt which sets forth the projected publication date accompanies this decision on petition.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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900 JACKSON STREET
DALLAS TX 75202

COPY MAILED

AUG 10 2009

OFFICE OF PETITIONS

In re Application of :
James Spitler et al. :
Application No. 10/990,221 : DECISION ON PETITION
Filed: November 16, 2004 : TO WITHDRAW
Attorney Docket No. 05-11385-12 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed June 29, 2009.

The request is **NOT APPROVED**.

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

The request cannot be approved because the Office no longer accept address changes to a new practitioner/customer number or law firm filed with a request, absent the filing of a power of attorney to the new representative.

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 JoAnne Burke at 571-272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20061023

DATE : October 23, 2006

TO SPE OF : ART UNIT 2812

SUBJECT : Request for Certificate of Correction on Patent No.: 7098070

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

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

Thank You For Your Assistance **Certificates of Correction Branch**

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

☒ **Approved** **All** changes apply.

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

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

Comments:

Correction reflects the agreed upon Examiner's Amendment of July 24, 2006

SPE: Michael S. Lebentritt **Art Unit** 2812

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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MIDDLETON & REUTLINGER
2500 BROWN & WILLIAMSON TOWER
LOUISVILLE, KY 40202

Mail Date: 04/21/2010

Applicant	: James Spitler	: DECISION ON REQUEST FOR
Patent Number	: 7618442	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/990,272	: 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 **235** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

Paper No.

PATTERSON, THUENTE, SKAAR &
CHRISTENSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS MN 55402-2100

COPY MAILED

SEP 0 2 2009

OFFICE OF PETITIONS

In re Patent No. 7,484,631	:	
Bothum et al.	:	DECISION ON
Application No. 10/990,277	:	REQUEST FOR
Issue Date: February 3, 2009	:	RECONSIDERATION OF
Filed: November 16, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No.	:	UNDER 37 CFR 1.705
1088.173US02	:	

This is a decision on the "PETITION UNDER 37 CFR 1.705(d)," filed on April 3, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from five hundred thirty-six (536) days to nine hundred thirty-seven (937) days.

The request for reconsideration of patent term adjustment is **GRANTED TO THE EXTENT INDICATED.**

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of four hundred ninety-two (492) days.

Patentees are given THIRTY (30) DAYS or ONE (1) MONTH, whichever is longer, from the mail date of this decision to respond to this decision. No extensions of time will be granted under § 1.136.

BACKGROUND

This application was filed on November 16, 2004. On September 25, 2008, the Office mailed a notice that the initial determination of patent term adjustment under 35 U.S.C. 154(b) to date is 558 days[1]. On February 3, 2009, the application matured into U.S. Patent No. 7,484,631, with a revised patent term adjustment of 536 days.[2] The Office determined that the 445 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b)[3,4] overlaps with the 592 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1)[5,6]

---

[1] 592 days of Office delay was reduced by 34 days of applicant delay for a patent term adjustment of 558 days. No request for reconsideration of this initial determination was filed.

[2] An additional period reduction of 22 days for applicant delay was entered for the filing of an amendment or other paper filed after the mailing of the notice of allowance. On December 10, 2008, an information disclosure statement (IDS) was filed after the mailing of the notice of allowance. On December 31, 2008, 22 days after the filing of the IDS, the Office mailed a communication in response to the IDS.

[3] 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.

[4] As of the filing of the issuance of the patent on February 3, 2009, the application was pending three years and 445 days.

[5] 37 CFR § 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

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

accorded prior to the issuance of the application. As such, no additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the applicant delay of 56 days, the patent issued with a revised patent term adjustment of 536 (592 - 56) days.

On April 3, 2009, patentee timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 937 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). Patentee asserts that pursuant to Wyeth, a PTO delay under §154(b)(1)(A) overlaps with a delay under §154(b)(1)(B) only if the delays "occur on the same day." Patentee asserts that the total non-overlapping PTO delay under §154(b)(1)(A) & (B) is 1037 (592 + 445 - 0 overlap) days as these periods do not occur on the same day. Further, patentee asserts that an additional period of applicant delay of 44 days should be entered.[7] Given the asserted period of applicant delay of 100 (56 + 44) days, patentee asserts entitlement to 937 (1037 - 100) days of patent term adjustment.

OPINION

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

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

---

[6] A first Office action (restriction requirement) was not mailed until August 31, 2007, fourteen months and 592 days after the application filing date, November 16, 2004.

[7] Applicant notes that a period of reduction under 37 CFR 1.704(c)(8) should be entered for the filing of a supplemental IDS on September 18, 2008, 44 days after the filing, on August 5, 2008, of a reply to an Office action.

As explained in *Explanation of 37 CFR 1.703(f)*[8] *and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

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

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment

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[8] 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.

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

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

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the application filing date, November 16, 2004, and ending on the date of issuance of the patent, February 3, 2009 (not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)).

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), 592 days of patent term adjustment were accorded during the pendency of the application. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 445 days of patent term adjustment accrued for Office issuance of the patent more than 3 years after the filing date of the application.

The 445 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 592 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 592 days and the 445 days is neither permitted nor warranted. 592 days is the actual number of days issuance of the patent was delayed.

Accordingly, at issuance, the Office properly entered no days of adjustment pursuant to 37 CFR 1.702(b) for a total of the greater period of 592 days for Office delay.

Patentee additionally asserts that a 44 day period of reduction should be entered pursuant to 37 CFR 1.704(c)(8) for the filing of a supplemental reply or other paper, other than a

supplemental reply or other paper expressly requested by the examiner, after a reply has been filed.

37 CFR 1.704(c) states:

> Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:
>
> (8) Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed.

Patentee is correct. On August 5, 2008, a reply to a non-final office action was filed. On September 18, 2008, 44 days after the filing of the reply on August 5, 2008, a supplemental IDS was filed. The IDS did not contain the statement under 37 CFR 1.704(d).[9] Further, the record does not support a conclusion that the Examiner expressly requested the filing of the IDS of September 18, 2008. Entry of an additional period of reduction for applicant delay of 44 days is warranted.

CONCLUSION

In view of the additional period of reduction pursuant to 37 CFR 1.704(c)(8), the patent term adjustment indicated on the patent should be 492 days (592 days of Office delay reduced by 100 (56 + 44) days of applicant delay).

---

[9] 37 CFR 1.704(d) states, in pertinent part, that 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.

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

The Office thanks Patentees for their good faith and candor in bringing this matter to the attention of the Office.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by four hundred ninety-two **(492)** 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 Senior Petitions Attorney Douglas I. Wood, at (571) 272-3231.

Christina Tartera Donnell for

Anthony Knight
Supervisor
Office of Petitions

Encl: DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,484,631 B2

DATED : Feb. 3, 2009

INVENTOR(S) : Bothum 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 (536) days

Delete the phrase "by 536 days" and insert – by 492 days--

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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.

PATTERSON THUENTE CHRISTENSEN PEDERSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS MN 55402-2100

MAILED

MAY 11 2010

OFFICE OF PETITIONS

In re Patent No. 7484631	: DECISION ON REQUEST
Bothun et al.	: FOR
Issue Date: 02/03/2009	: RECONSIDERATION OF
Application No. 10/990277	: PATENT TERM ADJUSTMENT
Filed: 11/16/2004	: and
Atty Docket No.	: NOTICE OF INTENT TO ISSUE
1088.173US02	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on November 2, 2009,[1] which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by nine hundred thirty-seven (937) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by nine hundred thirty-seven (937) days is **GRANTED**.

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

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **nine hundred thirty-seven (937)** days.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[1] On February 3, 2009, the patent issued. On April 3, 2009, an initial request for reconsideration of patent term adjustment was filed. On September 2, 2009, a decision on the request was mailed. On October 1, 2009, a request for reconsideration of the patent term adjustment was filed. On November 2, 2009, the subject petition was filed. Accordingly, a request for reconsideration of the decision mailed on September 2, 2009, was timely filed.

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,484,631 B2

DATED : **February 3, 2009** **DRAFT**

INVENTOR(S) : Bothun 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 536 days.

Delete the phrase "by 536 days" and insert – by 937 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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AUG 1 4 2005

OFFICE OF PETITIONS

In re Application of :
Sapozhnikov et al. :
Application No. 10/990,292 : DECISION ON PETITION
Filed: November 15, 2004 :
Attorney Docket No. A2i-P0026 :

This is in response to the petition under 37 CFR 1.47(a), filed June 27, 2005. Applicants obtained an extension of time for response within the third month. Accordingly, the petition is timely filed.

The petition is dismissed.

Applicants are given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

On November 15, 2004, applicants filed the above-identified application, without an executed oath or declaration. Accordingly, on January 27, 2005, the Office of Initial Patent Examination mailed a "Notice to File Missing Parts of Nonprovisional Application," requiring an oath or declaration, the statutory basic filing fee and a surcharge for their late filing.

In response, on June 27, 2005, applicants filed the present petition, a request for an extension of time for response within the third month, a declaration executed by four of the five joint inventors, Declarations of Facts of Daniel C. Cotman and Joseph J. Mayo, and an authorization to charge any necessary fees.

In the Declarations of Facts, Mayo stated that on June 20, 2005, he called the last known phone number of record for Alexey Sapozhnikov, the non-signing inventor, at SAP Labs, but Mayo was unable to speak to him because Sapozhnikov no longer worked for SAP Labs. Mayo and Cotman indicated that they forwarded a Declaration/Power of Attorney to Sapozhnikov at his last known email addresses on two separate occasions; however, they received a Delivery Status Notification indicating that delivery of the email failed. Cotman stated that he sent an email to Stanley Levin, an Application Engineer Manager at SAP Labs, who informed Cotman that Sapozhnikov left the company and there was no way to get in touch with him. A copy of the email correspondence accompanies the present petition.

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

As to item (1), applicants failed to show that the inventor cannot be reached after diligent efforts. Where inability to find or locate a named inventor is alleged, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made to locate the inventor. A person having firsthand knowledge of the facts must sign the statement of facts, where at all possible. If attempts to obtain a forwarding address and to locate the non-signing inventor by other means such as a telephone directory or the Internet continue to fail, then applicants will have provided the necessary proof required under 37 CFR 1.47 that the inventor cannot be reached. Applicants should submit documentary evidence such as the results of a search of the Internet or the telephone directory for Sapozhnikov's most current mailing address, email address or telephone number. It is important that the forthcoming communication contains statements of fact as opposed to conclusions.

As to item (2), applicants failed to submit an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64. The declaration does not identify the residence, mailing address or country of citizenship of the non-signing inventor. Moreover, the declaration does not indicate the mailing addresses of each of the signing inventors. The Office notes that the oath or declaration must identify the country of citizenship of each inventor, as well

as "[t]he mailing address, and the residence if an inventor lives at a location which is different from where the inventor customarily receives mail, of each inventor . . .." 37 CFR 1.63(c)(1). Accordingly, to correct the deficiencies, applicants must submit a newly executed oath or declaration in compliance with 37 CFR 1.63 and 1.67, which identifies the entire inventive entity, the correct mailing address (and residence, if applicable) and citizenship of each inventor, and is signed by the four signing inventors on behalf themselves and Sapozhnikov, the non-signing inventor.

It is noted that applicants paid a $130.00 fee for the present petition. However, effective December 8, 2004, the fee for a petition under 37 CFR 1.47(a) increased to $200.00. Therefore, the difference of $70.00 will be charged to applicants' Deposit Account.

Further correspondence with respect to this matter should be addressed as follows and **to the attention of Christina Tartera Donnell, Senior Petitions Attorney:**

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

By FAX: (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
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DALINA LAW GROUP, P.C.
7910 IVANHOE AVE. #325
LA JOLLA CA 92037

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AUG 16 2005

OFFICE OF PETITIONS

In re Application of :
Sapozhnikov et al. : DECISION REFUSING TO
Application No. 10/990,294 : ACCORD STATUS UNDER
Filed: November 15, 2004 : 37 CFR 1.47(a)
Attorney Docket No. A2I-P0027 :

This is in response to the petition under 37 CFR 1.47(a), filed June 20, 2005. Applicants obtained an extension of time for response within the fourth month. Accordingly, the petition is timely filed.

The petition is dismissed.

Applicants are given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

On November 15, 2004, applicants filed the above-identified application, without an executed oath or declaration. Accordingly, on December 20, 2004, the Office of Initial Patent Examination mailed a "Notice to File Missing Parts of Nonprovisional Application," requiring an oath or declaration, the statutory basic filing fee and a surcharge for their late filing.

In response, on June 20, 2005, applicants filed the present petition, a request for an extension of time for response within the fourth month, a declaration executed by two of the three joint inventors, Declarations of Facts of Daniel C. Cotman and Joseph J. Mayo, and an authorization to charge any necessary fees.

In the Declarations of Facts, Mayo stated that on June 20, 2005, he called the last known phone number of record for Alexey Sapozhnikov, the non-signing inventor, at SAP Labs, but Mayo was unable to speak to him because Sapozhnikov no longer worked for SAP Labs. Mayo and Cotman indicated that they forwarded a Declaration/Power of Attorney to Sapozhnikov at his last known email addresses on two separate occasions; however, they received a Delivery Status Notification indicating that delivery of the email failed. Cotman stated that he sent an email to Stanley Levin, an Application Engineer Manager at SAP Labs, who informed Cotman that Sapozhnikov left the company and there was no way to get in touch with him. A copy of the email correspondence accompanies the present petition.

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

As to item (1), applicants failed to show that the inventor cannot be reached after diligent efforts. Where inability to find or locate a named inventor is alleged, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made to locate the inventor. A person having firsthand knowledge of the facts must sign the statement of facts, where at all possible. If attempts to obtain a forwarding address and to locate the non-signing inventor by other means such as a telephone directory or the Internet continue to fail, then applicants will have provided the necessary proof required under 37 CFR 1.47 that the inventor cannot be reached. Applicants should submit documentary evidence such as the results of a search of the Internet or the telephone directory for Sapozhnikov's most current mailing address, email address or telephone number. It is important that the forthcoming communication contains statements of fact as opposed to conclusions.

As to item (2), applicants failed to submit an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64. The declaration does not identify the residence, mailing address or country of citizenship of the non-signing inventor. The Office notes that the oath or declaration must identify the country of citizenship of each inventor, as well as "[t]he mailing address, and

the residence if an inventor lives at a location which is different from where the inventor customarily receives mail, of each inventor . . . ." 37 CFR 1.63(c)(1). Accordingly, to correct the deficiencies, applicants must submit a newly executed oath or declaration in compliance with 37 CFR 1.63 and 1.67, which identifies the entire inventive entity, the correct mailing address (and residence, if applicable) and citizenship of each inventor, and is signed by the two signing inventors on behalf themselves and Sapozhnikov, the non-signing inventor.

Further correspondence with respect to this matter should be addressed as follows and **to the attention of Christina Tartera Donnell, Senior Petitions Attorney:**

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

By FAX: (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

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OFFICE OF PETITIONS

In re Application of :
Sapozhnikov et al. : DECISION ON PETITION
Application No. 10/990,294 :
Filed: November 15, 2004 :
Attorney Docket No. A2I-P0027 :

This is in response to the renewed petition under 37 CFR 1.47(a), filed on February 18, 2006.

In response to the decision of August 26, 2005, dismissing the original petition under 37 CFR 1.47(a), applicant submits a renewed petition under 37 CFR 1.47(a), a petition under 37 CFR 1.48(b), a request for an extension of time and fee, and a preliminary amendment, requesting deletion of the names of the persons who are not inventors of the invention being claimed. Applicant asserts that the petition under 37 CFR 1.47(a) is moot.

The Office concurs that no further consideration under 37 CFR 1.47(a) is necessary in view of the petition to correct the inventorship of this application under 37 CFR 1.48(b). Accordingly, the petition is dismissed as involving a moot issue. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application does not need to be returned to the Office of Petitions for further consideration under 37 CFR 1.47(a).

The petition under 37 CFR 1.48(b) will be decided by the primary examiner in accordance with MPEP 1002.02(e). The $1590.00 extension of time fee is unnecessary and will be refunded to the Deposit Account.

This matter is being referred to the Office of Initial Patent Examination for further processing. Thereafter, the matter will be referred to Technology Center Art Unit 2616 for a decision on the petition under 37 CFR 1.48(b) by the primary examiner.

Telephone inquiries should 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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Inverness Medical Innovations / WSGR
Wilson Sonsini Goodrich & Rosati, P.C.
650 Page Mill Road
Palo Alto, CA 94304

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SEP 12 2008

In re Application of :
Lijian Gou, et. al. :
Application No. 10/990,297 : DECISION ON PETITION
Filed: November 15, 2004 :
Attorney Docket No. 32209-735.201 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 16, 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 Rejection mailed, May 15, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136 (a) were obtained. Accordingly, the application became abandoned on August 16, 2007.

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37CFR 1.34(a), the signature of Fred Hernandez appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to the address given in the petition. Thereafter, all future correspondence will be mailed to the address of record.

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

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment After Non-Final Rejection, (2) the petition fee of $770, and (3) a proper statement of unintentional delay.

In additional 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 $525 for a three month extension of time on May 16, 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 $525 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 1797 for appropriate action by the Examiner in the normal course of business on the reply received.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Fred C. Hernandez
5355 Mira Sorrento Place, Ste. 600
San Diego, CA 92121

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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MORRISON & FOERSTER LLP
425 MARKET STREET
SAN FRANCISCO, CA 94105-2482

Mail Date: 04/21/2010

Applicant	: Jay Wohlgemuth	: DECISION ON REQUEST FOR
Patent Number	: 7579148	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/990,298	: 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.

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HAHN LOESER & PARKS, LLP
One GOJO Plaza
Suite 300
AKRON OH 44311-1076

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OFFICE OF PETITIONS

In re Application of :
Mohamed A. Khattab :
Application No. 10/990299 :
Filing or 371(c) Date: 11/16/2004 :
Attorney Docket Number: :
200405.00077 : ON PETITION

This is a decision on the "Petition To Withdraw Holding of Abandonment - Office Communication Not Received," filed November 7, 2007. The petition is properly treated under 37 CFR 1.181(a).

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 ("Notice"), transmitted via electronic mail ("email") on July 9, 2007. The Notice set a non-extendable one (1) month period for reply. No response having been received, the application became abandoned on August 10, 2007. A Notice of Abandonment was mailed November 6, 2007.

With the present petition, Applicant has demonstrated non-receipt of the Notice by a preponderance of the evidence.

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

The application will be referred to the Publishing Division for re-mailing of the Notice and re-setting the period for response.

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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MAR 22 2010

OFFICE OF PETITIONS

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

In re Application of :
Dasseux :
Application No. 10/990,304 :
Filed: November 16, 2004 : ON APPLICATION FOR
Attorney Docket No. 13657-29 : PATENT TERM ADJUSTMENT
Title: COMPOSITIONS COMPRISING :
ETHER COMPOUNDS AND :
PHARMACEUTICAL USES THEREFOR :

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R § 1.705(b)" filed October 16, 2009. Applicant submits that the correct patent term adjustment to be indicated on the patent is one thousand two hundred seventy-three (1273) days, not six hundred fifty-three (653) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

The $200.00 petition fee set forth in 37 CFR 1.18(e) has been assessed from deposit account no. 23-1925. No additional fees are required.

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

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

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

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

---

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

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

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

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

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

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John P. White
Cooper & Dunham LLP
1185 Avenue of the Americas
New York NY 10036

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MAY 18 2007

OFFICE OF PETITIONS

Applicant: Schmidt et al.
Appl. No.: 10/990,310
Filing Date: November 15, 2004
Title: RAGE-RELATED COMPOSITIONS
Attorney Docket No.: 64080-A JPW/AJM/AAB
Pub. No.: US 2005/0170382 A1
Pub. Date: August 4, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on September 19, 2006, for the above-identified application

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains a material error, as the patent application publication does not include the specification, claims, abstract and drawings filed with the application, as evidenced by the stamped return receipt postcard and copy of all the documents filed on November 15, 2004 in connection with the application.

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

The request for corrected publication received on September 19, 2006, was not timely filed under 37 CFR 1.221(b).

On November 15, 2004, the Office received a transmittal letter for a continuation application titled "Rage-Related Compositions," listing inventors Ann Marie Schmidt, David Stern, Shi Du

[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).

Yan, Kevan Harold and Ira Lamster, Attorney Docket no. 64080-A/JPW/AJM/AAB, copies of two patent applications and numerous application papers.

On November 15, 2004, the Office received a copy of an application titled "Extracellular Novel Rage Binding Protein (En-Rage) and Uses Thereof," which listed inventors Ann Marie Schmidt and David Stern on the first page of the specification, and included Attorney Docket no. 0575/55873/JPW/JML.

On November 15, 2004, the Office received a copy of an application titled "Methods for Treating Inflammation," which listed inventors David Stern, Kevan Harold, Shi Du Yan, Ann Marie Schmidt and Ira Lamster on the first page of the specification, and included Attorney Docket no. 0575/64080/JPW/JML.

The patent application was processed and published with the application papers from the first listed application, which is entitled "Extracellular Novel Rage Binding Protein (En-Rage) and Uses Thereof." Neither application provided by applicant includes a title or attorney docket no., which matches the title or attorney docket no. on the application transmittal letter.

Review of the application file reveals that two applications were included on filing. There is no clear indication which application is intended to be the application. The Office of Initial Examination picked one specification as opposed to the other.

It is not clear why Applicant has two specifications. Was the specification "Extracellular Novel Rage Binding Protein (En-Rage) and Uses Thereof" meant to be filed or was it inadvertently included. Was the application intended to be for another application. Is the specification intended to be part of the application and thus a continuation in part. Applicant should clearly point out which application is intended to be the application.

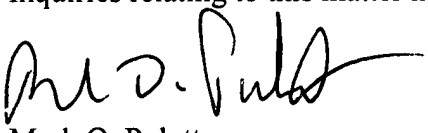
It would greatly benefit the Office if **applicant did not provide copies of papers (554 pages)**, which were previously submitted, as it unnecessarily increases the cost to the Office. See 37 CFR 1.4(b). A request for corrected publication need only point out what was printed incorrectly in the application, where the error occurs in the publication and where the correct text or drawing is found in the application papers. Marked up relevant copies of the applications papers and the pre-grant publication may facilitate processing of the request, where it is not readily apparent where the error occurs. If it is not clear why the error is a material error, further explanation may be warranted.

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

By fax: Attn: Petitions
(571) 273-8300

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

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



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

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OFFICE OF PETITIONS

In re Reissue of Patent No. 6,705,074 :
Issue Date: March 16, 2004 :
Application No. 10/990,312 : DECISION ON PETITION
Filed: November 17, 2004 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. NIP-130-09 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed November 17, 2004, to accept an unintentionally delayed claim under **35 U.S.C. § 120** for the benefit of priority to Application No. **09/106,077**, filed June 29, 1998.

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;[1]
> **(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.

---

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

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). Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional 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.

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

This matter is being referred to Technology Center AU 3746.

Karen Creasy

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

STRAUB & POKOTYLO
788 Shrewsbury Avenue
TINTON FALLS NJ 07724

In re Application of :
Elton : DECISION ON PETITION
Application No. 10/990,326 :
Filed: November 16, 2004 :
Docket No.: Pegasus-5 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed May 29, 2008.

The Notice of Abandonment mailed May 20, 2008 indicates that the application is abandoned for failure to timely reply to the non-final Office action mailed November 14, 2007.

Petitioner asserts that a response to the non-final Office action (including three month extension of time) was timely submitted on May 14, 2008 and has provided as proof of submission and proof of USPTO receipt a Auto-Reply Facsimile Transmission dated May 14, 2008.

The reply to the non-final Office action filed May 14, 2008 has been located in the official application file.

In view of the evidence presented, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

The Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The application file is being forwarded to Technology Center 2624 for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE, WA 98111-1247

MAILED

MAR 31 2010

OFFICE OF PETITIONS

In re Patent of Prahlad et al.	:	DECISION ON APPLICATION
Patent No. 7,529,782	:	FOR RECONSIDERATION OF
Issue Date: May 5, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/990,336	:	AND NOTICE OF INTENT TO
Filing Date: November 15, 2004	:	ISSUE CERTIFICATE OF
Attorney Docket No. 606928014US1	:	CORRECTION

This is a decision on the petition filed on May 11, 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 above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by two hundred ninety (290) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein**. The patent term adjustment is corrected to indicate that the term of the above-identified patent is extended or adjusted by **two hundred ninety-seven (297)** days.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the period of B delay, the over three year period began on November 16, 2007, and ended on May 14, 2008, *the day before* the RCE was filed, and is 181 (not 182) days. *See* 35 U.S.C. § 154(b)(1)(B)(i). Further, patentee fails to account for the filing of a Notice of Appeal on April 15, 2008, and the subsequent filing of a RCE on May 15, 2008. The 30 days of the over three year period consumed by appellate review, beginning on April 15, 2008 and ending on May 14, 2008, is not included in the B delay. *See* 35 U.S.C. § 154(b)(1)(B)(ii). Finally, there is no overlap. The 38-day period of A delay cited by patentees occurred after the RCE was filed and thus, does not overlap with B delay. Therefore, the patent term adjustment is increased by 151 (181 – 30) days to 297 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.

Submission of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fee is required.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **two hundred ninety-seven (297)** 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: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,529,782 B2

DATED : **May 5, 2009** **DRAFT**

INVENTOR(S) : Prahlad 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 146 days

Delete the phrase "by 146 days" and insert – by 291 days--

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Alexandria, VA 22313-1450
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FULBRIGHT & JAWORSKI, LLP
666 FIFTH AVE
NEW YORK, NY 10103-3198

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AUG 22 2006
OFFICE OF PETITIONS

In re Application of :
Gastner et al. :
Application No. 10/990,346 : ON PETITION
Filed: November 17, 2004 :
Attorney Docket No. DEG-202 :

This is a decision on the petition filed February 17, 2006, requesting that the above-identified application be accorded a filing date of November 16, 2004, rather than the presently accorded filing date of November 17, 2004.

Petitioner requested the earlier filing date of November 16, 2004, on the basis that the application was purportedly mailed on November 16, 2004, using Express Mail service. In support of the assertion, petitioner submitted a copy of the returned, date-stamped postcard receipt, which indicated that the USPTO received the Express Mail Package on November 17, 2004, the day after it was allegedly mailed. Additionally, petitioner submitted a copy of Express Mail label No. EV331562548US, which contained a "date-in" and USPS mail stamp both dated November 17, 2004. The same Express Mail label No. is located on the Transmittal filed with the original application papers.

Paragraph (a) of 37 CFR 1.10 states that:

> Any correspondence received by the U.S. Patent and Trademark Office (USPTO) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed with the USPTO 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 USPTO receipt date as the filing date. See § 1.6(a).

Paragraph (d) of 37 CFR 1.10 states that:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may

petition the Director to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and

(3) The petition includes a showing which establishes, to the satisfaction of the Director, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

A grantable petition under 37 CFR 1.10(d) must include "a showing which establishes, to the satisfaction of the Director, that the requested filing date was the date the correspondence was deposited in 'Express Mail Post Office to Addressee' service prior to the last scheduled pickup for that day." In addition, the showing "must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the 'Express Mail Post Office to Addressee' service of the USPS." Evidence from the USPS may be, for example, the Express Mail Corporate Account Mailing Statement or a statement by an appropriate official of the USPS that according to a USPS record the "date-in" on petitioner's Express Mail receipt is erroneous, accompanied by a copy of the relevant USPS record. Evidence that came into being within one day after the deposit of the correspondence as Express Mail may be, for example, a log book which contains information such as the Express Mail label number; the application number, attorney docket number or other such file identification number; the place, date and time of deposit; the time of the last scheduled pick-up for that date and place of deposit; the depositor's initials or signature; and the date and time of the log book entry.

To establish a showing pursuant 37 CFR 1.10(d)(3), petitioner submitted a copy of the returned, postcard receipt with a USPTO date-stamp of November 17, 2004. However, the postcard receipt only serves as evidence of the date the subject application was received in the USPTO, not the date it was deposited with the USPS Express Mail Service. Moreover, petitioner did not provide any 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," showing that the Express Mail package was deposited with the USPS on November 16, 2004.

Petitioner's attention is directed to 37 CFR 1.10(b), which states, in part:

> Correspondence should be deposited directly with an employee of the USPS to ensure that the person depositing the correspondence receives a legible copy of the "Express Mail" mailing label with the "date-in" clearly marked. Persons dealing indirectly with the employees of the USPS (such as by deposit in an "Express Mail" drop box) do so at the risk of not receiving a copy of the "Express Mail" mailing label with the desired "date-in" clearly marked.

Therefore, petitioner has failed to submit sufficient corroborating evidence as required by the rule. Accordingly, the petition is **dismissed**. Any request for reconsideration must be filed within TWO (2) MONTHS of the date of this decision. No extensions of time are permitted.

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.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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FULBRIGHT & JAWORSKI, LLP
666 FIFTH AVE
NEW YORK, NY 10103-3198

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Gastner et al.
Application No. 10/990,346
Filed: November 16, 2004
Attorney Docket No. DEG-202

This is a decision on the renewed petition under 37 CFR 1.10(d), filed October 20, 2006, requesting that the USPTO accord the above-identified application a filing date of November 16, 2004, rather than the presently accorded filing date of November 17, 2004.

Petitioners requested the earlier filing date of November 16, 2004, on the basis that the application was purportedly mailed on November 16, 2004, using "Express Mail" service. In support of the assertion, petitioners again submitted a copy of the returned, date-stamped postcard receipt, which indicated that the USPTO received the "Express Mail" package on November 17, 2004, the day after it was allegedly mailed, as well as a copy of "Express Mail" label No. EV331562548US, which contained a "date-in" and USPS mail stamp both dated November 17, 2004. The same "Express Mail" label number is located on the Transmittal filed with the original application papers.

With the present renewed petition, petitioners provided the USPTO with a copy of the USPS Track & Confirm Search Results, which indicated that a package, bearing "Express Mail" label No. EV331562548US, was delivered at 10:56 am on November 17, 2004, in Alexandria, VA 22313, signed for by M BOSTON. Petitioners argued "[s]ince the Express Mail package was deposited with the Rockefeller Center USPS site in New York as evidenced by the stamp on the Express Mail label, this means that the package must have been deposited on November 16, 2004 in New York, because it was delivered to the USPTO the next day, i.e., November 17, 2004."

Initially, the Office notes that the USPS Track & Confirm Search Results, which petitioners submitted with the petition, only serve as evidence that the subject application was received in the USPTO on November 17, 2004, which is not in dispute. However, it is not evidence that petitioners deposited the application papers as "Express Mail" before the last scheduled pick-up on November 16, 2004.

Nevertheless, after a careful search of the USPS "Express Mail" Database, it appears that the Express Mail package was accepted in New York, NY 10020, on November 16, 2004, at 5:12 PM. It is fortuitous for petitioners that this information came to the attention of the USPTO. The Office reminds petitioners that it is their burden to submit sufficient evidence to support the allegations made in the petition. If petitioners had taken the appropriate actions contemplated by 37 CFR 1.10, such as directly depositing the "Express Mail" correspondence with the USPS, maintaining a routine log of Express Mail deposits, or obtaining corroborating evidence from the USPS, petitioners could have prevented this situation. In the future, if petitioners do not conduct an exhaustive search of the USPS "Express Mail" Database, petitioners will risk being accorded a filing date other than the date desired.

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

This matter is being forwarded to the Office of Initial Patent Examination to accord this application a filing date of November 16, 2004.

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

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: U.S. Postal Service Track & Confirm email Restoration

[redacted]

From: U.S._Postal_Service_ [U.S._Postal_Service@usps.com] [redacted]
To: [redacted]
Cc:
Subject: U.S. Postal Service Track & Confirm email Restoration - EV33 1562 548U S
Attachments:

This is a post-only message. Please do not respond.

[redacted]

Current Track & Confirm e-mail information provided by the U.S. Postal Service.

Label Number: EV33 1562 548U S

Service Type: Express Mail - Post Office to Addressee

Shipment Activity	Location	Date & Time
Delivered	ALEXANDRIA VA 22313	11/17/04 10:56am
Arrival at Unit	DULLES VA 20102	11/17/04 5:43am
Acceptance	NEW YORK NY 10020	11/16/04 5:12pm

USPS has not verified the validity of any email addresses submitted via its online Track & Confirm tool.

For more information, or if you have additional questions on Track & Confirm services and features, please visit the Frequently Asked Questions (FAQs) section of our Track & Confirm site at
http://www.usps.com/shipping/trackandconfirmfaqs.htm

[redacted]

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OFFICE OF PETITIONS

MARK A. LITMAN & ASSOCIATES, P. A.
YORK BUSINESS CENTER
SUITE 205
EDINA, MN 55435

In re Application of
TORREY, Jon
Application No. 10/990,358
Filed: November 16, 2004
Attorney Docket No. **588.001US1**

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 20, 2007.

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

A review of the file record indicates that the power of attorney to Mark A. Litman & Associates, P.A. has been revoked by the assignee of the patent application on February 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 Michelle R. Eason at 571-272-4231.

Teri Williams
Petitions Examiner
Office of Petitions

cc: **SMITH MOORE LLP**
P.O. BOX 21927
GREENSBORO, NC 27420

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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STEVEN S. PAYNE
SUITE 1005
1101 17TH STREET N.W.
WASHINGTON DC 20036

MAILED

MAR 2 4 2009

OFFICE OF PETITIONS

In re Application of :
Allan DICKNER :
Application No. 10/990,365 : DECISION ON PETITION
Filed: November 18, 2004 :
Attorney Docket No. **150-221** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 26, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed February 21, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 22, 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) in that payment for RCE was filed with petition without the RCE Transmittal. See PTO/SB/30.

Petitioner failed to provide an amendment that *prima facie* places the application in condition for allowance. (See attached courtesy copy of examiner's advisory action.)

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). See the copy of the Advisory Action attached hereto.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

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

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

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

The centralized facsimile number is **(571) 273-8300.**

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

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: **STEVEN S. PAYNE**
P.O. BOX 65024
WASHINGTON DC 20035

Please see attached PTOL-303

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 10/990,365	**Applicant(s)** DICKNER, ALLAN	
	Examiner Louis K. Huynh	**Art Unit** 3721	

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

THE REPLY FILED 26 February 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

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

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

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

NOTICE OF APPEAL

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

AMENDMENTS

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

   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *12-17*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

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

REQUEST FOR RECONSIDERATION/OTHER

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

/Louis K. Huynh/
Primary Examiner, Art Unit: 3721

Continuation of 3.
NOTE:
(1) The proposed new claim 18 including "means plus function" is not deemed to place the application in better form for appeal;
(2) The proposed new claim 21 including two robots raises new issues that would required further search and/or consideration; the recited robot capable of performing multiple functions is new matter under 35 USC 112, 1st paragraph;
(3) The proposed new claim 22 including a single machine for collecting a number of packaging and placing the packages to form a desired load unit raises new issues that would require further search and/or consideration; a machine capable of performing multiple functions is new matter under 35 USC 112, 1st paragraph.

/Louis K. Huynh/
Primary Examiner, Art Unit: 3721

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MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

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DEC 2 2 2009

OFFICE OF PETITIONS

In re Application of :
Allan DICKNER :
Application No. 10/990,365 : DECISION ON PETITION
Filed: November 18, 2004 :
Attorney Docket No. **05822.0419USWO** :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed May 20, 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 February 21, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is May 22, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, 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 final Office Action of February 21, 2007 is accepted as having been unintentionally delayed.

The power of attorney filed November 19, 2009 is accepted and has been made of record.

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

This application is being referred to Technology Center AU 3721 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: **ARATOR IP LAW GROUP PLLC**
P.O. BOX 65024
WASHINGTON DC 20036

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/990,365	11/18/2004	Allan Dickner	05822.0419USWO

CONFIRMATION NO. 6900

23552
MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

POA ACCEPTANCE LETTER

OC000000038958589

Date Mailed: 11/25/2009

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/19/2009.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/hsarwari/

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

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
10/990,365	11/18/2004	Allan Dickner	150-221

CONFIRMATION NO. 6900

STEVEN S. PAYNE
P.O. BOX 65024
WASHINGTON, DC 20035

POWER OF ATTORNEY NOTICE

OC000000038958556

Date Mailed: 11/25/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/19/2009.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/hsarwari/

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

S/N 10/990,365 PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	DICKNER	Examiner:	Louis K. Kuynh
Serial No.:	10/990,365	Group Art Unit:	3721
Filed:	18 November 2004	Docket No.:	05822.0419USWO
Title:	A SYSTEM AND METHOD FOR CREATION OF LOAD UNITS		

This paper is being filed electronically with the U.S. Patent Office

REVOCATION AND POWER OF ATTORNEY

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

Dear Sir:

Please revoke any existing Powers of Attorney, if any, and appoint the following attorneys and/or patent agents associated with the following customer number to prosecute this application and to transact all business in the U.S. Patent and Trademark Office in connection therewith:

23552
PATENT TRADEMARK OFFICE

Please direct all correspondence in this application to the address associated with the customer number referenced above .

STATEMENT UNDER 37 CFR 3.73 (b)

Inter IKEA Systems B.V., a Corporation under the laws of The Netherlands, states that it is the Assignee of the entire right, title and interest in the patent application

identified above by virtue of an assignment from the inventor of the patent application identified above. A copy of the assignment is attached.

The undersigned (whose title is supplied below) is authorized to act on behalf of the Assignee.

Dated: 09-11-2009

By: _____
Name: GABRIELLE OLSSON SKALIN
Title: MD, Legal affairs
Inter IKEA Systems B.V.

INSTRUCTIONS

U.S. ASSIGNMENT TO CORPORATION

WHEREAS,

Inventor(s) Name, Address, Citizenship

1. Allan DICKNER residing at Storkstigen 16, S-343 35 Almhult, Sweden and a citizen of Sweden;
2. _____ residing at _____ and a citizen of _____;
3. _____ residing at _____ and a citizen of _____;

Check the appropriate box and fill in the requested information:

- select the first check box if the application is a national stage of a PCT application and provide the international application number and filing date before sending the assignment for execution;
- select the second check box if the application will be filed without the executed assignment - once the assignment is executed and the serial number and filing date of the U.S. application are known, provide this information before recordation;
- select the third check box if the application was previously filed and provide the serial number and filing date before sending the assignment for execution; or
- select the fourth check box if the application will be filed with the application.

(herein called "THE UNDERSIGNED") have made an invention and have executed an application for Letters Patent of the United States entitled A SYSTEM AND METHOD FOR CREATION OF LOAD UNITS and which:

- ☐ is the national stage application of International Application No. __ _____ filed on _____;
- ☐ will be filed without this executed PATENT ASSIGNMENT. THE UNDERSIGNED hereby authorizes, and requests, ASSIGNEE'S legal representatives, of Merchant & Gould PC, who are associated with customer number 23552, to insert here in parenthesis (U.S. Serial No. _____, filed _____) this application's U.S. Serial Number and filing date, when known;
- ☒ was filed on 18 November 2004 and was given U.S. Serial No. 10/990,365; or
- ☐ is filed concurrently herewith;

Name of Corporation

AND WHEREAS Inter IKEA Systems B.V. (herein called "ASSIGNEE"), a corporation organized under the laws of The Netherlands, and having an office and place of business at Olof Palmestraat I, NL-2616 LN Delft, The Netherlands

State or Country of Incorporation and Address

wishes to acquire the entire right, title and interest in and to said invention and patent application and any Letters Patent to be obtained therefor;

NOW, THEREFORE, for and in consideration of the sum of One Dollar and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, THE UNDERSIGNED hereby sell, assign and transfer to the ASSIGNEE, its successors and assigns, the entire right, title and interest for the United States in and to the invention disclosed in the aforesaid application, and in and to the said application, all divisions, continuations, or renewals thereof, all Letters Patent which may be granted therefrom, and all reissues or extensions of such patents, and THE UNDERSIGNED hereby authorize and request the Commissioner of Patents to issue any and all United States Letters Patent for the aforesaid invention to the ASSIGNEE of the entire right, title and

interest in and to the same, for the use of the ASSIGNEE, its successors and assigns.

THE UNDERSIGNED hereby agree that THE UNDERSIGNED, their executors and legal representatives will make, execute and deliver (without charge but at the expense of the ASSIGNEE) any and all other instruments in writing including any and all further application papers, affidavits, assignments and other documents, and will communicate to said ASSIGNEE, its successors and representatives all facts known to THE UNDERSIGNED relating to said invention and the history thereof and will testify in all legal proceedings and generally do all things which may be necessary or desirable to vest the ASSIGNEE, its successors or assigns the entire right, title and interest in and to the said invention, applications, Letters Patent, rights, titles, benefits, privileges and advantages hereby sold, assigned and conveyed, or intended so to be.

THE UNDERSIGNED represent and agree with said ASSIGNEE its successors and assigns, that no assignment grant, mortgage, license or other agreement affecting the rights and property herein conveyed has been or will be made to others by THE UNDERSIGNED, and that full right to convey the same as herein expressed is possessed by THE UNDERSIGNED.

IN TESTIMONY WHEREOF, THE UNDERSIGNED have hereunto set their hand on the dates ~~indicated~~ below.

Each inventor must sign & date

Note: No legalization or other witness required

Signature: Allan DICKNER	Date: 23rd OF OCTOBER 2009

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

AUG 29 2008

OFFICE OF PETITIONS

Steven S. Payne
Suite 1005
1101 17th Street, N.W.
Washington, DC 20036

In re Application of	:	
Allan Dickner	:	
Application No. 10/990,371	:	DECISION ON PETITION
Filed: November 18, 2004	:	
Attorney Docket No. 150-220	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 6, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 13, 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 October 14, 2006. 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) the reply in the form of an amendment after non-final, (2) the petition fee of $1540, and (3) a proper statement of unintentional delay. Accordingly, the amendment is accepted as being unintentionally delayed.

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

This application is being referred to Technology Center AU 3721 for appropriate action by the Examiner in the normal course of business on the reply received June 6, 2008.

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
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DEC 0 2 2009

OFFICE OF PETITIONS

MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

In re Application of :
Akemi Murakami et al. :
Application No. 10/990,373 : DECISION ON PETITION
Filed: November 18, 2004 :
Attorney Docket No. 046601-5151 :

This is a decision on the petition, filed May 24, 2007, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

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

This application was held abandoned for failure to reply to the restriction requirement mailed October 13, 2006, which set a one (1) month or thirty (30) day shortened statutory period for reply. A Notice of Abandonment was mailed on May 7, 2007.

Petitioner asserts that the restriction requirement dated October 13, 2006 was not received.

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

1. a statement from practitioner stating that the restriction requirement 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 restriction requirement was not received; and

3. a copy of the docket record where the non-received restriction requirement would have been entered had it been received must be attached to and referenced in the practitioner's statement.

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

The petition fails to satisfy all of the above-stated requirements in that item 3 has not been met.

MPEP 711.03(c)(I)(A) reads in part:

> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the non-received Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of non-receipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

The one page docket record included with the petition is not considered sufficient evidence of non-receipt of the restriction requirement as specified in MPEP 711.03(c)(I)(A) above.

Accordingly, absent the required evidence to establish non-receipt of the restriction requirement of October 13, 2006, the petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $1,620 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 the undersigned 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

MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

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FEB 04 2010

In re Application of	:	
Akemi Murakami et al.	:	
Application No. 10/990,373	:	DECISION ON PETITION
Filed: November 18, 2004	:	
Attorney Docket No. 046601-5151	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 27, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the restriction requirement mailed October 13, 2006, which set a one (1) month or thirty (30) day shortened statutory period for reply. A Notice of Abandonment was mailed on May 7, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a response to the restriction requirement, (2) the petition fee of $1,620, 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.

Telephone inquiries concerning this decision should be directed to Carl Friedman at (571)272-6842.

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

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
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SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN 2041 AU AUSTRALIA

COPY MAILED

OCT 29 2007

OFFICE OF PETITIONS

In re Application of :
Paul LAPSTUN et al. :
Application No. 10/990,382 : DECISION ON PETITION
Filed: November 18, 2004 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. IP41US :

This is a decision on the renewed 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 with the petition.

The petition is **GRANTED**.

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

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

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

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

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

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

Any inquiries concerning this decision may be directed to David Bucci at (571) 272-7099. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2853 for appropriate action on the amendment filed September 27, 2007, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications

David Bucci
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/990,382	11/18/2004	2853	790	IP41US	7	1

CONFIRMATION NO. 6886

CORRECTED FILING RECEIPT

24011
SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN, 2041
AUSTRALIA

Date Mailed: 10/26/2007

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

Applicant(s)

Paul Lapstun, Balmain, AUSTRALIA;
Simon Robert Walmsley, Balmain, AUSTRALIA;
Kia Silverbrook, Balmain, AUSTRALIA;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of 10/636,212 08/08/2003 PAT 6,851,782
which is a DIV of 09/436,747 11/09/1999 PAT 6,687,022

Foreign Applications

AUSTRALIA PP7024 11/09/1998

If Required, Foreign Filing License Granted: 12/15/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/990,382**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Printer controller for a MEMS-based page width inkjet printer

Preliminary Class

347

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/990,389	11/17/2004	Kenneth Faase	200400114-1	5963

7590 04/21/2008

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

EXAMINER	
LEWIS, DAVID LEE	

ART UNIT	PAPER NUMBER
2629	

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 10990389
01 FC:1202 BHABTEW 00000001 082025
522.00 CR

Adjustment date: 04/21/2008 DTERRY 10990389
11/19/2004 KFEKADU 00000007 082025
02 FC:1201 264.00 CR

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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MAILED

JAN 0 4 2010

OFFICE OF PETITIONS

Capitol City TechLaw, PLLC
P.O. Box 1210
Vienna, VA 22183

In re Application of :
Hans David Ulmert :
Application No. 10/990,399 : DECISION ON PETITION
Filed: November 18, 2004 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 315-0043/US :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed November 10, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed International Application No. PCT/SE03/00874, filed May 27, 2003, set forth in the amendment submitted concurrently with the present petition.

The petition is **GRANTED**.

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

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

All the above requirements having been satisfied, the late claim for priority under 35 U.S.C. §§ 120 and 365(c) 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 the application is entitled to the benefit of the prior-filed application. In order for the application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

This application is being forwarded to the examiner of Technology Center Art Unit 1797 for appropriate action on the Request for Continued Examination under 37 CFR 1.114 filed November 10, 2009, including consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the above-noted, prior-filed PCT application.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3226. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Andrea Smith
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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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
10/990,399	11/18/2004	1797	523	315-0043/US	27	2

CONFIRMATION NO. 5968

CORRECTED FILING RECEIPT

75304
Capitol City TechLaw, PLLC
PO BOX 1210
VIENNA, VA 22183

OC000000039446461

Date Mailed: 12/31/2009

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)

Hans David Ulmert, Lund, SWEDEN;

Power of Attorney: The patent practitioners associated with Customer Number 75304

Domestic Priority data as claimed by applicant

This application is a CON of PCT/SE03/00874 05/27/2003

Foreign Applications

SWEDEN 0201594-9 05/28/2002
SWEDEN 0203486-6 11/26/2002

If Required, Foreign Filing License Granted: 01/18/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/990,399**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

METHOD FOR TREATMENT OF SLUDGE FROM WATERWORKS AND WASTEWATER TREATMENT PLANTS

Preliminary Class

210

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN 2041, AU AUSTRALIA

COPY MAILED

NOV 29 2005

OFFICE OF PETITIONS

In re Application of	:	
Silverbrook et al.	:	
Application No. 10/990,417	:	ON PETITION
Filed: November 18, 2004	:	
Attorney Docket No.	:	
PAK50US	:	

This is a decision on the Petition to accept an unintentionally delayed claim under 35 U.S.C. §§ 120, filed September 16, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of prior-filed Application No. 10/102,700, filed March 22, 2002

The petition is **dismissed**.

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

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

The instant petition does not comply with item (**1**) above.

As to item (**1**), a reference to add the above-noted, prior-filed application on page one following the first sentence of the specification has been included in the amendment filed April 11, 2005. 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, is required.

---

[1] *Note* 37 CFR 1.121

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

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

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

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

Any questions concerning this matter may be directed to Attorney Derek L. Woods at (571) 272-3232.

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

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BALMAIN 2041, AU AUSTRALIA

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MAR 2 0 2006

OFFICE OF PETITIONS

In re Application of :
Silverbrook et al. :
Application No. 10/990,417 : ON PETITION
Filed: November 18, 2004 :
Attorney Docket No. :
PAK50US :

This is a decision on the Renewed Petition Under 37 CFR 1.78(a)(3), filed January 11, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application 10/102,700 set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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

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

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

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

The granting of the petition to accept the delayed benefit claim to the prior-filed 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, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3232. 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 appropriate action on the amendment filed January 11, 2006, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application.

Frances Hicks

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

ATTACHMENT: Corrected Filing Receipt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : June 5, 2008

TO SPE OF : ART UNIT 1756

SUBJECT : Request for Certificate of Correction for Appl. No 10/990457 patent no7288356

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: _____

/Mark F. Huff/ — **SPE**

1795 — **Art Unit**

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1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-3873

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OCT 0 3 2005

OFFICE OF PETITIONS

In re Application of :
Ono et al. :
Application No. 10/990,497 : DECISION ON PETITION
Filed: November 18, 2004 :
Attorney Docket No. 520.34725CC9 :

This is a decision on the petition filed March 21, 2005, requesting that the above-identified application be accorded a filing date of November 18, 2004, with Figure 12 as part of the original disclosure. The petition was recently forwarded to the Office of Petitions for a decision on the merits. The Office sincerely apologizes for any inconvenience to applicants.

On November 18, 2004, applicants filed the above-identified application. On January 21, 2005, the Office mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" (Notice), stating that the application was accorded a filing date of November 18, 2004; however, it appeared that Figure 12 was omitted.

In response, on March 21, 2005, applicants submitted the present petition, a $130.00 petition fee, and a copy of Figure 12. Applicants stated that the present application is a continuation of prior Application No. 10/660,696, filed September 12, 2003. Further, applicants noted that the transmittal letter, submitted on filing, indicates that the entire disclosure of the prior application, from which a copy of the Oath or Declaration is supplied under Box 5, is considered as being part of the disclosure of the accompanying application and is hereby incorporated by reference. As such, applicants requested that the Office accord the present application a filing date of November 18, 2004, with Figure 12 as part of the original disclosure based upon the incorporation by reference of Figure 12 from the parent application.

Upon review of the record, the Office has not located Figure 12 in the official file. Section 201.06(c) of the Manual of Patent Examining Procedure states that:

> . . . an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuing

application to include any subject matter in such prior application(s), without the need for a petition. (Emphasis supplied).

In view of the incorporation by reference of the prior application, Figure 12 is not new matter **if** it was part of the disclosure of the prior application. Applicants may file an amendment to the examiner to include Figure 12 without a petition.

In view of the above, the petition is **dismissed** and the "Notice of Omitted Item(s)" will not be withdrawn. The petition fee[1] will not be refunded because the filing of the petition was not necessitated by USPTO error.

The Office of Initial Patent Examination is directed to process the application with a filing date of November 18, 2004, using the application papers filed on that date. Figure 12 will NOT be entered at this time.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

[1] Applicants paid a $130.00 fee for filing the present petition. Effective November 22, 2004, the petition fee increased to $400.00. Therefore, the Office will charge applicants' Deposit Account for the difference in the amount of $270.00.

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RADER, FISHMAN & GRAUER PLLC
LION BUILDING
1233 20TH STREET N.W., SUITE 501
WASHINGTON, DC 20036

MAILED

MAR 17 2009

Technology Center 2100

In re Application of: UCHIDA, et al.
Application No. 10/990,504
Attorney Docket No. SON-3148
Filed: 11/18/2004
For: APPLICATION DISPLAY APPARATUS AND APPLICATION DISPLAY SYSTEM

DECISION ON PETITION FOR SUPERVISORY REVIEW UNDER *37 CFR §1.181*

This is a decision on the petition under 37 CFR § 1.181, filed December 5, 2008, requesting the Commissioner to invoke his supervisory authority to withdraw the final Office action dated October 15, 2008.

The petition is **DISMISSED**.

RECENT PROSECUTION HISTORY

(1) On October 11, 2007, a non-final Office action, rejecting pending claims 1-7, was mailed.

(2) On December 20, 2007, a response to the non-final Office action including remarks was filed (claims 1-7 were amended and new claims 8-19 were added).

(3) On April 1, 2008, a (first) final Office action, rejecting pending claims 1-19, was mailed.

(4) On July 1, 2008, a request for pre-appeal brief panel review was filed.

(5) On August 11, 2008, a notice of panel decision from the pre-appeal brief panel was mailed indicating that prosecution was to be reopened.

(6) On October 15, 2008, a (second) final Office action, rejecting pending claims 1-19, was mailed.

(7) On December 5, 2008, the instant petition was filed.

(8) On December 9, 2008, an amendment to claims 1-19 after final rejection, was filed.

RELIEF REQUESTED

The instant petition filed under 37 CFR 1.181 requests withdrawal of the final Office action of October 15, 2008.

ANALYSIS

The relevant sections of the M.P.E.P. are set forth below:

MPEP § 706.07(a) states in part that:
Under present practice, second or any subsequent action on the merits shall be made final, except where the examiner introduces a new ground of rejection not necessitated by amendment of the application by the applicant, whether or not the prior art is already of record. Furthermore, a second or any subsequent action on the merits in any application or patent undergoing reexamination proceedings will not be made final if it includes a rejection, on newly cited art ... of any claim not amended by applicant or patent owner in spite of the fact that other claims may have been amended to require newly cited art.

§ 706.07(c) Final Rejection, Premature
Any question as to ***prematureness of a final rejection*** should be raised, if at all, while the application is still pending before the primary examiner. This ***is purely a question of practice, wholly distinct from the tenability of the rejection***. It may therefore not be advanced as a ground for appeal, or made the basis of complaint before the Board of Patent Appeals and Interferences. It is reviewable by petition under 37 CFR 1.181.

706.07(e) [R-6] Withdrawal of Final Rejection, General
Once a final rejection that is not premature has been entered in an application/reexamination proceeding, it should not be withdrawn at the applicant's or patent owner's request except on a showing under 37 CFR 1.116(b). Further amendment or argument will be considered in certain instances. An amendment that will place the application either in condition for allowance or in better form for appeal may be admitted. Also, amendments complying with objections or requirements as to form are to be permitted after final action in accordance with 37 CFR 1.116(a). ***The examiner may withdraw the rejection of finally rejected claims.***

A review of the file record indicates that the (first) final rejection (mailed April 1, 2008) was procedurally correct, however the rejection was substantively incorrect, as evidenced by the panel decision from pre-appeal brief review. Thus, the rejection itself was withdrawn (i.e. vacated), as opposed to the *finality* of the rejection being withdrawn. Note the notice of panel decision notice clearly indicates that the (first) final Office action "rejection (of claims 1-19) was withdrawn and that a new Office action was to be mailed". By vacating the rejection made in the (first) final rejection, the applicant is owed a replacement final rejection that is procedurally as well as substantively correct. The (second) final Office action is therefore a wholesale replacement for the procedurally correct (first) final Office action.

A review of the (second) final Office action rejection (mailed October 15, 2008) appears to be proper and consistent with that set forth in above § 706.07(a), i.e. the examiner can introduce a new grounds of rejection that is necessitated by amendment (i.e. the amd't filed on December 20, 2007) to the application by Applicant. As such, the new grounds of rejection set forth in the (second) final Office action are a direct result of and in direct response to the extensive amendment made to previously pending claims 1-7 and to the newly added claims 8-19. This course of action is deemed to be consistent with current Office practice and procedures and consistent with that set forth in MPEP § 706.07.

Accordingly, the finality of the October 15, 2008 Office action is deemed to be procedurally correct and accurate in accordance with current Office practice and procedures.

CONCLUSION

Accordingly, for the above stated reasons, the petition and request to withdraw the final Office action of October 15, 2008 is **DISMISSED**. The application is being forwarded to the Examiner for consideration of the amendment filed after final under 37 CFR § 1.116 on December 9, 2008.

Any inquiries related to this decision may be directed to Quality Assurance Specialist Brian Johnson at (571) 272-3595.

Wendy Garber, Group Director
Technology Center 2100
Computer Architecture, Software, and Information Security

WG:blj

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Patent No. : 7359895
Ser. No. : 10/990510
Inventor(s) : Shu-Hsin CHANG et al.
Issued : April 15, 2008
Title : SPIRAL STRING MATCHING METHOD
Docket No. : 06720.0125-00

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.323.

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
401 Dulany Street
Alexandria, VA 22314

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

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

Tasneem Siddiqui
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) 756-1593 or (703) 756-1814
4/16/2010

Richard V. Burgujian
Finnegan, Henderson, Farabow,
Garrett & Dunner, L.L.P.
901 New York Avenue, N.W.
Washington, D.C. 20001-4413

ts/md

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

MAILED

JUL 08 2010

OFFICE OF PETITIONS

In re Patent No. 7,359,895 :
Issue Date: April 15, 2008 :
Application No. 10/990,510 : ON PETITION
Filed: November 18, 2004 :
Attorney Docket No. 06720.0125-00 :

This is a decision on the petition filed May 7, 2010, which is being treated as a petition under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a certificate of correction.

The petition is **DISMISSED**.

Petitioner requests issuance of a certificate of correction in the name of "The Regents of the University of California (Regents)."

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 **before issuance of the patent**, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter [emphasis added]. *See also* MPEP 1481.01.

U.S. Patent and Trademark Office assignment records disclose that an assignment from Shu-Hsin Chang, Shing-Hung Lee, Kuo-Pao Fan, Tzong-Jye Liu and Shyhtsun Felix Wu to Industrial Technology Research Institute and The Regents of the University of California was recorded on March 31, 2010, **after the date of issuance of this patent**. Accordingly, since the assignment was not submitted for recordation until after issuance of this patent, issuance of a certificate of correction would not be proper.

Telephone inquiries concerning this decision on petition should be directed to April M. Wise at (571) 272-1642.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

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PO BOX 747
FALLS CHURCH VA 22040-0747

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DEC 12 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
YOSHIMOTO, KYOSUKE, et al.
Application Serial No.: 10/990,518
Filed: November 18, 2004
For: **OPTICAL DISK AND OPTICAL DISK DRIVE DEVICE**

DECISION
ON PETITION

This is a decision on the petition, filed on November 22, 2005 under 37 C.F.R. §1.181 requesting that the application be considered special and also requesting an expedited action on the merits.

A review of the continuity data of the instant application reveals that this application has an effective pendency of more than five years. Applicants' specification has been amended to contain specific reference to prior filed applications.

MPEP §708.01 [R-2] List of Special Cases, states in part:
(I) Applications pending more than 5 years, including those which, by relation to a prior United States application, have an effective pendency of more than 5 years. See MPEP § 707.02. [emphasis added]

In accordance with MPEP section 708.01(I), applications pending over 5 years, including those which by relation to a prior United States application, should be considered special. Hence, this application, by virtue of its prolonged effective pendency, is considered special in accordance with PTO policy.

Accordingly, the petition is **Granted**.

The examiner will be notified that this application should be considered as "special" and appropriate for expedited action.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

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SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN 2041 AU AUSTRALIA

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OFFICE OF PETITIONS

In re Application of :
Kia Silverbrook et al :
Application No. 10/990,552 : DECISION DISMISSING PETITION
Filed: November 18, 2004 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. PAK51US :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 11, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to prior-filed nonprovisional Application Nos. 10/291,706, filed November 12, 2002 and 09/609,140 filed June 30, 2000.

The petition is **DISMISSED**.

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

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

On filing, the present application claimed benefit of priority to nonprovisional Application No. 10/893,386, filed July 19, 2004. The present amendment seeks to claim benefit of priority to nonprovisional Application Nos. 10/291,706, filed November 12, 2002, and 09/609,140, filed June 30, 2000. The amendment to claim benefit of priority to nonprovisional Application No. 09/609,140 is improper in this application as it lacks the proper chain of priority. In this regard, while Application No. 10/893,386, which issued into Patent No. 6,846,059 on January 25, 2005,

has a proper chain of benefit of priority to Application No. 10/291,706, which is one of the nonprovisional applications sought to be added by the present amendment, there is no like chain of benefit of priority to nonprovisional Application No. 09/609,140.

Where an application claims a benefit under 35 U.S.C. 120 of a chain of applications, the application must make a reference to the first (earliest) application and every intermediate application. *See* Sampson v. Ampex Corp., 463 F.2d 1042, 1044 45, 174 USPQ 417, 418 19 (2d Cir. 1972); Sticker Indus. Supply Corp. v. Blaw Knox Co., 405 F.2d 90, 93, 160 USPQ 177, 179 (7th Cir. 1968); Hovlid v. Asari, 305 F.2d 747, 751, 134 USPQ 162, 165 (9th Cir. 1962). *See also* MPEP § 201.11. In addition, every intermediate application must also make a reference to the first (earliest) application and every application after the first application and before such intermediate application. MPEP Section 201.06(d).

In view of the above, petitioner must first correct the claim for benefit of priority to Application No. 09/609,140 in the patented file (Patent No. 6,846,059) if petitioner wishes to claim priority of that application in the present application. Any request for reconsideration of this decision on petition should be accompanied by a renewed petition under 37 CFR 1.78(a)(3).

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

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

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

Any questions concerning this matter may be directed to Irvin Dingle at (571) 272-3210.

Frances Hicks
Petition Examiner
Office of Petitions

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OFFICE OF PETITIONS

WILMERHALE/BOSTON
60 STATE STREET
BOSTON MA 02109

In re Application of :
Frank et al. :
Application No. 10/990,588 :
Filed: November 17, 2004 :
Attorney Docket No. 113744.121 US2 :

ON APPLICATION FOR PATENT TERM ADJUSTMENT

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT AND REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §§1.702-1.705 filed June 26, 2009. This petition is properly treated under 37 C.F.R. §1.705(B). Applicants submit that the correct patent term adjustment to be indicated on the patent is at least one thousand twenty-seven (1,027) days, not four hundred forty (440) 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 § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As

such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

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

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

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

---

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

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
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WILMERHALE/BOSTON
60 STATE STREET
BOSTON, MA 02109

Mail Date: 04/20/2010

Applicant	: John R. Frank	: DECISION ON REQUEST FOR
Patent Number	: 7596581	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/990,588	: 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 **1487** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

WILMERHALE/BOSTON
60 STATE STREET
BOSTON MA 02109

In re Patent No. 7,596,581 :
Frank et al. : DECISION ON REQUEST FOR
Issue Date: September 29, 2009 : RECONSIDERATION OF
Application No. 10/990,588 : PATENT TERM ADJUSTMENT
Filed: November 17, 2004 : AND NOTICE OF INTENT
Attorney Docket No. 113744.121 : TO ISSUE CERTIFICATE OF
US2 : CORRECTION
Title: RELEVANCE RANKING OF :
SPATIALLY CODED DOCUMENTS :

This is a decision on the petition filed on November 30, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand one hundred twenty-two (1,122) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED TO THE EXTENT INDICATED HEREIN.**

The period of adjustment to which the patent is entitled under 37 CFR 1.702(a) is 546 (519 days + 24 days).

The period of adjustment to which the patent is entitled under 37 CFR 1.702(b) is 682 days (November 18, 2007 to September 29, 2009 the day the patent issued).

There are twenty-seven (27) days of overlap between 37 CFR 1.702(a) and 37 CFR 1.702(b) (August 17, 2008 to September 12, 2008).

Patentees' calculation does not reflect the reduction of 64 days pursuant to 37 CFR 1.703(b)(4) in connection with the Notice of Appeal filed July 11, 2008. The reduction commenced July 11, 2008; the date that the Notice of Appeal was filed, and ended

September 12, 2008, the day the non-final Office action was mailed. See, 37 CFR 1.703(b)(4).

In view thereof, the patent is entitled to an overall adjustment of 1031 days (546 days under 37 CFR 1.702(a) + 682 days under 37 CFR 1.702(b) - 27 overlapping days - 64 days pursuant to 37 CFR 1.703(b)(4) - 106 days of applicant delay).

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 one thousand thirty-one **(1031)** 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. 08-0219. 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 : 7,596,581 B2

DATED : **September 29, 2009**

INVENTOR(S) : Frank et al.

DRAFT

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 576 days

Delete the phrase "by 576 days" and insert – by 1031 days--

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OFFICE OF PETITIONS

In re Application of :
BARNHOLTZ, et al. :
Application No. 10/990,615 : DECISION ON PETITION
Filed: November 17, 2004 :
Attorney Docket No. **9832** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 30, 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 February 28, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed November 28, 2006. Accordingly, the date of abandonment of this application is March 1, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1400 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 Monica A. Graves at (571) 272-7253.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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John M. Guynn
WORKMAN, NYDEGGER & SEELEY
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

Mail Date: 04/21/2010

Applicant	: Bing Zhou	: DECISION ON REQUEST FOR
Patent Number	: 7632775	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/990,616	: 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 **944** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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AUG 29 2008

In re Application of :
Tatsuya Deto :
Application No. 10/990,623 : DECISION ON PETITION
Filed: November 17, 2004 :
Attorney Docket No. 114208-033 :

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

The petition is **DISMISSED.**

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

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed December 23, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 24, 2005. A Notice of Abandonment was mailed on September 14, 2005.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant

to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. *See* MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (3).

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional

information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (almost three years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on February 24, 2005. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as Everest Intellectual Property Law Group was counsel of record at the time of abandonment, they should explain why this application became abandoned while it was under their control and what efforts they made to further reply of itself and with whom this matter was discussed outside of Everest Intellectual Property Law Group. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from all responsible person(s) involved with this application at the time of abandonment. Statements are required from any and all persons then at Everest Intellectual Property Law Group, and the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due

to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, almost 3 years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons then at Everest Intellectual Property Law Group and the responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

> (A) the date that the applicant first became aware of the abandonment of the application; and
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

Any renewed petition may be addressed as follows:

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

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

The centralized facsimile number is **(571) 273-8300.**

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Tatsuya Deto :
Application No. 10/990,623 : ON PETITION
Filed: November 17, 2004 :
Attorney Docket No. 021964/337044 :

This is a decision on the renewed petition under 37 CFR 1.137(b) to revive the above-identified application, filed by October 29, 2008.

The petition is **GRANTED**.

The application became abandoned for a failure to timely respond to a Notice to File Missing Parts (Notice) mailed December 23, 2004. The notice required an oath or declaration under 37 CFR 1.63 and the requisite surcharge under 37 CFR 1.16(e). A Notice of Abandonment was mailed on September 14, 2005. On January 28, 2008, a petition to revive under 37 CFR 1.137(b) was filed; however, the petition was dismissed in a decision mailed August 29, 2008. In response, on October 29, 2008, the present petition was filed.

While this application has been abandoned for an extended period of time, the U.S. Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." *See* Changes to Patent Practice and Procedure, 62 Fed. Reg., at 53160 and 53178; 1203 Off. Gaz. Pat. Office, at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the U.S. Patent and Trademark Office).

Accordingly, the petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an executed declaration and the $130 surcharge; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Patent Application Processing (OPAP) for further processing using the declaration filed January 28, 2008.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at OPAP should be directed to their hotline at (571) 272-4000.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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300 S. WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

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OFFICE OF PETITIONS

In re Application of :
Hurst et al. :
Application No. 10/990,637 : ON PETITION
Filed: November 17, 2004 :
Attorney Docket No. 03,1028-C :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed October 17, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of the prior-filed provisional applications.

The petition is **DISMISSED AS MOOT**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000.

The instant pending nonprovisional application was filed on December 3, 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 the 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)(6) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application *and* the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR § 1.78(a)(5)(ii). 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)(6).[1] In the instant case, the Office noted the claim for priority of the prior-filed applications in the transmittal letter filed with the application, as shown by their inclusion on the filing receipt mailed on February 7, 2005.

However, a second Filing Receipt was mailed on April 1, 2005, reflecting the priority claims listed in the Oath/Declaration submitted on March 21, 2005, which included a third application,

[1] *Note* MPEP 201.11 (V), page 200-75 (Rev. 1. Feb. 2004 and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

Provisional Application No. 60/622,406, filed October 26, 2004. Per the instant petition, the application will be removed. If petitioner wishes to claim benefit to the above-identified application, a petition under 37 CFR 1.78(a)(6) will then be required. A Corrected Filing Receipt will be enclosed for petitioner's convenience.

In view of the above, the $1370.00 petition fee submitted is unnecessary and will be refunded to petitioner's deposit account in due course.

Any questions concerning this decision on petition may be directed to the undersigned at (571) 272-3206. 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 the Examiner of Technology Center AU 1638 for consideration of the claim under 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5) for benefit of the prior-filed provisional applications.

Liana Chase
Petitions Examiner
Office of Petitions

Attachment: Corrected Filing Receipt

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COOL PATENT, P.C.
c/o CPA Global
P.O. BOX 52050
MINNEAPOLIS, MN 55402

Mail Date: 04/21/2010

Applicant	: Severine Catreux	: DECISION ON REQUEST FOR
Patent Number	: 7583609	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/990,676	: 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 **935** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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YI LI
CUSPA TECHNOLOGY LAW ASSOCIATES
11820 SW 107 AVENUE
MIAMI FL 33176

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OFFICE OF PETITIONS

In re Application of :
Gregory **COOGLE** :
Application No. 10/990,685 : DECISION ON PETITION
Filed: November 16, 2004 : TO WITHDRAW
Attorney Docket No. 104.02 : FROM RECORD
:

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 26, 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 Yi Li, the sole attorney of record. Yi Li 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 Gregory Coogle at the address indicated below.

There is an outstanding Office action mailed January 5, 2007 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **GREGORY COOGLE**
492 NW 162ND AVENUE
PEMBROKE PINES, FL 33028

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/990,693	11/17/2004	Atm Shafiqul Khalid	14917.0466USC1	6460

27488 7590 01/27/2008
MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

EXAMINER	
CHAVIS, JOHN Q	

ART UNIT	PAPER NUMBER
2193	

MAIL DATE	DELIVERY MODE
01/27/2008	PAPER

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

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

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Gregory D. Leibold
Merchant & Gould (Microsoft)
P.O. Box 2903
Minneapolis, MN 55402-0903

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JAN 28 2008

TECHNOLOGY CENTER 2100

In re Application of:
Atm KHALID et al.
Appl. No.: 10/990,693
Filed: November 17, 2004
For: ACCESS REDIRECTOR AND ENTRY REFLECTOR

DECISION ON PETITION
UNDER 37 CFR § 1.59

This is a decision on the petition under 37 CFR § 1.59(b), filed on 14 January 2008, to expunge information submitted pursuant to MPEP § 724.05.

The petition is **DISMISSED**.

Petitioner requests that the information submitted on 14 January 2008 be expunged from the record if found not to be important to a reasonable examiner in deciding whether to allow the application to issue as a patent. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The petition is premature because the application has not been allowed or abandoned. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material," with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the petition to expunge must be dismissed at this time.

During prosecution on the merits, the examiner will determine whether or not the information submitted on 14 January 2008 is considered to be "material." Once prosecution on the merits is closed, applicant may re-submit a petition to expunge the information. No further fee is required for such a second submission of a petition under 37 CFR § 1.59 to expunge information. If the information is not considered by the examiner to be material, the information will be expunged from the application and may be returned to applicant.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

Vincent N. Trans, SPRE/QAS
Technology Center 2100
Computer Architecture, Software, and
Information Security

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/990,693	11/17/2004	Atm Shafiqul Khalid	14917.0466USC1	6460

27488 7590 06/10/2008
MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

EXAMINER	
CHAVIS, JOHN Q	
ART UNIT	**PAPER NUMBER**
2193	

MAIL DATE	DELIVERY MODE
06/10/2008	PAPER

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

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

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ALEXANDRIA, VA 22313-1450
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Rene A. Pereyra
MERCHANT & GOULD P.C.
P.O. Box 2903
Minneapolis, MN 55402-0903

In re Application of:
Khalid et al.
Appl. No.: 10/990,693
Filed: November 17, 2004
For: ACCESS REDIRECTOR AND ENTRY REFLECTOR

DECISION ON PETITION
UNDER 37 CFR 1.59

This is a decision on the petitions under 37 CFR 1.59(b), filed on 19 May 2008 and 21 May 2008, to expunge information submitted on 14 January 2008.

The petition is **GRANTED**.

Petitioner requests that the information submitted on 14 January 2008 be expunged from the record. Petitioner states that the materials are proprietary subject. The petition fee set forth in 37 CFR § 1.17(g) has been 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 are herewith returned. However, the petitions and support documents will not be returned.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

Vincent N. Trans, SPRE/QAS
Technology Center 2100
Computer Architecture, Software, and
Information Security

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111 MONUMENT CIRCLE, SUITE 3700
INDIANAPOLIS IN 46204-5137

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OFFICE OF PETITIONS

In re Application of	:	
LUO, Nie et al.	:	
Application No. 10/990,695	:	DECISION ON PETITION
Filed: November 17, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 22045-31	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed February 9, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age, must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes the declaration of inventor George H. Miley, attesting to his age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

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 1745 for action on the merits commensurate with this decision.

Monica A. Graves
Petitions Examiner
Office of Petitions

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VIERRA MAGEN/MICROSOFT CORPORATION
575 MARKET STREET, SUITE 2500
SAN FRANCISCO, CA 94105

Mail Date: 04/21/2010

Applicant	: Omar H. Shahine	: DECISION ON REQUEST FOR
Patent Number	: 7636785	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/990,703	: 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 **1096** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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PATTERSON & SHERIDAN, L.L.P.
3040 POST OAK BOULEVARD
SUITE 1500
HOUSTON TX 77056

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APR 0 8 2009

OFFICE OF PETITIONS

In re Application of	:	
Abraham B. De Waal et al	:	
Application No. 10/990,721	:	DECISION GRANTING PETITION
Filed: November 17, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. NVDA P001401	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 6, 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 26, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2628 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

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

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IRVINE CA 92618

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OFFICE OF PETITIONS

In re Application of :
Doser et al. : DECISION ON PETITION
Application Number: 10/990723 :
Filing Date: 11/16/2004 :
Attorney Docket Number: :
JCLA14984 :

This is a decision on the petition under 37 CFR 1.137(b),[1] filed on January 9, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on April 10, 2008, for failure to file a timely reply to the final Office action mailed on January 9, 2008, which set a three (3)-month shortened statutory period for reply. No extensions of the time for reply were filed in accordance with 37 CFR 1.136(a). Notice of Abandonment was mailed on July 28, 2008.

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

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

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

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

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

The subject renewed petition is accompanied by a Request for Continued Examination (RCE) and the required fee. Petitioner has requested that the enclosed amendment be considered as the reply required under 37 CFR 1.114.

This application is being referred to Technology Center Art Unit 1626 for further processing.

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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WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE, 46TH FLOOR
PHILADELPHIA PA 19103

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FEB 15 2005

OFFICE OF PETITIONS

In re Application of	:	
Stephen F. Hatfield	:	DECISION GRANTING PETITION
Application No. 10/990,728	:	
Filed: 17 November, 2004	:	
Atty Docket No. HENK-0063/M6905A	:	

This is a decision on the petition filed on 10 January, 2005, requesting that the above-identified application be accorded a filing date of 17 November, 2004, with one (1) sheet of drawings as a part of the original disclosure.

The petition is granted.

The application was filed on 17 November, 2004. However, on 17 December, 2004, Initial Patent Examination Division mailed a "Notice Of Incomplete Nonprovisional Application" stating that the application had not been accorded a filing date because the application was deposited without drawings. 35 U.S.C. § 113 (first sentence) requires a drawings "where necessary for the understanding of the subject matter sought to be patented."

In response, on 10 January, 2005, the present petition was filed, accompanied by one (1) sheet of drawings. Petitioner asserts that the above-identified application is a continuation-in-part (CIP) of Application No. 10/706,747 filed on 12 November, 2003, and that the prior application was incorporated by reference.

A search of the official file reveals that on 17 November, 2004, a specification was received in the USPTO in the present application, and the first sentence of the specification states that this application is a CIP of prior Application No. 10/706,747, filed on 12 November, 2003, "the disclosure of which is hereby incorporated by reference in its entirety."

Based on petitioner's representation that the sheet of drawings containing Figure 1 supplied with the petition constitutes a copy

of the drawings supplied with the prior application, and the incorporation by reference statement appearing in the first sentence of the specification as filed, stating that the disclosure of the prior application (identified as Application No. 10/706,747) was incorporated by reference in the present application on 17 November, 2004, it appears that a sheet of drawings was present in the Office on 17 November, 2004, albeit in the file of another application, *i.e.*, Application No. 10/706,747. Therefore, on petition, the application may be accorded the requested filing date.

The application will be processed and examined using the copy of one (1) sheet of drawings supplied on 10 January, 2005, as a part of the original disclosure.

The petition is granted. Since the petition was required to accord the requested filing date, the petition fee of $400.00 will not be refunded.

Of course, the primary examiner is expected to compare the one (1) sheet of drawings supplied on 10 January, 2005, to the disclosure of prior application No. 10/706,747 in order to verify that the one (1) sheet of drawings is, in fact, 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 17 November, 2004, using the application papers filed on that date and the one (1) sheet of drawings supplied with the present petition.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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129 RAWSON RD.
ARLINGTON, MA 02474

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OFFICE OF PETITIONS

In re Application of :
Venkateswarlu Kolluri et al :
Application No. 10/990,754 : DECISION ON PETITION
Filed: November 17, 2004 : TO WITHDRAW
Attorney Docket No. C1514US : FROM RECORD
:

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 28, 2005.

The request is **APPROVED**.

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

The request was signed by Inna Landsman, the sole attorney of record. Inna Landsman has been withdrawn as attorney of record. Applicant is reminded that there is no attorney of record at this time.

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

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

Amelia Au
Petitions Examiner
Office of Petitions

cc: John Southworth
P.O. Box 1287
Framingham, MA 01701

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

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OFFICE OF PETITIONS

In re Application of :
Thomas R. Witty et al. :
Application No. 10/990,762 : DECISION ON PETITION
Filed: November 16, 2004 : TO WITHDRAW
Attorney Docket No. 40422-0012 : FROM RECORD
:

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 6, 2006.

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

A review of the file record indicates that the power of attorney to Heller Ehrman LLP has been revoked by the assignee of the patent application on January 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 Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Law Office of Karen Canaan**
2225 East Bayshore Road
Suite 243
Palo Alto, CA 94303

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. BOX 14300
WASHINGTON, DC 20044-4300

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OFFICE OF PETITIONS

In re Application of :
Mani Kulasooriya, Ivan Liu (deceased), Lupti Cheung, Hui Yin, Paul Kelaita and Yuet Peng Cheong :
Application No. 10/990,774 : DECISION REFUSING STATUS
Filed: November 16, 2004 : UNDER 37 CFR 1.47(a)
Title: SYSTEMS AND METHODS FOR IMPLEMENTING ACCOUNT-TO-ACCOUNT INTERNATIONAL MONEY EXCHANGES :

This is in response to the "Petition Under 37 CFR 1.47(a)," filed May 18, 2005 (Certificate of Mailing date: May 16, 2005).

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on November 16, 2004 without an executed oath or declaration and naming Mani Kulasooriya, Ivan Liu (deceased), Lupti Cheung, Hui Yin, Paul Kelaita and Yuet Peng Cheong as joint inventors.

Accordingly, on December 17, 2004, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration, and a surcharge for its late filing.

In response, on May 18, 2005 (Certificate of Mailing date: May 16, 2005), the instant petition and a three (3) month extension of time were filed.

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

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

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

As to item (1), Rule 47 applicant has failed to show that the legal representative of the non-signing inventor, Ivan Liu, cannot be reached or located. Applicant has stated that Mr. Liu has no known legal representative in the United States and that Mr. Liu's family moved out of the United States without leaving any forwarding information. However, applicant has not submitted a statement of facts that describes any diligent efforts applicant has used to locate the legal representative or the heirs of the non-signing inventor.

Please note, 409.01(a), Prosecution by Administrator or Executor:

> Application may be made by the heirs of the inventor, as such, if there is no will or the will did not appoint an executor and the estate was under the sum required by state law for the appointment of an administrator. The heirs should identify themselves as the legal representative of the deceased inventor in the oath or declaration submitted pursuant to 37 CFR 1.63 and 1.64.

Further, where inability to find or reach a non-signing inventor, or in this instance, the deceased inventor's legal representative or heirs, "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made. The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, telephone directory searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the non-signing inventor, or in this instance, the deceased inventor's legal representative or heirs, could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the non-signing inventor, or in this instance, the deceased inventor's legal representative or heirs, should be included statement of facts. It is important that the statement contain facts as opposed to conclusions.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. The declaration does not set forth the citizenship, residence

or mailing address of the non-signing inventor. An oath or declaration in compliance with 37 CFR 1.63 and 1.64 is REQUIRED. See MPEP 409.03(a).

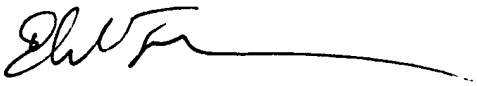
Further correspondence with respect to this matter should be addressed as follows:

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

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

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

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3228.



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

Attorney Docket: 100991.53908C2 (P002X-2)

IFW/~~BAC~~

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

OIPE JC103 MAY 18 2005 PATENT & TRADEMARK OFFICE

Applicant:	Mani Kulasooriya et al.	Group Art Unit: 3624
Serial No.:	10/990,774	Examiner: Unknown
Filed:	November 16, 2004	Confirmation No.: 6555
Title:	SYSTEMS AND METHODS FOR IMPLEMENTING ACCOUNT-TO-ACCOUNT INTERNATIONAL MONEY EXCHANGES	

PETITION UNDER 37 C.F.R. 1.47

Mail Stop Missing Parts
Commissioner for Patents
Alexandria, VA 22313-1450

Sir:

Applicant is hereby submitting this Petition in response to the Notice of Missing Parts mailed on December 17, 2004, for which a response is due on May 17, 2004 with the enclosed three-month extension of time. Applicant is petitioning under 37 CFR 1.47 to have the enclosed Declaration and Power of Attorney accepted on behalf of the signing inventors, as well as the deceased inventor Ivan Liu. As set forth in the enclosed Declaration of Mani Kulasooriya, Ivan Liu is deceased and has no known legal representative. As such, Applicant submits that this Petition should be granted.

In support of this Petition, please find enclosed the following:

1. Copy of Notice of Missing Parts;

05/19/2005 MWOLDGE1 00000005 10990774
03 FC:1464 130.00 OP

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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INTELLECTUAL PROPERTY GROUP
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WASHINGTON, DC 20044-4300

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OFFICE OF PETITIONS

In re Application of
Mani Kulasooriya, Ivan Liu (deceased), Lupti Cheung, Hui Yin, Paul Kelaita and Yuet Peng Cheong
Application No. 10/990,774
Filed: November 16, 2004
Title: SYSTEMS AND METHODS FOR IMPLEMENTING ACCOUNT-TO-ACCOUNT INTERNATIONAL MONEY EXCHANGES

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

This is in response to the "Request For Reconsideration of Petition Under 37 CFR 1.47(a)," filed September 2, 2005.

Petitioner has submitted a Declaration executed by the previously non-signing inventor's legal representative in compliance with 37 CFR 1.63. Therefore, in view of the joinder of the inventors, further consideration under 37 CFR 1.47(a) is not necessary and the petition is considered moot. This application does not require Rule 1.47(a) status, and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

The file is being forwarded to Technology Center 3600 for examination *in due course*.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of :
Mani Kulasooriya, Ivan Liu (deceased), Lupti :
Cheung, Hui Yin, Paul Kelaita and Yuet Peng :
Cheong :
Application No. 10/990,775 : DECISION REFUSING STATUS
Filed: November 16, 2004 : UNDER 37 CFR 1.47(a)
Title: SYSTEMS AND METHODS FOR :
IMPLEMENTING PERSON-TO-PERSON :
INTERNATIONAL MONEY EXCHANGES :

This is in response to the "Petition Under 37 CFR 1.47(a)," filed May 18, 2005 (Certificate of Mailing date: May 16, 2005).

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on November 16, 2004 without an executed oath or declaration and naming Mani Kulasooriya, Ivan Liu (deceased), Lupti Cheung, Hui Yin, Paul Kelaita and Yuet Peng Cheong as joint inventors.

Accordingly, on December 17, 2004, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration, and a surcharge for its late filing.

In response, on May 18, 2005 (Certificate of Mailing date: May 16, 2005), the instant petition and a three (3) month extension of time were filed.

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

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

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

As to item (1), Rule 47 applicant has failed to show that the legal representative of the non-signing inventor, Ivan Liu, cannot be reached or located. Applicant has stated that Mr. Liu has no known legal representative in the United States and that Mr. Liu's family moved out of the United States without leaving any forwarding information. However, applicant has not submitted a statement of facts that describes any diligent efforts applicant has used to locate the legal representative or the heirs of the non-signing inventor.

Please note, 409.01(a), Prosecution by Administrator or Executor:

> Application may be made by the heirs of the inventor, as such, if there is no will or the will did not appoint an executor and the estate was under the sum required by state law for the appointment of an administrator. The heirs should identify themselves as the legal representative of the deceased inventor in the oath or declaration submitted pursuant to 37 CFR 1.63 and 1.64.

Further, where inability to find or reach a non-signing inventor, or in this instance, the deceased inventor's legal representative or heirs, "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made. The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, telephone directory searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the non-signing inventor, or in this instance, the deceased inventor's legal representative or heirs, could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the non-signing inventor, or in this instance, the deceased inventor's legal representative or heirs, should be included statement of facts. It is important that the statement contain facts as opposed to conclusions.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. The declaration does not set forth the citizenship, residence

or mailing address of the non-signing inventor. An oath or declaration in compliance with 37 CFR 1.63 and 1.64 is REQUIRED. See MPEP 409.03(a).

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

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

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

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

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3228.

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

Attorney Docket: 100991.53908C1 (P002X-1)

IFW

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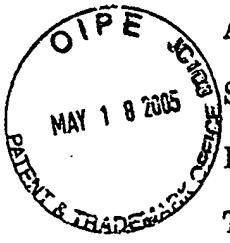

Applicant:	Mani Kulasooriya et al.	Group Art Unit: 3624
Serial No.:	10/990,775	Examiner: Unknown
Filed:	November 16, 2004	Confirmation No.: 6560
Title:	SYSTEMS AND METHODS FOR IMPLEMENTING PERSON-TO-PERSON INTERNATIONAL MONEY EXCHANGES	

PETITION UNDER 37 C.F.R. 1.47

Mail Stop Missing Parts
Commissioner for Patents
Alexandria, VA 22313-1450

Sir:

Applicant is hereby submitting this Petition in response to the Notice of Missing Parts mailed on December 17, 2004, for which a response is due on May 17, 2004 with the enclosed three-month extension of time. Applicant is petitioning under 37 CFR 1.47 to have the enclosed Declaration and Power of Attorney accepted on behalf of the signing inventors, as well as the deceased inventor Ivan Liu. As set forth in the enclosed Declaration of Mani Kulasooriya, Ivan Liu is deceased and has no known legal representative. As such, Applicant submits that this Petition should be granted.

In support of this Petition, please find enclosed the following:

1. Copy of Notice of Missing Parts;

05/19/2005 MMOLDGE1 00000006 10990775
03 FC:1464 130.00 OP

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Commissioner for Patents
United States Patent and Trademark Office
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INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

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OFFICE OF PETITIONS

In re Application of :
Mani Kulasooriya, Ivan Liu (deceased), Lupti :
Cheung, Hui Yin, Paul Kelaita and Yuet Peng :
Cheong : DECISION NOTING JOINDER OF
Application No. 10/990,775 : INVENTOR AND PETITION
Filed: November 16, 2004 : UNDER 37 CFR 1.47(a) MOOT
Title: SYSTEMS AND METHODS FOR :
IMPLEMENTING PERSON-TO-PERSON :
INTERNATIONAL MONEY EXCHANGES :

This is in response to the "Request For Reconsideration of Petition Under 37 CFR 1.47(a)," filed September 2, 2005.

Petitioner has submitted a Declaration executed by the previously non-signing inventor's legal representative in compliance with 37 CFR 1.63. Therefore, in view of the joinder of the inventors, further consideration under 37 CFR 1.47(a) is not necessary and the petition is considered moot. This application does not require Rule 1.47(a) status, and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

The file is being forwarded to Technology Center 3600 for examination *in due course*.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of :
Mani Kulasooriya, Ivan Liu (deceased), Lupti :
Cheung, Hui Yin, Paul Kelaita and Yuet Peng :
Cheong :
Application No. 10/990,777 :
Filed: November 16, 2004 :
Title: SYSTEMS AND METHODS FOR :
PERFORMING INTERNATIONAL MONEY :
EXCHANGES :

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the "Petition Under 37 CFR 1.47(a)," filed May 18, 2005 (Certificate of Mailing date: May 16, 2005).

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on November 16, 2004 without an executed oath or declaration and naming Mani Kulasooriya, Ivan Liu (deceased), Lupti Cheung, Hui Yin, Paul Kelaita and Yuet Peng Cheong as joint inventors.

Accordingly, on December 15, 2004, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration, and a surcharge for its late filing.

In response, on May 18, 2005 (Certificate of Mailing date: May 16, 2005), the instant petition and a three (3) month extension of time were filed.

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

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

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

As to item (1), Rule 47 applicant has failed to show that the legal representative of the non-signing inventor, Ivan Liu, cannot be reached or located. Applicant has stated that Mr. Liu has no known legal representative in the United States and that Mr. Liu's family moved out of the United States without leaving any forwarding information. However, applicant has not submitted a statement of facts that describes any diligent efforts applicant has used to locate the legal representative or the heirs of the non-signing inventor.

Please note, 409.01(a), Prosecution by Administrator or Executor:

> Application may be made by the heirs of the inventor, as such, if there is no will or the will did not appoint an executor and the estate was under the sum required by state law for the appointment of an administrator. The heirs should identify themselves as the legal representative of the deceased inventor in the oath or declaration submitted pursuant to 37 CFR 1.63 and 1.64.

Further, where inability to find or reach a non-signing inventor, or in this instance, the deceased inventor's legal representative or heirs, "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made. The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, telephone directory searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the non-signing inventor, or in this instance, the deceased inventor's legal representative or heirs, could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the non-signing inventor, or in this instance, the deceased inventor's legal representative or heirs, should be included statement of facts. It is important that the statement contain facts as opposed to conclusions.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. The declaration does not set forth the citizenship, residence

or mailing address of the non-signing inventor. An oath or declaration in compliance with 37 CFR 1.63 and 1.64 is REQUIRED. See MPEP 409.03(a).

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

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

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

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

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3228.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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P.O. BOX 14300
WASHINGTON, DC 20044-4300

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OFFICE OF PETITIONS

In re Application of	:	
Mani Kulasooriya, Ivan Liu (deceased), Lupti	:	
Cheung, Hui Yin, Paul Kelaita and Yuet Peng	:	
Cheong	:	DECISION NOTING JOINDER OF
Application No. 10/990,777	:	INVENTOR AND PETITION
Filed: November 16, 2004	:	UNDER 37 CFR 1.47(a) MOOT
Title: SYSTEMS AND METHODS FOR	:	
PERFORMING INTERNATIONAL MONEY	:	
EXCHANGES	:	

This is in response to the "Request For Reconsideration of Petition Under 37 CFR 1.47(a)," filed August 29, 2005.

Petitioner has submitted a Declaration executed by the previously non-signing inventor's legal representative in compliance with 37 CFR 1.63. Therefore, in view of the joinder of the inventors, further consideration under 37 CFR 1.47(a) is not necessary and the petition is considered moot. This application does not require Rule 1.47(a) status, and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

The file is being forwarded to Technology Center 3600 for examination *in due course*.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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WILMER CUTLER PICKERING HALE AND DORR
60 STATE STREET
BOSTON, MA 02109

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OCT 13 2005

OFFICE OF PETITIONS

In re Application of :
Bruce Howard Aaronson et al :
Application No. 10/990,796 : DECISION DISMISSING
Filed: November 17, 2004 : PETITION
Attorney Docket No. 011/113592.131US2 :

This is a decision on the paper filed June 3, 2005, which is being treated as a petition under 37 CFR 1.53(e), requesting that the above-identified application be accorded a filing date of November 17, 2004, with page 6 as a part of the original disclosure.

The petition is **DISMISSED**.

The application was filed on November 17, 2004. On February 22, 2005, 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 of November 17, 2004, but that page 6 of the specification appeared to have been omitted from the application.

In response, on June 3, 2005, the petition contends that the allegedly omitted page 6 of the specification was filed with the application papers on November 17, 2004. In support, the petition is accompanied by a copy of applicants' itemized postcard receipt showing "14 specification pages," but the petition fails to include a copy of the original filed page 6 of the specification.

In a review of the preliminary amendment remarks, petitioner states that page 6 of the specification "... was inadvertently omitted when filed. This preliminary amendment is filed in order to recapture the information contained on original page 5 of USSN 10/990,796." It is unclear whether page 6 of the specification was filed with the original application papers.

Petitioner has failed to show that page 6 of the specification was filed on November 17, 2004 or supply a copy thereof. Thus, the petition is dismissed.

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

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450

Alexandria, VA 22313-1450

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

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

The preliminary amendment will be considered by the examiner to determine whether it contains new matter when compared to the November 17, 2004 specification.

The Office also acknowledges receipt of the Declaration and Power of Attorney.

This matter is being referred to Office of Initial Patent Examination for further processing with a filing date of November 17, 2004, using the papers filed on that date.

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

Frances Hicks for
Brian Hearn
Senior Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JENKENS & GILCHRIST, P.C.
225 WEST WASHINGTON
SUITE 2600
CHICAGO IL 60606

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OFFICE OF PETITIONS

In re Application of
Vickas
Application No. 10/990,806
Filed: November 17, 2004
Attorney Docket No. 51676-00007USPT

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

This is a decision on the petition under 37 CFR 1.78(a)(6), filed September 29, 2005 (certificate of mailing date September 27, 2005), to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to a prior-filed provisional application.

The petition is **DISMISSED.**

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

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

This pending nonprovisional application was filed on November 17, 2004, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/530,713, which was filed on December 18, 2003, and for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. An incorporation by reference statement added after an

application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a renewed petition under 37 CFR 1.78(a)(6) and either an Application Data Sheet or a substitute amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)) deleting the incorporation by reference statement, are required.

Regarding the statement of delay, 37 CFR § 1.78(a)(6) requires a statement that the entire delay between the date the claim was due under 37 CFR § 1.78(a)(5)(ii) and the date the claim was filed was unintentional. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR §1.78(a)(6). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

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

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

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

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

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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JENKENS & GILCHRIST, P.C.
225 WEST WASHINGTON
SUITE 2600
CHICAGO IL 60606

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APR 27 2007

OFFICE OF PETITIONS

In re Application of :
Vickas :
Application No. 10/990,806 : DECISION ON PETITION
Filed: November 17, 2004 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 51676-00007USPT :

This is a decision on the reconsideration petition under 37 CFR 1.78(a)(6), filed February 20, 2007 (certificate of mailing date February 15, 2007), to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to a prior-filed provisional application.

The petition is **GRANTED.**

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

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

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

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

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

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3230. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 2612 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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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
10/990,806	11/17/2004	2612	1357	51676-00007USPT	56	5

CONFIRMATION NO. 7416

CORRECTED FILING RECEIPT

OC000000023568480

30223
JENKENS & GILCHRIST, P.C.
225 WEST WASHINGTON
SUITE 2600
CHICAGO, IL 60606

Date Mailed: 04/27/2007

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)

George Vickas, Chicago, IL;

Power of Attorney: The patent practitioners associated with Customer Number **30223**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/530,713 12/18/2003

Foreign Applications

If Required, Foreign Filing License Granted: 02/08/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/990,806

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Incursion collision avoidance system for vehicle traffic control

Preliminary Class

340

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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Valeo Climate Control Corp.
Intellectual Property Dept
4100 North Atlantic Boulevard
Auburn Hills MI 48326

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AUG 2 2 2006

OFFICE OF PETITIONS

In re Application of :
Philippe **VINCENT** :
Application No. 10/990,813 : DECISION ON PETITION
Filed: November 17, 2004 : TO WITHDRAW
Attorney Docket No. TFR0283 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 5, 2006.

The request is **APPROVED**.

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

The request was signed by Thomas P. Liniak. Thomas P. Liniak has been withdrawn as attorney or agent of record; all other attorneys remain of record. The correspondence address of record remains unchanged.

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

Amelia Au
Petitions Examiner
Office of Petitions

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JAMES E. EAKIN
P.O. BOX 1250
MENLO PARK, CA 94025-4317

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JAN 17 2008

OFFICE OF PETITIONS

In re Application of
Donald M. LANDWIRTH, et al
Application No. 10/990,828
Filed: November 16, 2004
Attorney Docket No. 069571-0310783 NSDC-002

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 26, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to James E. Eakin, has been revoked by the assignee of the patent application on November 30, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: MORGAN, LEWIS
& BOCKIUS, LLP
2 PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO, CA 94306

cc: DONALD M. LANDWIRTH
28 SELBY LANE
ATHERTON, CA 94027

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
10/990,828	11/16/2004	Donald M. Landwirth	069571-0310783 NSDC-002

CONFIRMATION NO. 5954

POA ACCEPTANCE LETTER

24341
MORGAN, LEWIS & BOCKIUS, LLP.
2 PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO, CA 94306

OC000000027753634

Date Mailed: 01/17/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/30/2007.

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.

/dcgoodwyn/

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

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/990,828	11/16/2004	Donald M. Landwirth	069571-0310783 NSDC-002

CONFIRMATION NO. 5954

LAW OFFICES OF JAMES E. EAKIN
P.O. Box 1250
Menlo Park, CA 94025

POWER OF ATTORNEY NOTICE

Date Mailed: 01/17/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/30/2007.

- The Power of Attorney to you in this application has been revoked by the applicant. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/dcgoodwyn/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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CYNTHIA K. THOMPSON
JENKENS & GILCHRIST, P.C.
225 WEST WASHINGTON STREET
SUITE 2600
CHICAGO, ILLINOIS 60606

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NOV 09 2005

OFFICE OF PETITIONS

In re Application of	:	
Kevin Jacob Miller	:	
Application No. 10/990,829	:	DECISION ON PETITION
Filed: November 17, 2004	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 64567-00002USPT	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed September 29, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**.

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

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

The above-identified pending nonprovisional application was filed on November 17, 2004, which is after November 29, 2000. The reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) of the prior-filed application, and the required petition fee of $1370 were received with the petition. 37 CFR 1.78(a)(6) requires a statement that "the entire delay between the date the claim was due under paragraph (a)(5)(ii) of this section and the date the claim was filed was unintentional" be submitted. However, the statement presented will be accepted and construed as the statement required by 37 CFR 1.78(a)(6). Petitioner must notify the Office if this is not a correct interpretation of the statement contained in the present petition.

The petition satisfies the above requirements. Accordingly, the claim for priority is accepted as having been 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 instant application is entitled to the benefit of the earlier filing date.

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

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

The application is being forwarded to Technology Center AU 2672 for appropriate action on the amendment submitted September 29, 2005, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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WOMBLE CARLYLE SANDRIDGE & RICE, PLLC
ATTN: PATENT DOCKETING 32ND FLOOR
P.O. BOX 7037
ATLANTA, GA 30357-0037

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JUN 19 2008

OFFICE OF PETITIONS

In re Application of :
Leah Ames, et al. :
Application No. 10/990,841 : DECISION ON PETITION
Filed: November 17, 2004 : TO WITHDRAW
Attorney Docket No. S50925.1010.1 : 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 27, 2008.

The request is **APPROVED**.

A review of the file record indicates that Womble, Carlyle, Sandridge & Rice, PLLC: (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, Womble, Carlyle, Sandridge & Rice, PLLC has/have been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

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

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

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

There are no pending Office actions at the present time.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-142.

April M. Wise
Petitions Examiner
Office of Petitions

cc: LEAH AMES
308 SOUTH INDIAN ROAD
RR 1, BOX 110
LEOTI, KANSAS 67861

cc: STEP UP 4 LEARNING SYSTEMS, INC.
5222 MONROE ROAD
SUITE 170
CHARLOTTE, NC 28205

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/990,841	11/17/2004	Leah Ames	S50925.1010.1

CONFIRMATION NO. 5946

POWER OF ATTORNEY NOTICE

26158
WOMBLE CARLYLE SANDRIDGE & RICE, PLLC
ATTN: PATENT DOCKETING 32ND FLOOR
P.O. BOX 7037
ATLANTA, GA 30357-0037

Date Mailed: 06/16/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/27/2008.

- 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.

/amwise/

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

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PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE, WA 98111-1247

Mail Date: 04/20/2010

Applicant	: Keng-Lon Lei	: DECISION ON REQUEST FOR
Patent Number	: 7646682	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/990,860	: 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 **582** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mail Date: 04/21/2010

Applicant	: Shigeru Wada	: DECISION ON REQUEST FOR
Patent Number	: 7623159	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/990,864	: 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 **850** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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SCULLY SCOTT MURPHY & PRESSER, PC
400 GARDEN CITY PLAZA
SUITE 300
GARDEN CITY, NY 11530

Mail Date: 05/24/2010

Applicant	: Katia Martina	: DECISION ON REQUEST FOR
Patent Number	: 7632854	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/990,866	: 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 **1234** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Michael L. Goldman
Nixon Peabody LLP
Clinton Square
P.O. Box 31051
Rochester NY 14603-1051

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SEP 0 8 2005

OFFICE OF PETITIONS

In re Application of Hill et al. Application No. 10/990,868 Filed: November 17, 2004 Attorney Docket No. 19603/4910 (CRFD-2777)	DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition filed August 11, 2005 under 37 CFR. §1.47(a).

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

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

The above-identified application was filed on November 17 , 2004, without an executed oath or declaration. Accordingly, on February 9, 2005, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring for the purposes of this decision an executed oath or declaration in compliance with §1.63, and a surcharge for its late filing. This Notice set an extendable two-month period for reply of April 9, 2005.

In reply, applicant filed a petition, the surcharge for late filing of the declaration and a declaration. To make the reply timely, a four (4) month extension of time was also submitted.

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 does not satisfy requirements (2) and (4).

As to item (2), the declaration submitted is not in compliance with 37 CFR 1.63 . Rule 47 applicant failed to provide the citizenship of non-signing inventors Hill and Khalil pursuant to 37 CFR 1.63 (a)(3). On renewed petition, a newly executed declaration is required.

As to item (4), the last known addresses for inventors Hill and Khalil were provided in the petition. However addresses were not provided on the declaration. In situations where an inventor does not execute the oath or declaration and the inventor is not deceased, such as in an application filed under 37 CFR 1.47, the inventor's most recent home address must be given to enable the Office to communicate directly with the inventor as necessary. See MPEP 605.03. The newly executed declaration should also include the last known addresses of the non-signing inventors.

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 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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Michael L. Goldman
Nixon Peabody LLP
Clinton Square
P.O. Box 31051
Rochester NY 14603-1051

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OFFICE OF PETITIONS

In re Application of :
Colin Hill, Iya Khalil and Guillermo Calero :
Application No.10/990,868 :
Filed: November 17, 2004 :
Attorney Docket No. 19603/4910 (CRFD-2777) :
Title of Invention: Methods and Systems for the :
Identification of Components of Mammalian :
Biochemical Networks as Targets for Therapeutic :
Agents :

DECISION GRANTING STATUS
UNDER 37 CFR 1.47(A)

This is in response to the renewed petition under 37 CFR 1.47(a) filed November 7, 2005.

The petition is GRANTED.

Petitioner has shown that non-signing inventors Hill and Khalil have not been located. The petition attest a copy of the application was sent to non-signing inventors' last known address. The non-signing inventors' failure to respond to the application mailing sufficiently establishes that they refuse 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 inventors at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the application will be forwarded to the Office of Initial Patent Examination for further processing.

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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DEC 0 9 2005

OFFICE OF PETITIONS

Colin Hill
101 Giles Street, Apt. A
Ithaca, New York 14850

In re Application of
Colin Hill, Iya Khalil and Guillermo Calero
Application No.10/990,868
Filed: November 17, 2004
Attorney Docket No. 19603/4910 (CRFD-2777)
Title of Invention: Methods and Systems for the Identification of Components of Mammalian Biochemical Networks as Targets for Therapeutic Agents

: 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, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to 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

Charlema R. Grant
Petitions Attorney
Office of Petitions

Michael L. Goldman
Nixon Peabody LLP
Clinton Square
P.O. Box 31051
Rochester NY 14603-1051

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OFFICE OF PETITIONS

Iya Khalil
35 Sheraton Drive
Ithaca, New York 14850

In re Application of
Colin Hill, Iya Khalil and Guillermo Calero
Application No.10/990,868
Filed: November 17, 2004
Attorney Docket No. 19603/4910 (CRFD-2777)
Title of Invention: Methods and Systems for the Identification of Components of Mammalian Biochemical Networks as Targets for Therapeutic Agents

: LETTER

Dear Mr. Khalil:

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, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to 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

Michael L. Goldman
Nixon Peabody LLP
Clinton Square
P.O. Box 31051
Rochester NY 14603-1051

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DEC 20 2005

MARK H. PLAGER
9807 FONTE ROAD
CYPRESS, CA 90630-3541

In re application of : **DECISION ON PETITION**
Richard Resare : **TO MAKE SPECIAL**
Application No. 10/990,873 : **(APPLICANT'S AGE)**
Filed: November 17, 2004 :
For: METHOD OF COLLECTING, QUALIFYING AND DISTRIBUTING CUSTOMER LEADS RESULTING IN INCREASED RATE OF RETURN ON MARKETING INVESTMENT

This is a decision on the renewed petition submitted on November 26, 2005 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a declaration signed by Richard Resare 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**.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(571) 272-6587

KJD/dcg: 12/7/05

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3/17/09

Patent No. : 7,132,400 B2
Ser. No. : 10/990,877
Inventor(s) : Thomas T. Andersen, et. al.
Issued : November 7, 2006
Title : ALPHA-FETOPROTEIN PEPTIDES AND USES THEROF
Docket No. : 19705-010 DIV

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.

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 is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

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

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

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

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

Eva James
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext. 124** or 125

Ivor R. Elrifi, Esq.
Mintz, Levin,Ccohn, Ferris,
Glovsky & Popeo, P.C.
One Financial Center
Boston, MA 02111

ej

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UNITED STATES DEPARTMENT OF COMMERCE
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IBM CORPORATION
INTELLECTUAL PROPERTY LAW DEPARTMENT
9000 SOUTH RITA ROAD
TUCSON, AZ 85744

Mail Date: 04/21/2010

Applicant	: Ronald J. Chapman	: DECISION ON REQUEST FOR
Patent Number	: 7644201	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/990,882	: 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 **755** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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IV (TRANSMETA)
C/O MURABITO, HAO & BARNES LLP
TWO NORTH MARKET STREET
THIRD FLOOR
SAN JOSE, CA 95113

Mail Date: 04/21/2010

Applicant	: Robert Paul Masleid	: DECISION ON REQUEST FOR
Patent Number	: 7598573	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/990,886	: 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 **300** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
Iselin, NJ 08830

Mail Date: 04/21/2010

Applicant	: Kazunori Okada	: DECISION ON REQUEST FOR
Patent Number	: 7616792	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/990,888	: 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 **1393** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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IBM CORPORATION
LOTUS SOFTWARE
ONE ROGERS STREET
CAMBRIDGE, MA 02142

Mail Date: 04/20/2010

Applicant	: Kim Letkeman	: DECISION ON REQUEST FOR
Patent Number	: 7590933	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/990,906	: 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 **903** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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IBM CORPORATION
LOTUS SOFTWARE
ONE ROGERS STREET
CAMBRIDGE, MA 02142

Mail Date: 05/17/2010

Applicant : Kim Letkeman
Patent Number : 7590933
Issue Date : 09/15/2009
Application No: 10/990,906
Filed : 11/17/2004

: 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 **953** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/8/07 Paper No.: ____

TO SPE OF : ART UNIT 3618

SUBJECT : Request for Certificate of Correction on Patent No.: 7150466

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

Art Unit 3618

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

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY & POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

Mail Date: 05/05/2010

Applicant	: Marcus R. Schwarz	: DECISION ON REQUEST FOR
Patent Number	: 7634539	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/990,932	: 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 **1012** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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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Patrick Reilly
Box 7218
Santa Cruz CA 95061-7218

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AUG 31 2005

OFFICE OF PETITIONS

In re Application of	:	
Panwar et al.	:	DECISION REFUSING STATUS
Application No.10/990,945	:	UNDER 37 CFR 1.47(a)
Filed: November 17, 2004	:	
Attorney Docket No. NEV-002-US	:	
Title: Method and System to Detect A Data Pattern of A Packet in A Communications Network	:	

This is in response to the petition under 37 CFR § 1.47(a), filed August 2, 2005.

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

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

The merits of the petition have not been reviewed because petitioner has failed to provide the appropriate petition fee. The petition fee is a prerequisite to review of the petition. The current petition fee is $200.00. The Office is in receipt of $100.00 submitted towards the petition fee. A review of the file shows a deposit account authorizing the Director to charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 has not been provided.

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

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

By facsimile: (571) 273-8300

By delivery service:
FedEx, UPS, DHL, etc.)

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

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ROBERT E. BUSHNELL
SUITE 300
1522 K STREET, N.W.
WASHINGTON DC 20005

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NOV 0 7 2007

OFFICE OF PETITIONS

In re Application of	:	
Seung-Uk Kwon	:	
Application No. 10/990,974	:	DECISION GRANTING PETITION
Filed: November 18, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. P57258	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 31, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

This application is being referred to Technology Center AU 2879 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

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Howard IP Law Group
P.O. Box 226
Fort Washington, PA 19034

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MAR 10 2008

OFFICE OF PETITIONS

In re Application of
Monte J. Solazzi
Application No. 10/990,994
Filed: November 17, 2004
Attorney Docket No. Chemplex-8

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Requests to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed January 10, 2007 and February 29, 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 requests were signed by Edward J. Howard, on behalf of all attorneys/agents of record. All attorneys/agents have been withdrawn.

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

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

There are no outstanding Office actions at this time.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Monte J. Solazzi
2820 S.W. 42nd Avenue
Palm City, FL 34990-5573

cc: The Plevy Firm
10 Rutgers Place
Trenton, NJ 08618

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/990,994	11/17/2004	Monte J. Solazzi	Chemplex-8

CONFIRMATION NO. 6694

POWER OF ATTORNEY NOTICE

45722
Howard IP Law Group
P.O. Box 226
Fort Washington, PA 19034

Date Mailed: 03/10/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/29/2008.

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

/kainabinet/

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

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WELLS ST JOHN PS
601 W FIRST AVE
SUITE 1300
SPOKANE WA 99201-3828

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DEC 22 2005

OFFICE OF PETITIONS

In re Application of	:	
Vercruyssen, et al.	:	DECISION ON PETITION
Application No. 10/991,004	:	
Filed: January 20, 2004	:	
Attorney Docket No. TE2-0123	:	

This is a decision on the petition filed November 28, 2005, 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 reply to the Notice to File Missing Parts, mailed February 2, 2005. This Notice set a period for reply of two months from the mailing date of the Notice to submit a the statutory basic filing fee, a surcharge for its late filing, and an executed oath or declaration. On August 2, 2005, applicants filed the statutory basic filing fee and the late surcharge, made timely by obtaining a four month extension of time. However, the submission was not timely because it did not include an extension of time. In addition, applicants failed to submit and oath or declaration. A Notice of Incomplete Reply was mailed on August 23, 2005, informing applicants that the period for reply would remain as set forth in the Notice to File Missing Parts. No oath or declaration having been received with an appropriate extension of time, the application became abandoned on April 3, 2005. The mailing of this decision precedes the mailing of a Notice of Abandonment.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and submitted a 37 CFR 1.63 declaration.

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

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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RUDEN, MCCLOSKY, SMITH, SCHUSTER & RUSSELL, P.A.
222 LAKEVIEW AVE
SUITE 800
WEST PALM BEACH FL 33401-6112

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OCT 31 2006

OFFICE OF PETITIONS

In re Application of :
Hincapie, Gloria :
Application No. 10/991,008 : DECISION ON PETITION
Filed: November 17, 2004 : TO WITHDRAW
Attorney Docket No. 48792-0006 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 19, 2006.

The request is **NOT APPROVED**.

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

The request cannot be approved because there remain less than 30 (thirty days) between the date of this decision and the maximum extendable time period for filing a response to the Office action mailed on May 1, 2006.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

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

TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

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JUL 06 2007

OFFICE OF PETITIONS

In re Application of :
Andrea Bonelli :
Application No. 10/991,010 :
Filed: November 16, 2004 :
Attorney Docket No. TI-35819 :
Title: METHOD AND APPARATUS FOR :
MEMORY DATA DESKEWING :

DECISION ON PETITION
UNDER 37 C.F.R. §1.137(B)

This is a decision on the petition filed January 24, 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 within the meaning of 37 C.F.R §1.113 in a timely manner to the final Office action mailed May 24, 2006, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 C.F.R §1.136(a) were obtained, and no response was received. Accordingly, the above-identified application became abandoned on August 25, 2006.

37 C.F.R. §1.137(b)(3) requires a statement that the entire delay

1 A grantable petition pursuant to 37 C.F.R §1.137(b) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 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.

in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 C.F.R. §1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 C.F.R. §1.137(b)(3) and Petitioner must notify the Office if this is not a correct interpretation of the statement contained in the present petition.

With the present petition, Petitioner has included a portion of the petition fee, a notice of appeal along with the associated fee, and a statement that is being construed as the proper statement of unintentional delay. No terminal disclaimer is required. The remainder of the petition fee has been charged to Petitioner's Deposit Account.

As such, the petition under 37 C.F.R. §1.137(b) is **GRANTED**.

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 notice of appeal that was concurrently submitted with this petition can be processed.

The Notice of Appeal filed on January 24, 2007, has been entered and made of record. Accordingly, **the two-month period for filing the Appeal Brief, in triplicate, accompanied by the fee required by law, runs from the mailing date of this decision.**

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

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OFFICE OF PETITIONS

TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

In re Application of Bonelli :
Application No. 10/991,010 :
Filing Date: November 16, 2004 :
Attorney Docket No. TI-35819 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.181, filed October 9, 2007, to withdraw the holding of abandonment.

The petition is **granted.**

A petition under 37 CFR 1.137(b) and a Notice of Appeal were filed January 24, 2007.

A decision granting the petition was issued July 6, 2007. The decision stated, with emphasis in original,

> The Notice of Appeal filed on January 24, 2007, has been entered and made of record. Accordingly, **the two-month time period for filing the Appeal Brief, in triplicate, accompanied by the fee required by law, runs from the mailing date of this decision.**

The Office issued a Notice of Abandonment on October 1, 2007. The Notice states the application is abandoned because an Appeal Brief was not filed within the two-month time period set forth in the July 6, 2007 decision.

The examiner's interpretation of the decision appears to have resulted in the examiner failing to recognize extensions of time under the provisions of 37 CFR 1.136(a) were available for filing the Appeal Brief.

The language in the decision was intended to indicate the filing date of the Notice of Appeal, for purposes of timely filing an Appeal Brief, was the mailing date of the decision rather than January 24, 2007.

37 CFR 41.37(a)(1) states, "Appellant must file a brief under this section within two months from the date of filing the notice of appeal under § 41.31."

37 CFR 41.37(e) states, "The time periods set forth in this section are extendable under the provisions of §1.136 of this title for patent applications."

The time period to file an Appeal Brief can be extended by up to 5 months. Therefore, at the time the Notice of Abandonment, the maximum extendable time period for reply had not expired.

An Appeal Brief and a request for a two-month extension of time accompany the instant petition.

Since an Appeal Brief has been timely filed, the application is not abandoned.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Technology Center Art Unit 2827 will be informed of the instant decision and the examiner will review the Appeal Brief filed October 9, 2007, 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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SPRINT COMMUNICATIONS COMPANY L.P.
6391 SPRINT PARKWAY
KSOPHT0101-Z2100
OVERLAND PARK, KS 66251-2100

Mail Date: 04/21/2010

Applicant	: Dean Lee Saghier	: DECISION ON REQUEST FOR
Patent Number	: 7590508	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/991,015	: 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 **1337** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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MILBANK, TWEED, HADLEY & MCCLOY
1 CHASE MANHATTAN PLAZA
NEW YORK NY 10005-1413

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JUN 16 2008

OFFICE OF PETITIONS

In re Application of :
Matthew A. Gelfand, et al. :
Application No. 10/991,030 : ON PETITION
Filed: November 17, 2004 :
Attorney Docket No. 36314-00900 :
:

This is a decision on the petition under 37 CFR 1.137(b), filed February 14, 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 July 16, 2007. A Notice of Abandonment was mailed on February 14, 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 3671 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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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 05/20/2010

Applicant	: John Meredith Weir	: DECISION ON REQUEST FOR
Patent Number	: 7630989	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/991,091	: 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 **264** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 92618-3731

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OFFICE OF PETITIONS

In re Application of :
Yuji Tsuruoka et al. :
Application No. 10/991,105 : DECISION GRANTING PETITION
Filed: November 17, 2004 :
Attorney Docket No. 10002313US01 :

This is a decision on the petition filed April 13, 2005, in response to the Notice of Incomplete Nonprovisional Application mailed February 17, 2005, requesting that the above identified application be accorded a filing date of November 17, 2004. The petition is treated under 37 CFR 1.53.

The "Notice of Incomplete Nonprovisional Application" mailed February 17, 2005 by the Office of Initial Patent Examination, indicated that the application had not been accorded a filing date because the application was deposited without drawings and that the filing date of the application would be the date of receipt of the drawings.

In response, the present petition, and 5 sheets of drawings were filed. Petitioners argue that 5 sheets of drawings were filed with the other application papers on November 17, 2004. In support of the petition, a copy of petitioner's postcard receipt which shows an official USPTO date-stamp of November 17, 2004, and the above-identified application number, and acknowledges receipt of, *inter alia*, 5 sheets of drawings, was supplied with the present petition. Petitioner requests that the application, including 5 sheets of drawings, be accorded a filing date of November 17, 2004.

Upon review of the record, no sheets of drawings deposited on November 17, 2004, have been located among the application papers. However, the evidence is convincing that the application papers deposited on November 17, 2004, included 5 sheets of drawings, which were subsequently misplaced in the USPTO. Therefore, the application, including the 5 sheets of drawings, was complete on filing and entitled to a filing date of November 17, 2004.

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

The Notice of Incomplete Nonprovisional Application mailed February 17, 2005 is

withdrawn. Therefore, the petition fee in the amount of $400.00 will be credited back to deposit account no. 50-2456.

This matter is being referred to the Office of Initial Patent Examination for processing with a filing date of November 17, 2004, using the application papers filed on November 17, 2004 and the 5 sheets of drawings supplied on April 13, 2005.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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FEB 14 2005

OFFICE OF PETITIONS

SWANSON & BRATSCHUN, LLC - IBM
1745 SHEA CENTER DRIVE, SUITE 330
HIGHLANDS RANCH, CO 80129

In re Application of :
Chapman, et al. :
Application No. 10/991,109 : DECISION GRANTING PETITION
Filed: November 17, 2004 :
Attorney Docket No. TUC920040102US1 :

This is a decision on the petition filed January 21, 2005, under 37 CFR 1.10 requesting that the above-cited application be accorded a filing date of November 17, 2004, rather than the presently accorded filing date of November 18, 2004.

Petitioner alleges that the application was deposited with the Express Mail Service on November 17, 2004. In support of the allegation, the petition is accompanied by a copy of the "Track and Confirm" communication from the United States Postal Service showing that Express Mail package EV529321583US was deposited with the United States Postal Service, Express Mail Service on November 17, 2004. The tracking number cited is the same number found on the application transmittal sheet that accompanied the original application papers. The evidence is convincing that the application papers were deposited on November 17, 2004.

In view of the above, the petition is granted. The new filing date for the above-cited application is November 17, 2004

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of November 17, 2004, and for issuance of a corrected filing receipt.

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

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TECHNOLOGY CENTER 3600

MARK D. BOWEN
STEARNS WEAVER MILLER
SUITE 1900
200 EAST BROWARD BOULEVARD
FORT LAUDERDALE, FL 33301

In re application of : **DECISION ON PETITION**
Byron Rosenbaum : **TO MAKE SPECIAL**
Application No. 10/991,117 : **(APPLICANT'S AGE)**
Filed: November 17, 2004 :
For: HAND RAIL FOR STAIRS AND INCLINED CORRIDORS

This is a decision on the petition submitted on October 24, 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 and a driver license indicating Mr. Rosenbaum 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: 11/02/05

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

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AUG 0 7 2008

In re Application of	:	
Miska Hannuksela	:	
Application No. 10/991,128	:	DECISION GRANTING PETITION
Filed: November 16, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 915-005.131	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 4, 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 August 4, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2112 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 06 2009

OFFICE OF PETITIONS

CHARLES G. CALL
20 EAST GOETH ST CH1
CHICAGO, IL 60610

In re Application of
Carol Strohecker, et al.
Application No. 10/991,130
Filed: November 17, 2004
Attorney Docket No. E-62

ON PETITION

This is a decision in response to the petition, filed March 11, 2009, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is not signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Mr. Charles G. Call appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. If Mr. Call desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to Mr. Call, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed April 9, 2008, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on July 10, 2008. A Notice of Abandonment was subsequently mailed on January 12, 2009. On March 11, 2009, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 2624 for appropriate action by the Examiner in the normal course of business on the amendment filed March 11, 2009.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: CHARLES G. CALL
141 GULFPORT CT.
MARCO ISLAND, FL 34145

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OSHA LIANG LLP/Oracle
TWO HOUSTON CENTER
909 FANNIN, SUITE 3500
HOUSTON, TX 77010

Mail Date: 04/20/2010

Applicant	: Alexander T. Garthwaite	: DECISION ON REQUEST FOR
Patent Number	: 7653793	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/991,148	: 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 **1364** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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OSHA LIANG LLP/Oracle
TWO HOUSTON CENTER
909 FANNIN, SUITE 3500
HOUSTON, TX 77010

Mail Date: 05/17/2010

Applicant : Alexander T. Garthwaite
Patent Number : 7653793
Issue Date : 01/26/2010
Application No: 10/991,148
Filed : 11/17/2004

: 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 **1414** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

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

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

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

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

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OFFICE OF PETITIONS

In re Application of	:	
Martin Gouch	:	
Application No. 10/991,171	:	DECISION ON PETITION
Filed: November 16, 2004	:	
Attorney Docket No. CQ10127	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 13, 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 December 27, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed September 27, 2006. Accordingly, the date of abandonment of this application is December 28, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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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Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

NEW MARKET SERVICES CORPORATION
(FORMERLY ETHYL CORPORATION)
330 SOUTH 4TH STREET
RICHMOND VA 23219

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OFFICE OF PETITIONS

In re Application of :
Allen A. Aradi et al. :
Application No. 10/991,203 : ON PETITION
Filed: November 16, 2004 :
Attorney Docket No. AC-7655 :

This is a decision on the petition filed June 28, 2006, to withdraw the holding of abandonment , under 37 CFR 1.181(b), in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a response to the non-Final Office Action mailed November 10, 2005. The instant petition and this decision precede the mailing of the Notice of Abandonment.

The file record discloses that the non-Final Office Action was mailed to the address of record. However, petitioner contends that it was not received. In support, petitioner indicates that a search of the file jacket and docket records revealed that the office communication was not received and submits a copy of the file jacket and office actions report for the month of November, wherein receipt of the office communication would have been entered, had it been received, to substantiate the claim. The statement and attachments corroborate non-receipt of the non-Final Office Action. Additionally, a review of the file record reveals that the non-Final Office Action was returned by the United States Postal Service although the address of record was prominently displayed and properly addressed.

Since it can't be discerned why the office communication was returned and in view of the facts set forth in the petition, it is concluded that the non-Final Office Action was never received. Accordingly, the holding of abandonment is withdrawn. No petition fee is due and none will be charged.

This matter is being referred to Technology Center 3749 for a re-mailing of the non-Final Office Action previously mailed on November 10, 2005.

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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NOVOZYMES NORTH AMERICA, INC.
500 FIFTH AVENUE
SUITE 1600
NEW YORK, NY 10110

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OFFICE OF PETITIONS

In re Application of
Per Munk Nielsen
Application No. 10/991,206
Filed: November 17, 2004
Attorney Docket No. 5772.230-US

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(3)

This is a decision on the petition, filed October 5, 2007, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

Petitioner requests that the above-identified application be withdrawn from issue for express abandonment in favor of a continuing application stated to have been filed of even date. *See* 37 CFR 1.313(c)(3).

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

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

Frances Hicks

Frances M. Hicks
Petitions Examiner
Office of Petitions

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SCULLY, SCOTT, MURPHY, & PRESSER, P.C.
400 GARDEN CITY PLAZA
SUITE 300
GARDEN CITY NY 11530

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OFFICE OF PETITIONS

In re Application of :
Hsu, et al. : DECISION ON PETITION
Application No. 10/991,207 :
Filed: November 17, 2004 :
Atty. Dkt. No: TUC920040172US1 (18189) :

This decision is in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed May 26, 2010.

The application was held abandoned for failure to timely submit a proper reply to the final Office action mailed May 12, 2009. The final Office action set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed February 18, 2010.

Petitioner continues to assert non-receipt of the Notice.

The showing required to establish non-receipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response. Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required. A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the non-received Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of non-receipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

The petition and accompanying documents have been carefully review and found in compliance with procedures to establish non-receipt of an Office communication set forth at MPEP 711.03(c).

Accordingly, the petition under 37 CFR 1.181 to withdraw the holding of abandonment is hereby **GRANTED**. The holding of abandonment is WITHDRAWN and the Notice of Abandonment is hereby VACATED.

This application is being forwarded to Group Art Unit 2113 for re-mailing of the final Office action. The time period for reply will be set forth in the newly mailed final Office action.

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

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

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Hung Chang Lin
8 Schindler Ct.
Silver Spring, MD 20903

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OFFICE OF PETITIONS

In re Application of :
Lundahl, et al. :
Filed: November 18, 2004 : ON PETITION
Application No. 10/991,222 :
Atty. Dkt. No.: ATR-5 :

This decision is in response to the "NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION," filed February 28, 2005. This matter is being treated as a petition to accord the above-identified application a filing date of November 18, 2004 and for acknowledgment of the presence of the drawings upon filing.

The application was filed November 18, 2004. The Notice indicated that the application had not been accorded a filing date because the application appeared to have been deposited without drawings as required under 35 USC 113.

Petitioners herein argue that the application as deposited included two sheets of drawings. Petitioners have included as proof of mailing and proof of receipt of the two drawing sheets a return postcard date stamped by the Office on November 18, 2004. A copy of the two drawing sheets purportedly filed with the application on November 18, 2004 was also supplied.

The original two drawing sheets submitted with the application papers have not been located. However, in view of the evidence presented, the Notice is hereby WITHDRAWN and the petition to accord the application a filing date of November 18, 2004 is GRANTED.

Since the original drawing sheet cannot be located in the Office, the copy supplied with the instant petition will be used for examination purposes.

No petition fee is due in connection with this matter.

This application will be returned to the Office of Initial Patent Examination for further processing with a filing date of November 18, 2004.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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Robert Dana Lundahl - ATR
15210 Dino Drive
ATR - Springpoint Executive Center
Burtonsville MD 20866

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OFFICE OF PETITIONS

In re Application of :
Lundahl, et al. :
Application No.: 10/991,222 : ON PETITION
Filed: November 18, 2004 :
Attorney Docket No:ATR-5 :

This is a decision on the petition under 37 CFR §1.137(b), March 21, 2007, and duplicate on March 23, 2007, to revive the above-identified application.

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

This application became abandoned for failure to respond in a timely manner to the final Office action mailed August 23, 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 24, 2006. A Notice of Abandonment was mailed on March 21, 2007,

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

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

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

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

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

The instant petition does not satisfy the requirements of item (3) above.

Relative to item (3), the petition was not accompanied by a proper response to the final Office action mailed August 23, 2006. A proper response would be in the form of an amendment that places the application in condition for allowance, or an Request for Continued Examination under 37 CFR 1.114.

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

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

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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300 S. WACKER DRIVE
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CHICAGO IL 60606

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OFFICE OF PETITIONS

In re Patent No. 7,531,321 :
Issued: May 12, 2009 :
Application No. 10/991,224 : PATENT TERM ADJUSTMENT
Filed: November 17, 2004 :
Dkt. No.: 01-006-E :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed March 31, 2009 and the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)," filed July 13, 2009. Patentee requests correction of the patent term adjustment from 257 days to 602 days. Patentee requests this correction on the sole basis that the Office took in excess of three years to issue the above-referenced patent. This matter is being treated under 37 CFR 1.705(d).

The application for patent term adjustment (PTA) under 37 CFR 1.705(d) is **DISMISSED**.

An application for patent term adjustment under 37 CFR 1.705(b) was timely filed March 31, 2009. However, prior to a decision on the merits of the application for patent term adjustment under 37 CFR 1.705(b), the above-identified application matured into U.S. Pat. No. 7,531,321 on May 12, 2009. The patent issued with a patent term adjustment of 257 days. The application for patent term adjustment under 37 CFR 1.705(b) was supplemented July 13, 2009 in a request for reconsideration of patent term adjustment under 37 CFR 1.705(d). Patentee argues that in view of Wyeth v. Dudas, Civil Action No. 07-1492, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. Sept. 30, 2008), the patent is entitled to an adjustment of 602 days (442 days pursuant to 35 USC 154(b)(1)(A) *plus* 345 days pursuant to 35 USC 154(b)(1)(B) *less* 185 days of applicant delay).

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, patentees are entitled to the period of Office delay reduced by the period of applicant delay.

The Office asserts that as of the filing of the request for continued examination (RCE) on October 27, 2008, the application was pending three years and 344 days after its filing date (November 18, 2007 to October 26, 2008). The Office agrees that as of the filing of the RCE, certain action was not taken within the specified time frame, and thus, the entry of a period of adjustment of 442 days is correct. At issue is whether patentees should accrue 344 days of patent

term adjustment for the Office taking in excess of three years to issue the patent, as well as 442 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the period of 150 days of delay in issuing the patent overlaps with the 391 days of examination delay under 37 CFR 1.702(a). Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

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

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

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency

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

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

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

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

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the application filing date under 35 U.S.C. 111(a), November 17, 2004, and ending on October 26, 2008, the day before the date that the RCE was filed on October 27, 2008.

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), 442 days of patent term adjustment were accorded during the pendency of the application for Office delay prior to the filing of the RCE. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 344 days of patent term adjustment accrued at the time of submission of the RCE for Office issuance of the patent more than three years after the application filing date.

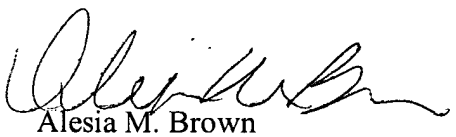
The 344 days of patent term adjustment under 37 CFR 1.702(b) overlaps with the 442 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 442 days and the 344 days is neither permitted nor warranted given that 442 days is the actual number of days issuance of the patent was delayed at the time of submission of the RCE.

Accordingly, at issuance, the Office properly entered 257 days of patent term adjustment, having considered the 344 days of Office delay under the three-year pendency provision in conjunction with the 442 days of delay under 37 CFR 1.702(a)(1), reduced 185 days for applicant delay.

In view thereof, no adjustment to the patent term will be made.

Receipt is hereby acknowledged of the required $200.00 patent term adjustment application fee.

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



Alesia M. Brown
Petitions Attorney
Office of Petitions

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CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON, MA 02210

Mail Date: 05/04/2010

Applicant	: Himanshu Aggarwal	: DECISION ON REQUEST FOR
Patent Number	: 7636744	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/991,225	: 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 **447** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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ROBERT A. KENT
P.O. BOX 1431
DUNCAN, OK 73536

Mail Date: 04/20/2010

Applicant	: Trinidad Munoz JR.	: DECISION ON REQUEST FOR
Patent Number	: 7648946	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/991,228	: 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 **740** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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A LAW CORPORATION
3043 4th Ave.
SAN DIEGO CA 92103

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OFFICE OF PETITIONS

In re Application of :

GIRALDIN, Timothy W. et al. :
Application No. 10/991,237 :
Filed: November 16, 2004 :
Attorney Docket No. **8591-115** :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 14, 2008.

The request is **NOT APPROVED**.

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

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

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

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

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **GUEST TECHNOLOGIES, LLC**
22941 MILL CREEK ROAD
LAGUNA HILLS, CA 92653

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A LAW CORPORATION
3043 4TH AVE.
SAN DIEGO CA 92103

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OFFICE OF PETITIONS

In re Application of :
GIRALDIN, Timothy W. et al. :
Application No. 10/991,237 : DECISION ON PETITION
Filed: November 16, 2004 : TO WITHDRAW
Attorney Docket No. **8591-115** : FROM RECORD

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 21, 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 Bernard Kleinke on behalf of all attorneys of record who are associated with customer No. 36412.

The request to withdraw less than all attorneys appointed by customer number 36412 cannot be approved. The addition and/or deletion of a practitioner from the list of practitioners associated with a Customer Number should be made by submitting a "Request for Customer Number Data Change" (PTO/SB/124) which will result in the addition or deletion of such practitioner from the list of persons authorized to represent any applicant or assignee of the entire interest who appointed all of the practitioners associated with such Customer Number. See MPEP 403 Section I. Customer Number Practice.

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 Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **GUEST TECHNOLOGIES, LLC**
22941 MILL CREEK ROAD
LAGUNA HILLS CA 92653

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INTEL CORPORATION
c/o CPA Global
P.O. BOX 52050
MINNEAPOLIS, MN 55402

Mail Date: 04/21/2010

Applicant	: Srihari Makineni	: DECISION ON REQUEST FOR
Patent Number	: 7620071	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/991,239	: 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 **1130** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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PHILADELPHIA PA 19103

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OFFICE OF PETITIONS

In re Application of	:	
Masahiko Sasada et al	:	
Application No. 10/991,243	:	DECISION GRANTING PETITION
Filed: November 17, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 8861-511US (P36650-01)	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 20, 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 November 9, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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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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NORTH PLAINS, OR 97133-9204

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SEP 26 2008

Applicant: Tavkhelidze et el
Appl. No.: 10/991,257
Filing Date: November 16, 2004
Title: INFLUENCE OF SURFACE GEOMETRY
Attorney Docket: 12079.US.CIP
Pub. No.: US 2005/0145836 A1
Pub. Date: July 7, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on October 19, 2007, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains material errors in the specification wherein the continuity data is erroneous.

The request received on October 19, 2007 and signed by Avto Tavkhelidze is dismissed, as the paper was not signed in compliance with 37 CFR 1.31-1.33, 37 CFR 10.14, 37 CFR 10.18, and 37 CFR 10.47. Applicant is reminded that all papers must be signed in compliance with 37 CFR 1.33(b).

37 CFR 1.33(b) provides that amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
(1) A patent practitioner of record appointed in compliance with § 1.32(b);
(2) A patent practitioner not of record who acts in a representative capacity under the provisions of § 1.34;
(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.

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

publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The request for corrected publication, received on October 19, 2007, was improperly as it was not properly signed and it was also not timely filed under 37 CFR 1.221(b).

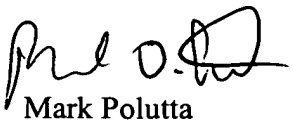
Even if the petition had been timely received and signed, the error in the benefit claim on the front page of the publication is an Office mistake, but it is not a material mistake as required by 37 CFR 1.221(b). The error in the benefit claim on the front page of the publication is not a material mistake as the benefit claim is in the first line of the specification, as required by 37 CFR 1.78. The error in the benefit claim on the front page of the publication is not a material mistake because it does not affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. The first line of the specification contains the proper benefit claim, thus one can read and understand the application and properly use the patent application publication as a prior art reference.

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, as a "Pre-Grant Publication" 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

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



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

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[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).

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OFFICE OF PETITIONS

In re Patent No. 7,292,874
Issue Date: November 6, 2007
Application No. 10/991,267
Filed: November 17, 2004
Attorney Docket No. 1-2-0626.1US

: DECISION DISMISSING PETITION
: UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 6, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED AS MOOT**.

Unfortunately, this application matured into a patent prior to the filing of the petition to withdraw from issue. Therefore, as this case has issued, this application cannot now be withdrawn from issue.

Petitioner's attention is directed to 37 CFR 1.313(d), which states:

> A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**. (Emphasis added)

The request for continued examination (RCE) filed concurrently with the petition is improper in view of the issuance of this application into a patent and will not be processed. No fees have been assessed for the RCE or the petition to withdraw from issue.

The Information Disclosure Statement will be placed of record in the file of the above-identified application without further consideration. *See* 37 CFR 1.97(i). Likewise, the amendment will be placed in the file without further consideration.

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

Frances Hicks
Petitions Examiner
Office of Petitions

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TECHNOLOGY CENTER 3600

Daniel J. O'Connor
6720 Buckhorn Dr., #821
Indianapolis, IN 46254

In re Application of:
Brett Keith et al
Serial No. 10/991,282
Filed: November 18, 2004
For: STOP STICK DEPLOYMENT DEVICE AND METHOD

DECISION ON PETITION TO MAKE SPECIAL (COUNTER TERRORISM)

This is a decision on the petition filed January 31, 2005 under 37 CFR 1.102 (d) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section XI: Inventions for Countering Terrorism.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); and (B) a statement explaining how the invention contributes to countering terrorism.

The petition states that the invention will contribute to countering terrorism by deflating the tires of a suspect's fleeing vehicle. Thus, such a system would be useful to disable a terrorist's vehicle with low risk to law enforcement or military personnel.

Petitioner's invention and statement however, appear to deal more with general law enforcement systems/methods. In fact a review of the specification reveals that no such reference to terrorism/counter terrorism is contemplated in the disclosure. MPEP 708.02 XI lists examples of types of inventions that would qualify as countering terrorism. While a grantable petition is not limited to these examples, these examples all clearly act to directly and primarily counter terrorism. Thus, the tie to countering terrorism as argued by the applicant is not seen as being sufficient to accord special status to this application.

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 of Patents and Trademarks, Washington, D.C. 20231. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

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

For the above stated reasons, the petition is **DISMISSED**.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(571) 272-6611

SNM/jwk: 5/9/05

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/991,285	11/17/2004	1638	548	2676-6733US	7	12	5

CONFIRMATION NO. 7036

CORRECTED FILING RECEIPT

OC000000018961564

24247
TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY, UT 84110

Date Mailed: 05/25/2006

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)

Dirk G. Inze, Moorsel-Aalst, BELGIUM;
Alain Goossens, Lokeren, BELGIUM;
Kirsi-Marja Oksman-Caldentey, Helsinki, FINLAND;
Suvi T. Hakkinen, Espoo, FINLAND;
Into J. Laakso, Espoo, FINLAND;

Power of Attorney: The patent practitioners associated with Customer Number **24247**.

Domestic Priority data as claimed by applicant

This application is a CON of PCT/EP03/50171 05/16/2003

Foreign Applications

EUROPEAN PATENT OFFICE (EPO) 02076973.3 05/17/2002
EUROPEAN PATENT OFFICE (EPO) 02077674.6 07/04/2002
If Required, Foreign Filing License Granted: 03/16/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/991,285

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

** SMALL ENTITY **

Title

Genes and uses thereof to modulate secondary metabolite biosynthesis

Preliminary Class

800

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

In re Application of:	:
Bumcrot et al.	:
Serial No.: 10/991,286	: PETITION DECISION
Filed: November 17, 2004	:
Attorney Docket No.: 17574-003001/MMV-03-062	:

This is in response to the petition under 37 CFR § 1.181, filed December 18, 2007, requesting that the finality of the Office action of October 18, 2007 be withdrawn as it was premature.

BACKGROUND

More recently, the examiner mailed a non-final Office action on May 15, 2007 setting a three month statutory limit for reply. At the time of this non-final Office action, claims 1-7, 9-12 and 43-53 were pending in the application. The examiner withdrew claims 7 and 43-53 from examination as these claims were directed toward a non-elected invention. The examiner rejected claim 1 as being indefinite under 35 U.S.C. § 112, second paragraph, and additionally rejected claims 1-6 and 9-12 under 35 U.S.C. 102(e) as being anticipated by Khvorova et al. (US 2007/0031844).

In reply to the non-final Office action of May 15, 2007, applicants filed remarks and arguments, along with an amendment on August 8, 2007 which included the cancellation of claims 2, 4-42, 44-48 and 50-53 and amendments to claims 1, 3 and 49.

On October 18, 2007, the examiner mailed a final Office action setting a three month statutory limit for reply. At the time of this final Office action, claims 1, 3, 43 and 49 remained pending and claims 43 and 49 remained withdrawn from examination as these claims were directed toward a non-elected invention. The examiner rejected claims 1 and 3 under 35 U.S.C. 103(a) as being unpatentable over Khvorova et al. (US 2007/0031844) and Fosnaugh et al. (US 2003/0143732).

In response thereto, applicants filed this petition on December 18, 2007, requesting that the finality of the Office action of October 18, 2007 be withdrawn.

DISCUSSION

The petition and the file history have been carefully considered.

In the petition filed on December 18, 2007, applicants argue that the rejection set forth by the examiner in the final Office action of October 18, 2007 was premature and improper because:

> 1. A prior Office Action was mailed on May 15, 2007. The claims were rejected as anticipated by Khvorova et al. Applicants amended the claims, primarily to deal with § 112 issues. Claims 3 and 49, which already required 2'-OMe modification were amended to narrow the range of such modification. The PTO made no obviousness rejection.
>
> 2. On October 18, 2007, the PTO issued a final Office Action. The claims were rejected as obvious over Khvorova et al. and Fosnaugh et al. The PTO gave no reason for the finality. Neither the § 112-based amendments nor the narrowing amendments raised any new issue of obviousness. An obviousness rejection of the claims could have been made prior to the amendments. (see page 1 of the Petition)

Applicants further argue that the final Office action does not comply with MPEP § 706.07(a) which states:

> Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR § 1.17(p).

Where applicants state "The PTO made no obviousness rejection," it is unclear if applicants intend for this to mean that an obviousness rejection was not made at the time of the non-final Office action or that an obviousness rejection was not made at the time of the final Office action. Because a review of the prosecution history indicates that an obviousness rejection was set forth in the final Office action, it appears that applicants allege that no obviousness rejection was made over the limitations of claims 3 and 49 in the non-final Office action of May 15, 2007; that being, the limitations which recited a 2'-OMe modification. First, it is noted that claim 49 was withdrawn at the time the non-final rejection was mailed and therefore was not considered on its merits. With regard to claim 3, the rejection of a 2'-OMe modification is clearly seen in the non-final Office action in the rejection of claims 1-6 and 9-12 as being anticipated by Khvorova, et al. (US 2007/0031844):

> Claims 2 and 3 of the instant application are to modifications causing increased stability of the iRNA agent in a biological sample, including 2'-O-methyl and phosphorothioate modifications and Claim 4 specifies an iRNA agent with at least one 5'-UA-3' dinucleotide wherein the uridine is a T-modified nucleotide. In the specification ofUS20070031844 (p. 18, last paragraph), *Khvorova, et al. discloses that their siRNAs include nucleotides with modifications including phosphorothioates and sugar-modified ribonucleotides in which the 2'-OH is replaced by a group such as and R, where "R" is an alkyl moiety (i.e. methyl).* Furthermore, SEQ ID NO:472619 of Khvorova et al. contains two 5'-UA-3'... (see page 5 of the non-final Office action, emphasis added).

Hence, the examiner did set forth a rejection of the limitation of 2'-OMe as being anticipated by Khvorova et al., contrary to applicants' assertion. The examiner did not set forth an obviousness rejection over the new limitations of claim 3 presented on August 8, 2007 (i.e., ..2'-OMe modification at position 2 of said sense strand and at position 17 of said antisense strand) in the non-final Office action of May 15, 2007 because these limitations were not present in the claims prior to August 8, 2007. Additionally, the examiner could not have foreseen such an amendment to the claims. The MPEP § 706.07 states:

> A second or any subsequent action on the merits in any application or patent involved in reexamination proceedings should not be made final if it includes a rejection, on prior art not of record, of any claim amended to include limitations which should reasonably have been expected to be claimed. However, *note that an examiner cannot be expected to foresee whether or how an applicant will amend a claim to overcome a rejection except in very limited circumstances* (e.g., where the examiner suggests how applicant can overcome a rejection under 35 U.S.C. 112, second paragraph). (emphasis added).

Subsequently, claims 3 and 49 were amended by applicants on August 8, 2007; however, claim 49 remained withdrawn from examination on the merits as being directed toward a non-elected invention and therefore was not examined. It is noted that claim 49, as amended on August 8, 2007, depended upon a cancelled claim and also was written with the incorrect status identifier – claim 49 should have stated '(withdrawn, currently amended)'; however, incorrectly stated '(currently amended).' Claim 3 was amended as follows:

> 3. (Currently amended) The iRNA agent of claim 1, <u>further</u> comprising ~~a phosphorothioate or~~ a 2'-OMe modification <u>at position 2 of said sense strand and at position 17 of said antisense strand</u>.

This claim was amended to further limit the claim to wherein the iRNA agent of claim 1 specifically comprised a 2'- OMe modification at position 2 of the sense strand and at position 17 of the antisense strand. To reiterate, these specific limitations directed toward the positions of the 2'-OMe modifications *were not present in the examined claims prior to the amendment filed by applicants on August 8, 2007.*

The examiner properly took the new limitation of claim 3 into consideration (as well as the new limitations set forth in claim 1), and set forth a new ground of rejection of claims 1 and 3 under 35 U.S.C. 103(a) as being unpatentable over Khvorova et al. (US 2007/0031844) and Fosnaugh et al. (US 2003/0143732), the Fosnaugh et al. patent publication being furnished to provide motivation for the new limitations of claim 3 which stated a particular position of the 2'- OMe modification on the sense and antisense strands.

While applicants argue the examiner did not provide reasons why the Office action of October 18, 2007 was made final, it is implicit in the final Office action itself why the Office action of October 18, 2007 was made final:

> *Khvorova et al. do not teach the specific configuration of 2'-O-methyl and phosphorothioate modifications of the instant SEQ ID NOs: 21 and 22.* Fosnaugh et al. teach chemically synthesized small interfering RNAs (siRNAs)... Fosnaugh et al. teach that it is known in the art that sugar, base, and phosphate modifications can be introduced into nucleic acid molecules with significant enhancement in their nuclease stability including 2'-O-alkyl modifications. Fosnaugh et al. further teach in paragraph [0168] *that the art provides general methods and strategies to determine the locations for incorporation of sugar, base, phosphate modifications, and the like into nucleic acid molecules without modulating catalysis and that similar modifications can be used to modify siRNAs as long as the ability of siRNA to promote RNAi is not significantly inhibited*...(see pp. 4-6 of the final Office action, emphasis added)

Here, it is clear that the examiner indicated that the Fosnaugh et al. reference was being combined with the Khvorova et al. reference in order to provide motivation for the new limitations present in claim 3 which were not taught by Khvorova et al.; that is, wherein "[t]he iRNA agent of claim 1, further [comprises] a 2'-OMe modification at position 2 of said sense strand and at position 17 of said antisense strand."

Therefore, although the examiner did not include a paragraph at the conclusion of the final Office action which explicitly stated that the new grounds of rejection set forth in the final Office action were necessitated due to applicants' amendments to the claims, the final Office action implicitly sets forth such a statement. Also, the rejection is noted as being final on the "Office Action Summary" sheet, Form PTOL-326.

Thus, it is decided the new rejections rendered by the examiner over claims 1 and 3 in the final Office action of October 18, 2007 were proper and in accordance with the provisions set forth in MPEP § 706.07(a) because the new rejections were necessitated by applicants' amendments to the claims filed on August 8, 2007.

Applicants' arguments are not persuasive that the final Office action issued October 18, 2007 was premature and therefore finality of the Office action will be not be withdrawn.

DECISION

The petition is **DENIED**.

Any request for reconsideration of this decision must be filed within two months of the date of this decision. Extension of this time is governed by 37 CFR 1.136(a).

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.

Christopher Low
Director, Technology Center 1600

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TROY MI 48007-7021

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SEP 17 2007

OFFICE OF PETITIONS

In re Application of
Crumm, et al.
Application No. 10/991,295
Filed: November 17, 2004
Attorney Docket No. ADP-10802/36

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

This is a decision on the petition under 37 CFR 1.78(a)(6), filed April 2, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to a prior-filed provisional application.

The petition is **DISMISSED.**

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

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

This pending nonprovisional application was filed on November 17, 2004, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/520,615, which was filed on November 17, 2004, and for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title and in a supplemental ADS.

However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application

after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 119(e) after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 119(e) is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a renewed petition under 37 CFR 1.78(a)(6) and a substitute amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)) deleting the incorporation by reference statement are required.

37 CFR § 1.78(a)(6) requires a statement that the entire delay between the date the claim was due under 37 CFR § 1.78(a)(5)(ii) and the date the claim was filed was unintentional. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR §1.78(a)(6). If this is not a correct reading of the statement appearing in the petition, petitioners should promptly notify the Office.

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

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

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

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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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PO BOX 7021
TROY MI 48007-7021

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JUN 23 2008

OFFICE OF PETITIONS

In re Application of
Crumm, et al.
Application No. 10/991,295
Filed: November 17, 2004
Attorney Docket No. ADP-10802/36

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

This is a decision on the reconsideration petition under 37 CFR 1.78(a)(6), filed, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to a prior-filed provisional application.

The petition is **GRANTED.**

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

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

This pending nonprovisional application was filed on November 17, 2004, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/520,615, which was filed on November 17, 2004, and for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

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

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

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3230. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 1722 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application and for consideration of the petition under 37 CFR 1.48(a) to correct the inventorship of the present application.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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
10/991,295	11/17/2004	1791	395	ADP-10802/36	14	2

CONFIRMATION NO. 7805

CORRECTED FILING RECEIPT

25006
GIFFORD, KRASS, SPRINKLE,ANDERSON & CITKOWSKI, P.C
PO BOX 7021
TROY, MI 48007-7021

Date Mailed: 06/05/2008

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)

Aaron T. Crumm, Ann Arbor, MI;

Power of Attorney: The patent practitioners associated with Customer Number 25006

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/520,615 11/17/2003

Foreign Applications

If Required, Foreign Filing License Granted: 12/22/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/991,295**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

Extrusion die for making a part with controlled geometry

Preliminary Class

264

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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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ALEXANDRIA VA 22313-1404

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FEB 05 2010

OFFICE OF PETITIONS

In re Application of :
Morten MIDDELFART, et al :
Application No. 10/991,302 : NOTICE
Filed: November 17, 2004 :
Attorney Docket No. 1032927-000075 :

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

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

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

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

Inquiries related to this communication should be directed to Diane Goodwyn at (571) 272-6735.

Thurman K. Page
Petitions Examiner
Office of Petitions

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

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JUL 25 2007

OFFICE OF PETITIONS

In re Application of :
BARTHOLOMEW, et al. :
Application No. 10/991,316 : DECISION ON PETITION
Filed: November 16, 2004 :
Attorney Docket No. **101479.0002US** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 12, 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 11, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed January 11, 2007. Accordingly, the date of abandonment of this application is April 12, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $700 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 Monica A. Graves at (571) 272-7253.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

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MAR 1 1 2005

OFFICE OF PETITIONS

In re Reissue of Patent No. 6,568,168 :
Issue Date: May 27, 2003 :
Application No. 10/991,323 : DECISION ON PETITION
Filed: November 18, 2004 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. NIP-130-10 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed November 18, 2004, to accept an unintentionally delayed claim under **35 U.S.C. § 120** for the benefit of priority to Application No. **09/106,077**, filed June 29, 1998.

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;[1]
> **(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.

---

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

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). Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional 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.

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

This matter is being referred to Technology Center AU 3746.

Karen Creasy

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

ATTACHMENT: Corrected Filing Receipt

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

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JUN 11 2007

OFFICE OF PETITIONS

In re Application of :
Thomas R. Witty, et al. :
Application No. 10/991,331 : DECISION ON PETITION
Filed: November 16, 2004 : TO WITHDRAW
Attorney Docket No. 2000-0004.21 : FROM RECORD
:

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 6, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Heller Ehrman, LLP has been revoked by the assignee of the patent application on May 17, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: MINTZ, LEVIN, COHN, FERRIS
GIOVSKY & POPEO, PC
1400 PAGE MILL ROAD
PALO ALTO, CA 94034

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4 MILITIA DRIVE, SUITE 4
LEXINGTON MA 02421

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OFFICE OF PETITIONS

In re Application of	:	
Bergelson et al.	:	
Application No. 10/991,351	:	ON PETITION
Filed: November 17, 2004	:	
Attorney Docket No. 0060-0001US1	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed June 20, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes a statement from the applicant, Michael N. Bergelson. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3206. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 3626 for action on the merits commensurate with this decision.

Liana Chase
Petitions Examiner
Office of Petitions

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EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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OFFICE OF PETITIONS

In re Application of :
S. James Miller Jr. et al :
Application No. 10/991,352 :
Filed: November 16, 2004 :
Attorney Docket No. 022018-002700US :

DECISION ON PETITION
TO MAKE SPECIAL UNDER
37 CFR 1.102(c)(2)

This is a decision on the petition under 37 CFR 1.102(c)(2)(iii), filed February 2, 2006, to make the above-identified application special based on the invention materially contributing to countering terrorism as set forth in M.P.E.P. § 708.02, Section XI.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(2)(iii) and MPEP § 708.02, Section XI: Inventions for Countering Terrorism, should state that special status is sought because the invention materially contributes to countering terrorism. International terrorism as defined in 18 U.S.C. 2331 includes:

> activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping...

If the disclosure it not clear on its face that the clamed invention is materially directed to countering terrorism, the petition must be accompanied by a statement by the applicant, assignee or a registered attorney/agent explaining how the materiality standard is met. The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems. No fee is required.

The USPTO's final rule amending 37 CFR 1.102(c)(2) states:

> The materially standard does not permit an applicant to speculate as to how a hypothetical end-user might specially apply the invention in a manner that

> could counter terrorism. Nor does such standard permit an applicant to enjoy the benefit of advance examination merely because some minor aspect of the claimed invention may be directed to countering terrorism...[Response to Comment 65] applicants should not expect to have their petitions granted without a clear demonstration that the claimed invention is materially related to countering terrorism. 69 Fed. Reg. 56511 (Sept. 21, 2004)

The instant petition fails to meet the criteria set out with respect to countering terrorism in MPEP § 708.02 (XI). The specification and claims as originally filed provide no indication of an intention to counter terrorism by providing a biometric system. While the invention may identify terrorist, the disclosure and petition fail to indicate how the invention would counter terrorism. Further steps would be required to actually offset or nullify terrorism, yet no suggestion of "countering terrorism" is found in the disclosure. As a result, no advancement in the technology of countering terrorism has been persuasively shown.

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

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

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

By FAX: (571) 273-8300

The $130.00 petition fee submitted is unnecessary and will be credited to petitioner's Credit Card.

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

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

This matter is being referred to Technology Center Art Unit 2621 for action in its regular turn.

David Bucci
Petitions Examiner
Office of Petitions

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SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN 2041
AUSTRALIA

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DEC 23 2008

OFFICE OF PETITIONS

In re Application of Silverbrook :
Application No. 10/991,402 :
Filing Date: November 19, 2004 :
Attorney Docket No. ZG043US :

Decision Dismissing Petition
Under 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 21, 2008 to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of several priority to prior-filed nonprovisional applications.

The petition is **DISMISSED**.

Petitioner seeks to add a priority claim for the benefit of several multiple priority claims.

MPEP 201.11(III)(C) states, with emphasis added,

> Sometimes a pending application is one of a series of applications wherein the pending application is not copending with the first filed application but is copending with an intermediate application entitled to the benefit of the filing date of the first application..... The reference to the prior applications must identify all of the prior applications and indicate the relationship (i.e., continuation, divisional, or continuation-in-part) between each nonprovisional application in order to establish copendency throughout the entire chain of prior applications. *Appropriate references must be made in each intermediate application in the chain of prior applications.* If an applicant desires, for example, the following benefit claim: "this application is a continuation of Application No. C, filed ---, which is a continuation of Application No. B, filed ---, which claims the benefit of provisional Application No. A, filed ---," then Application No. C must have a reference to Application No. B and provisional Application No. A, and Application No. B must have a reference to provisional Application No. A.

In reviewing the chain of applications to which applicant is seeking a claim for priority, it is noted that Application No. 10/703,666 only claims priority based on Application No. 10/309,241, and does not make reference to Applications Nos. 10/171,627 or 09/458,785. Therefore, since it does not appear that Application No. 10/309,241 references the prior-filed applications, the instant petition cannot be granted.

Petitioner's options

If petitioner wishes for the new priority information to be entered, petitioner has two options.

(1) *If* petitioner wishes for the priority information to be corrected prior to issuance of the instant application as a patent, petitioner must take the steps discussed below.

(A) Petitioner should file a request for reconsideration within two months of the instant decision. Since the issue fee has been paid, any request for reconsideration filed prior to issuance of the patent must be accompanied by a Request for Continued Examination and a petition to withdraw from issue under 37 CFR 1.313.

(B) Petitioner should file a petition under 37 CFR 1.78(a)(3) and the required fee in Patent No. 6,918,665 (Application No. 10/703,666). The petition must be accompanied by a Certificate of Correction correcting the priority claim.

(2) *If* petitioner is willing to allow the priority information to be corrected after issuance of the instant application as a patent, petitioner must take the steps below.

(A) Petitioner should take no action in the instant application until after the issuance of the instant application.

(B) Petitioner must file a petition under 37 CFR 1.78(a)(3) and the required fee in Patent No. 6,918,665 (Application No. 10/703,666). The petition must be accompanied by a Certificate of Correction correcting the priority claim.

(C) After the issuance of the instant application, file a request for reconsideration of the instant decision along with a certificate of correction. Normally, the period of time to respond to a decision dismissing a petition is two months. However, in view of the facts in this case, the Office will consider a request for reconsideration filed within two months of the issuance of the patent as timely.

The Office recommends petitioner choose Option (2) above. Although Option (2) involves payment of a $100 Certificate of Correction Fee for the instant case, the option allows petitioner to avoid paying $810 for a RCE and $130 for a request to withdraw the application from issuance. Also, Option (1) might well delay issuance of the patent for several months.

The Office will assume petitioner will be choosing Option (2) and, after issuance of the instant decision, will forward the case to the Office of Data Management, Patent Publication Branch, to prepare the application for issuance as a patent in due course. If petitioner wishes to pursue Option (1) above, it is *extremely* important petitioner contact the undersigned at the telephone number in this decision *promptly* in order to ensure the petition to withdraw from issue is filed *and granted* prior to issuance of a patent.

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

The Office of Data Management (ODM), Patent Publication Branch, will be informed of the instant decision and will take steps to issue the application as a patent in due course. Absent the filing of a petition to withdraw from issue, ODM will presume a request for reconsideration will not be filed in response to this decision and ODM will not delay the processing of the application in order to wait to see if a request for reconsideration is filed.

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

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MAR 08 2005

OFFICE OF PETITIONS

In re Application of :
Masanobu Takashima :
Application No. 10/991,474 : ON PETITION
Filed: November 19, 2004 :
Attorney Docket No. Q84597 :

This is a decision on the papers filed January 18, 2005, which have been treated as a petition under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of November 19, 2004, including pages 94-143 of the specification and one page of abstract.

The application was filed on November 19, 2004. However, on January 4, 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 "Page(s) 94-143 of the specification (description and claims)" appear to have been omitted.

In response, on January 18, 2005, the instant petition and a copy of the application-as-filed on November 19, 2004, including pages 94-143 of the specification and one page of abstract, were filed. The petition was accompanied by a copy of applicant's postcard receipt that acknowledges receipt of 143 pages ("# Pgs. Spec./Abst: 142/1") of specification and abstract on November 19, 2004. A review of the application file indicates the presence of ninety-three (93) pages (pgs. 1-93) of specification. It is assumed that pages 94-143 of the specification with one page of abstract were misplaced by the Office. It is noted that the missing pages of specification contain twenty (20) claims on pages 138-142, and the abstract on page 143.

In view of the above, the petition is granted.

The petition fee has not been charged.

This application will be returned to OIPE for further processing with a filing date of November 19, 2004, using the copy of pages 94-143 of the specification and one page of abstract, supplied on January 18, 2005.

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

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

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CROMPTON, SEAGER & TUFTE, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS, MN 55403-2420

Mail Date: 04/21/2010

Applicant	: John E. Hutchins	: DECISION ON REQUEST FOR
Patent Number	: 7635363	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/991,477	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/19/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1433** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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21355 EAST DIXIE HIGHWAY
SUITE 115
MIAMI FL 33180

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OFFICE OF PETITIONS

In re Application of :
Adrian Herscu :
Application No. 10/991,493 : ON PETITION
Filed: November 19, 2004 :
Attorney Docket No. 7640-X07-076 :

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed December 27, 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) was obtained. Accordingly, the application became abandoned on February 28, 2005. The Notice of Abandonment letter was mailed September 14, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of filing fees; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

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

The application file is being referred to the Office of Initial Patent Examination for appropriate action.

Liana Walsh
Petitions Examiner
Office of Petitions

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755 PAGE MILL ROAD
PALO ALTO, CA 94304

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OFFICE OF PETITIONS

In re Application of	:	
Pasha Sadri	:	DECISION ON PETITION
Application No. 10/991,539	:	TO WITHDRAW
Filed: November 17, 2004	:	FROM RECORD
Attorney Docket No. 085804-721001	:	

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 22, 2010.

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

A review of the file record indicates that on May 10, 2010 the power of attorney to YAHOO C/O MOFO PALO ALTO was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: YAHOO! INC. C/O GREENBERG TRAURIG, LLP
MET LIFE BUILDING
200 PARK AVENUE
NEW YORK NY 10166

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BRINKS HOFER GILSON & LIONE
PO BOX 10395
CHICAGO IL 60610

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JUL 31 2008

OFFICE OF PETITIONS

In re	:
Masaki Yamamoto	: DECISION ON REQUEST
Application No. 10/991,566	: FOR RECONSIDERATION OF
Filed: November 17, 2004	: PATENT TERM ADJUSTMENT
Patent No. 7,349,034	: UNDER 37 C.F.R. §1.705(d)
Issued: March 25, 2008	:

This letter is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT" filed May 27, 2008[1], requesting correction of the patent term adjustment (PTA) indicated on the patent due to the patent not issuing within three years of its filing.

The request for reconsideration of the patent term adjustment indicated on the patent is **DISMISSED**. Patentees are give **two (2) months** to respond to this decision. No extensions of time under 37 CFR 1.136(a) may be obtained.

On May 25, 2008, the above-identified application matured into U.S. Patent No. 7,349,034. The patent issued with a Patent Term Adjustment of five hundred ten (510) days (526 days of PTO delay and 16 days of applicant delay).

The Office determined a patent term adjustment of five hundred ten (510) days based on an adjustment for PTO delay of five hundred twenty-six (526) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by sixteen (16) days of applicant delay pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b).

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[1] The request was timely in accordance with 37 C.F.R. §1.705(d). See Revision of Patent Term Extension and Patent Term Adjustment Provisions, Final Rule (April 22, 2004), 69 Fed. Reg 21704. May 25th and May 26th fell on a Sunday and a federal holiday, respectively. See 37 C.F.R. § 1.7(a).

Patentee states that an additional PTO delay of 129 days should have been accorded due to the Office's failure to issue the patent within three years of filing.

Patentee's arguments are not persuasive. Patentee is advised that if an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application (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). 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). Since the Office delays under 37 CFR 1.702(a)(1) isgreater than the delay for 37 CFR 1.702(b), patentees will receive no additional PTA time.

In view thereof, the correct determination of PTA at the time of issuance is five hundred ten (510) days.

The $200 fee set forth in 37 C.F.R. § 1.18(e) has been charged to Deposit Account No. 23-1925, as authorized.

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

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UNITED STATES DEPARTMENT OF COMMERCE
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HANLEY, FLIGHT & ZIMMERMAN, LLC
150 S. WACKER DRIVE
SUITE 2100
CHICAGO, IL 60606

Mail Date: 04/20/2010

Applicant	: Kadri N. Jabri	: DECISION ON REQUEST FOR
Patent Number	: 7613478	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/991,570	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/18/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1113** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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BURTON A. AMERNICK
CONNOLLY BOVE LODGE & HUTZ, LLP
Suite 800
1990 M Street, N.W.
Washington, D.C. 20036-3425

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SEP 2 4 2008

In re Application of :
Ali Afzali-Ardakani :
Application No. 10/991,582 : DECISION ON PETITION
Filed: November 18, 2004 :
Attorney Docket No. YOR920040338US1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 23, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 19, 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 January 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 $1500.00, and (3) a proper statement of unintentional delay.

The Associate Power of Attorney filed with the petition on March 2, 2006 , was filed after June 25, 2004, the effective date of a rule change eliminating the Associate Power of Attorney practice (37 CFR 1.34(b) was eliminated). *See* MPEP § 402.02 and Revision of Power of Attorney and Assignment Practice, 69 Fed. Reg. 29865 (May 26, 2004); 1283 Off. Gaz. 148 (June 22, 2004). Although the paper has been placed in the file, the names of the patent practitioners listed on the Associate Power of Attorney have not been made of record. However, as requested, and since the Associate Power of Attorney was signed by an attorney of record, the correspondence address has been changed to the address noted in the document.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-0602.

This application is being referred to Technology Center Art U nit 2812 for appropriate action by the Examiner in the normal course of business on the reply received July 23, 2007.

/Thurman K. Page/

Thurman K. Page
Petitions Examiner
Office of Petitions

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(FOR IBM YORKTOWN)
P.O. BOX 2207
WILMINGTON DE 19899-2207

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MAY 27 2009

OFFICE OF PETITIONS

In re Application of	:	
Afzali-Ardakani et al.	:	
Application Number: 10/991582	:	ON PETITION
Filing Date: 11/18/2004	:	
Attorney Docket Number:	:	
YOR920040338US1	:	

This is a decision on the "PETITION TO ACCEPT PAYMENT OF ISSUE FEE UNDER 37 CFR § 1.181(A)," filed on April 17, 2009.

The petition is **DISMISSED**.

This application became abandoned on January 11, 2009, for failure to timely submit the issue and publication fees in response to the Notice of Allowance and Fee(s) Due mailed on October 10, 2008, which set a three (3) month statutory period for reply. The filing of the present petition precedes the mailing of Notice of Abandonment.

Petitioner asserts that the Notice of Allowance and Fee(s) Due mailed on January 11, 2009, was improperly mailed to an old correspondence address and returned as undeliverable to the USPTO. Petitioner asserts that a change of correspondence address was filed on September 22, 2008, as evidenced by a PAIR Transaction, but that the Notice of Allowance and Fee(s) Due was not mailed to the new address specified therein.

A review of the record reveals that on March 2, 2006, an associate power of attorney and change of correspondence address was filed, changing the correspondence address to: Burton A. Amernick, Connolly Bove Lodge & Hutz, LLP, Suite 800, 1990 M Street, N.W., Washington DC 20036-3425 (hereinafter "the M Street address").

On July 23, 2007, a petition under 37 CFR 1.137b) was filed. The second page of the petition listed counsel's address as: Connolly Bove Lodge & Hutz LLP, 1875 Eye Street, NW, Suite 1100, Washington DC 20006 (hereinafter "the Eye Street address"). No change of correspondence address was filed with the petition.

On September 24, 2008, a decision granting the petition was mailed to the address of record, the M Street address. On October 3, 2008, the decision was returned to the Office as undeliverable.

On October 10, 2008, the Notice of Allowance was mailed, also to the M Street address. The Notice of Allowance was returned as undeliverable by the USPS on October 27, 2008.

On November 25, 2008, a Notice to File Corrected Application Papers *Notice of Allowance Mailed* was mailed, also to the M Street address, setting a two (2) month period for reply.

On December 3, 2008, the Notice was returned to the Office as undeliverable.

37 CFR 1.33(a) provides that in a patent application the applicant must specify a correspondence address to which the Office will send notices, letters and other communications relating to the application.

With regard to petitioner's assertion that a change of correspondence address was filed on September 22, 2008, there is insufficient evidence in the record to support that the address was changed to the Eye Street address on that date. Specifically, although PALM and PAIR records indicate a correspondence address change was initiated on September 22, 2008, there are no papers in the official IFW file showing that a change of correspondence address was filed, or indicating the new address of record. As such, the showing of record is that while petitioners may have intended or attempted to file a change of correspondence address, no change of correspondence address, however, was actually filed on that date.[1]

[1] It is further noted that a bibliographic data sheet scanned into the IFW file on October 10, 2008 lists the M Street address as the correspondence address.

Rather, the showing of record is that the Notice of Allowance and Fee(s) Due mailed on October 10, 2008, was not received because petitioner did not provide a current correspondence address.[2]

A failure to provide a correct correspondence address is an avoidable mistake. Withdraw of the holding of abandonment is not appropriate when the abandonment resulted from an avoidable mistake on the part of petitioner. As the showing of record suggests that the application became abandoned because of a failure of petitioner to provide a proper correspondence address rather than a mistake on the part of the Office, the holding of abandonment will not be withdrawn. The petition is therefore dismissed.

If petitioners have documentary evidence of the filing of a change of correspondence address in the USPTO on September 22, 2008, such evidence should be provided with a renewed petition to withdraw the holding of abandonment.

Receipt of the change of correspondence address filed with the subject petition is acknowledged. It is noted that the address associated with Customer Number 47939, is different than the typed address provided on the change of correspondence address. 37 CFR 1.33(a) states in pertinent part that If more than one correspondence address is specified in a single document, the Office will select one of the specified addresses for use as the correspondence address and, if given, will select the address associated with a Customer Number over a typed correspondence address. Accordingly, the correspondence address has been changed to the address associated with the Customer Number.

A courtesy copy of this decision is being mailed to the typed correspondence address. All future correspondence, however, will be mailed solely to the address of record.

Alternatively, petitioners may wish to consider filing a petition under 37 CFR 1.137(b) to revive the application. A copy of the petition form is enclosed for petitioner's convenience. Copies of the Notice of Allowance and Fee Due and the Notice to File Corrected Application Papers are enclosed for petitioner's reference in preparing a reply.

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[2] MPEP 601.03 states, in pertinent part, that the mere inclusion, in a paper being filed for another purpose, of an address which is different from the previously provided correspondence address, without mention of the fact that an address change is being made would not ordinarily be recognized or deemed as instructions to change the correspondence address on the file record.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision. **This period may not be extended.**[3]

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

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

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

By hand: 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) 272-3231.

/D Wood/

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: PTO/SB/64
Notice mailed October 10, 2008
Notice mailed November 25, 2008

Cc:

BURTON A. AMERNICK
CONNOLLY BOVE LODGE & HUTZ LLP
1875 EYE ST, NW
SUITE 1100
WASHINGTON DC 20006

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[3] 37 CFR 1.181(f).

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JUL 16 2009

OFFICE OF PETITIONS

In re Application of :
Afzali-Ardakani et al. :
Application Number: 10/991582 : ON PETITION
Filing Date: 11/18/2004 :
Attorney Docket Number: :
YOR920040338US1 :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PETITION TO ACCEPT PAYMENT OF ISSUE FEE UNDER 37 CFR § 1.181(A)," filed on June 9, 2009, which is also treated, in the alternative, as a petition under 37 CFR 1.137(b).[1]

The petition to withdraw the holding of abandonment is again **DISMISSED**.

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

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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 an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

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

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

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

This application became abandoned on January 11, 2009, for failure to timely submit the issue and publication fees in response to the Notice of Allowance and Fee(s) Due mailed on October 10, 2008, which set a three (3) month statutory period for reply. The filing of the present petition precedes the mailing of Notice of Abandonment.

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

Petitioner asserts that the Notice of Allowance and Fee(s) Due mailed on January 11, 2009, was improperly mailed to an old correspondence address and returned as undeliverable to the USPTO. Petitioner asserts that a change of correspondence address was filed on September 22, 2008, as evidenced by a PAIR Transaction, but that the Notice of Allowance and Fee(s) Due was not mailed to the new address specified therein.

A review of the record reveals that on March 2, 2006, an associate power of attorney and change of correspondence address was filed, changing the correspondence address to: Burton A. Amernick, Connolly Bove Lodge & Hutz, LLP, Suite 800, 1990 M Street, N.W., Washington DC 20036-3425 (hereinafter "the M Street address").

On July 23, 2007, a petition under 37 CFR 1.137b) was filed. The second page of the petition listed counsel's address as: Connolly Bove Lodge & Hutz LLP, 1875 Eye Street, NW, Suite 1100, Washington DC 20006 (hereinafter "the Eye Street address"). No change of correspondence address was filed with the petition.

On September 24, 2008, a decision granting the petition was mailed to the address of record, the M Street address. On October 3, 2008, the decision was returned to the Office as undeliverable.

On October 10, 2008, the Notice of Allowance was mailed, also to the M Street address. The Notice of Allowance was returned as undeliverable by the USPS on October 27, 2008.

On November 25, 2008, a Notice to File Corrected Application Papers *Notice of Allowance Mailed* was mailed, also to the M Street address, setting a two (2) month period for reply.

On December 3, 2008, the Notice was returned to the Office as undeliverable.

On April 17, 2009, the initial petition was filed, in which petitioners argued that the holding of abandonment should be withdrawn because the Office communications mailed on October 10, 2008 and November 25, 2008 (collectively "the Notices") were mailed to an incorrect address as a result of Office error. Petitioners argued that a change of correspondence address was filed on September 22, 2008, as evidenced by an entry in PALM and PAIR records.

On May 27, 2009, the petition was dismissed because the showing of record did not support a finding that a change of correspondence address was filed on September 22, 2008. Specifically, there was no correspondence in the official record supporting petitioner's argument that the correspondence address had been changed. Nevertheless, petitioners were invited to provide documentary evidence in a renewed petition showing that a change of correspondence address was in fact filed on September 22, 2009.

On June 9, 2009, the subject renewed petition was filed. Petitioners now assert that the Office incorrectly used the typewritten address instead of the Customer Number when entering, in the Decision on Petition mailed on September 24, 2008, the address contained on the paper filed on March 2, 2006, styled as an "Appointment of Associate Attorney." Specifically, petitioners state that the Customer Number should have been entered as the correspondence address rather than the typewritten address, in accordance with 37 CFR 1.33(a).

Petitioners' argument has been considered, but is not well taken. 37 CFR 1.33(a) states, in pertinent part, that if more than one correspondence address is *specified* in a single document, the Office will select one of the specified addresses for use as the correspondence address and, if given, will select the address associated with a Customer Number over a typed correspondence address. (emphasis added)

A close reading of the "Appointment of Associate Attorney" filed on March 2, 2006 reveals that it states that applicant "hereby appoints Burton A. Amernick, Reg. No. 24,852, of Customer 47939, Connolly Bove Lodge & Hutz, LLP, Suite 800, 1990 M Street, N.W., Washington, D.C. 20036-3425… his associate attorney." The next paragraph of the paper filed on March 2, 2006, states "Please send all future correspondence to Burton A. Amernick, Connolly Bove Lodge & Hutz, LLP, Suite 800, 1990 M Street, N.W., Washington, D.C. 20036-3425."

As such, the paper filed on March 2, 2006 clearly and unambiguously specified that the typewritten address was to be the correspondence address. Simply put, the document did not specify that the Customer Number was to be used as the correspondence address. As such, the showing of record is that the Office did not err in changing the correspondence address to the typewritten address contained in the aforementioned paper.

Further, the Print Change Request Form and list of applications associated with Customer Number 47939 (Renewed Petition Exhibits C and D) appear to show only that counsel's Wilmington, DE address was associated with the aforementioned Customer Number, and that the subject application was associated with the Customer Number on June 2, 2009. Petitioner has not provided evidence that the correspondence address was changed to the address associated with Customer Number 47939 on September 22, 2008.

37 CFR 1.33(a) provides that in a patent application the applicant must specify a correspondence address to which the Office will send notices, letters and other communications relating to the application.

The showing of record is that the Notices, were not received because petitioner did not provide a current correspondence address.[1]

A failure to provide a correct correspondence address is an avoidable mistake. Withdraw of the holding of abandonment is not appropriate when the abandonment resulted from an avoidable mistake on the part of petitioner. As the showing of record suggests that the application became abandoned because of a failure of petitioner to provide a proper correspondence address rather than a mistake on the part of the Office, the holding of abandonment will not be withdrawn. The petition is therefore again dismissed.

PETITION UNDER 37 CFR 1.137(b)

The petition is **granted**.

The issue and publication fees and petition fee will be charged to counsel's deposit account.

---

[1] MPEP 601.03 states, in pertinent part, that the mere inclusion, in a paper being filed for another purpose, of an address which is different from the previously provided correspondence address, without mention of the fact that an address change is being made would not ordinarily be recognized or deemed as instructions to change the correspondence address on the file record.

The application is referred to the Office of Data Management for processing into a patent.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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FEB - 8 2005

Ernest D. Buff
Ernest D. Buff & Associates, LLC
231 Somerville Road
Bedminster NJ 07921

In re Application of	:	
Wayne P. Franco	:	
Serial No.: 10/991,592	:	PETITION TO MAKE SPECIAL
Filed: November 18, 2004	:	
Attorney Docket No.: 0147-1 CIP2	:	

This is in response to applicant's petition filed February 22, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, VIII. (A), (B), (C), (D), and (E). The $130.00 petition fee as required by 37 CFR 1.17(h) was paid by check. Therefore, the petition is **GRANTED**.

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

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

Marianne C. Seidel
Special Program Examiner
Technology Center 1600

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ONE CHERRY CENTER
501 SOUTH CHERRY STREET
SUITE 800
DENVER, CO 80246

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FEB 27 2007

OFFICE OF PETITIONS

In re Application of :
VANCURA :
Application No. 10/991,593 : DECISION ON PETITION
Filed: November 18, 2004 :
Attorney Docket No. 1482/352 :

This is a decision on the petition, filed November 22, 2006, which is being treated as a petition under 37 CFR 1.181 (no fee) to: (1) reinstate the power of attorney back to Robert Dorr (Dorr); (2) to mail future correspondence to Dorr; and (3) to vacate the November 20, 2006 Notice of Acceptance of Power of Attorney and Notice Regarding Change of Power of Attorney (Notices).

The petition to reinstate the power of attorney filed on October 31, 2006 and mail future correspondence to Dorr is **DISMISSED**.

The petition to vacate the Notices is **GRANTED**.

The request to reinstate the power of attorney to Robert Dorr (Dorr) cannot be granted. The assignee of the entire interest (Mikohn Gaming Corporation) attempted to intervene on November 18, 2004. The Statement Under 37 CFR 3.73(b) (Statement) filed with the Power of Attorney and Correspondence Address Indication Form on November 18, 2004 was incomplete. As of the date the Statement was filed, 37 CFR 3.73(b) stated:

> (b)(1) In order to request or take action in a patent or trademark matter, the assignee must establish its ownership of the patent or trademark property of paragraph (a) of this section to the satisfaction of the Director. The establishment of ownership by the assignee may be combined with the paper that requests or takes the action. Ownership is established by submitting to the Office a signed statement identifying the assignee, accompanied by either:
>
> (i) Documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment). The documents submitted to establish ownership may be required to be recorded pursuant to § 3.11 in the assignment records of the Office as a condition to permitting the assignee to take action in a matter pending before the Office; or
>
> (ii) A statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

Since the Statement filed on November 18, 2004 did not include documentary evidence of a chain of title from the original owner to the assignee, such as a copy of the assignment, or a statement specifying where documentary evidence of the chains of title from the original owner to the assignee is recorded (e.g., reel and frame number) in the assignment records of the Office, the Power of Attorney filed contemporaneously cannot be accepted. Moreover since no practitioner had been appointed on the November 18, 2004, Inventor Ventura (Ventura) attempt to revoke the power of attorney on October 31, 2006 had no force and effect. The Request from the Inventor filed January 2, 2007 to withdraw the October 31, 2006 submission also has no effect because no practitioner has been properly appointed. For the above reasons, the Notices mailed on November 20, 2006 are hereby vacated with the mailing of this decision. Finally, the Power of Attorney and Correspondence Address Indication Form filed on December 5, 2006 is captioned for U.S. Application No. 11/172,116 and not the above-identified application. This Power of Attorney filed December 5, 2006 will, therefore, not be considered for the above-identified application.

In accordance with 37 CFR 1.33(a) and because the assignee of entire interest has not properly intervened, the October 31, 2006 submission by Vancura to change the address of record has been recognized. The correspondence address of record, therefore, has been changed to the below address.

Lastly, Petitioner has requested to withdraw any subsequent submissions by Vancura and treat them as having no effect. Until an assignee of entire interest properly intervenes in accordance with 37 CFR 3.71, Vancura is permitted to file correspondence in the above-identified application. Dual correspondence, however, will still not be permitted.

In conclusion, the request to reinstate the power of attorney filed November 18, 2004 has not been granted because the assignee has not properly intervened in the above-identified application. Presently, there are no practitioners of record. Future correspondence for the above-identified application will be mailed to the below address. The Notices mailed November 20, 2006 have been vacated.

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

Brian Hearn
Petitions Examiner
Office of Petitions

cc: Olaf Vancura
3003 Red Arrow Dr.
Las Vegas, NV 89135

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P.O. BOX 3725
HOUSTON TX 77253-3725

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OFFICE OF PETITIONS

In re Application of :
Krishnamurthy, et al. : DECISION
Application No.: 10/991,596 :
Filing Date: 17 November, 2004 :
Attorney Docket No. X-0153 :

This is a decision on the petition filed on 27 April, 2006, to withdraw the holding of abandonment and is considered under 37 C.F.R. §1.181.

NOTES:

Monitoring of the status of applications on PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected.

Moreover, Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181.

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 to the Notice of Allowance/Allowability and Fees Due mailed on 18 October, 2005, with reply, due under a non-extendable deadline on or before 18 January, 2006;
- the application went abandoned by operation of law after midnight 18 January, 2006;
- the Office mailed the Notice of Abandonment on 23 March, 2006;
- on 27 April, 2006, Petitioner filed the original petition with averments of non-receipt and that a review of the file failed to evidence the Notice of Allowance having been received, and office documents in support of the averment in a fashion not inconsistent with the guidance in the commentary at MPEP §711.03(c)–Petitioner also submitted the reply in the form of the fees due.

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.[1]

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[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—
(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are

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]

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believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;

(2) Returning papers;

(3) Precluding a party from filing a paper, or presenting or contesting an issue;

(4) Imposing a monetary sanction;

(5) Requiring a terminal disclaimer for the period of the delay; or

(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).

[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[2] 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.

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 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] (See: the commentary at MPEP §711.03(c).[9])

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[4] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[5] 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).

[9] The commentary at MPEP §711.03(c) provides:

* * *

A. Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133). To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. * **

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office

And the regulation (37 C.F.R. §1.181[10]) requires that relief be sought within two (2) months of the act complained of.

Petitioner appears to have satisfied the "showing" and "timing" requirements described above.

CONCLUSION

It appears that Petitioner has satisfied the burdens set forth in Delgar v. Schulyer, and the petition as considered under 37 C.F.R. §1.181 is **granted**, and the Notice of 23 March, 2006, is **vacated**.

The instant application is released to Publications Branch to be processed into a patent.

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action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988). (Emphasis supplied.)

* * *

[10] The regulations at 37 C.F.R. §1.181 provide:

§ 1.181 Petition to the Director.

<>

(a) Petition may be taken to the Director:

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

(2) In cases in which a statute or the rules specify that the matter is to be determined directly by or reviewed by the Director; and

(3) To invoke the supervisory authority of the Director in appropriate circumstances. For petitions involving action of the Board of Patent Appeals and Interferences, see § 41.3 of this title.

(b) Any such petition must contain a statement of the facts involved and the point or points to be reviewed and the action requested. Briefs or memoranda, if any, in support thereof should accompany or be embodied in the petition; and where facts are to be proven, the proof in the form of affidavits or declarations (and exhibits, if any) must accompany the petition.

(c) When a petition is taken from an action or requirement of an examiner in the *ex parte* prosecution of an application, or in the *ex parte* or *inter partes* prosecution of a reexamination proceeding, it may be required that there have been a proper request for reconsideration (§ 1.111) and a repeated action by the examiner. The examiner may be directed by the Director to furnish a written statement, within a specified time, setting forth the reasons for his or her decision upon the matters averred in the petition, supplying a copy to the petitioner.

(d) Where a fee is required for a petition to the Director the appropriate section of this part will so indicate. If any required fee does not accompany the petition, the petition will be dismissed.

(e) Oral hearing will not be granted except when considered necessary by the Director.

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

(g) The Director may delegate to appropriate Patent and Trademark Office officials the determination of petitions.

[24 FR 10332, Dec. 22, 1959; 34 FR 18857, Nov. 26, 1969; paras. (d) and (g), 47 FR 41278, Sept. 17, 1982, effective Oct. 1, 1982; para. (a), 49 FR 48416, Dec. 12, 1984, effective Feb. 11, 1985; para. (f) revised, 65 FR 54604, Sept. 8, 2000, effective Nov. 7, 2000; paras. (a) and (c) revised, 65 FR 76756, Dec. 7, 2000, effective Feb. 5, 2001; paras. (a), (a)(2)-(3), (c)-(e) & (g) revised, 68 FR 14332, Mar. 25, 2003, effective May 1, 2003; para. (a)(3) revised, 69 FR 49959, Aug. 12, 2004, effective Sept. 13, 2004]

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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1750 TYSONS BLVD
SUITE 1800
MCLEAN, VA 22102

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DEC 21 2006

OFFICE OF PETITIONS

In re Application of :
Alfred Edward Mullaney Jr. :
Application No. 10/991,629 : DECISION ON PETITION
Filed: November 18, 2004 : TO MAKE SPECIAL UNDER
Attorney Docket No. 028199-028-C2 (2039959-50 : 37 CFR 1.102(d)
:

This is a decision on the petition under 37 CFR §1.102(d), filed August 24, 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 1724 for action on the merits commensurate with this decision.

Denise Pothier
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

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AUG 18 2006

OFFICE OF PETITIONS

In re Application of :
Anil MUKUNDAN, et al. :
Application No. 10/991,632 : DECISION ON PETITION
Filed: November 17, 2004 : TO WITHDRAW
Attorney Docket No. 5306P005C : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 2, 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 Monica A. Graves at 571-272-7253.

Amelia Au
Petitions Examiner
Office of Petitions

cc: Sam Campbell
CAMPBELL, STEPHENSON
ASOCOLESE, LLP
4807 Spicewood Spring Road
Bldg. 4, Suite 201
Austin, TX 78759

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/991,640	11/17/2004	2183	790	NVID-095/00US	3	20	3

CONFIRMATION NO. 7502

CORRECTED FILING RECEIPT

OC000000017000765

23419
COOLEY GODWARD, LLP
3000 EL CAMINO REAL
5 PALO ALTO SQUARE
PALO ALTO, CA 94306

Date Mailed: 09/13/2005

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)

John E. Lindholm, Saratoga, CA;
Brett W. Coon, San Jose, CA;

Power of Attorney: The patent practitioners associated with Customer Number **23419**.

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 US10/991,640

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

Multi-threaded processor apparatus and method

Preliminary Class

712

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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DEC 18 2009

OFFICE OF PETITIONS

In re Patent No. 7,591,821 :
Kelman :
Issue Date: September 22, 2009 :
Application No. 10/991,641 : DECISION ON REQUEST FOR
Filed: November 18, 2004 : RECONSIDERATION OF
Attorney Dkt. No. 10557/307274 : PATENT TERM ADJUSTMENT
Title: SURGICAL TECHNIQUE AND :
INSTRUMENTATION FOR MINIMAL :
INCISION HIP ARTHROPLASTY :
SURGERY :

This is in response to the "Communication Regarding Patent Term Adjustment (PTA) Indicated In Issue Notification" filed October 7, 2009. This petition is properly treated under 37 CFR 1.705(d). Patentee requests that the patent term be adjusted from 777 days to 1343 days.

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

On September 22, 2009, the above-identified application matured into US Patent No. 7,591,821 with a patent term adjustment of 777 days. This request for reconsideration of patent term adjustment (including the submitted 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 based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentee asserts entitlement to an additional 566 days of patent term adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b). Thus, patentee requests that the determination of patent term adjustment be increased to a total of one thousand three hundred forty-three (1343) days (the sum of the period of three-year delay (673 days) and the period of examination delay (777 days) minus overlap (107 days).

The Office finds that as of the issuance of the patent on September 22, 2009, the application was pending three years and 674 days after its filing date (November 19, 2004-September 22, 2009). A period of adjustment of 777 days was entered for Office delay pursuant to 37 CFR 1.702(a)(1) At issue is whether patentee should accrue an additional 674 days of patent term adjustment for the Office taking in excess of three years to issue the patent as well as 777 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the entire 674-day period of delay in issuance of the patent overlaps with the period of 777 days of 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 entire period during which the application was pending before the Office, November 18, 2004 until issuance on September 22, 2009. This 674 days of pendency over three years is the relevant period for considering overlap. 777 days of patent term adjustment were accorded for Office delay pursuant to 37 CFR §1.702(a)(1). Entry of both 674 days pursuant to 37 CFR §1.702(b) for the Office taking in excess of three years to issue the patent and 777 days pursuant to 37 CFR §1.702(a) for Office examination delay is neither permitted nor warranted. The Office did not delay 777 days and then delay another 674 days. The greater period, 777 days, is the actual number of days issuance of the patent was delayed by the Office.

In view thereof, no adjustment to the patent term will be made.

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

The address provided on the petition differs from the correspondence address of record. A courtesy copy of this decision is being mailed to the address given on the petition However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

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

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

Cc: Renae A. Bailey
Kilpatrick Stockton LLP
1100 Peachtree Street, Suite 2800
Atlanta, Georgia 30309

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIANA HOUSTON
SMITH & NEPHEW, INC.
1450 BROOKS ROAD
MEMPHIS TN 38116

MAILED

MAR 22 2010

OFFICE OF PETITIONS

In re Patent No. 7,591,821	
David Kelman	DECISION ON REQUEST FOR
Issue Date: September 22, 2009	RECONSIDERATION OF
Application No. 10/991,641	PATENT TERM ADJUSTMENT
Filed: November 18, 2004	AND NOTICE OF INTENT
Attorney Docket No.	TO ISSUE CERTIFICATE OF
10557/307274	CORRECTION
Title: SURGICAL TECHNIQUE AND	
INSTRUMENTATION FOR MINIMAL	
INCISION HIP ARTHROPLASTY	
SURGERY	

This is a decision on the petition filed on January 15, 2010, which is being treated as a petition under 37 CFR 1.181 requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand three hundred forty-three (1343) days.
The petition was filed within two months of a decision by the Office mailed on December 18, 2009 dismissing applicant request for reconsideration of PTA under 37 CFR 1.705(d).

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by **one thousand three hundred forty-three (1343)** days is **GRANTED.**

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by one thousand three hundred forty-three (1343) days.

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

The address provided on the petition differs from the correspondence address of record. A courtesy copy of this decision is being mailed to the address given on the petition However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

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

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

Cc: Renae A. Bailey
Kilpatrick Stockton LLP
1100 Peachtree Street, Suite 2800
Atlanta, Georgia 30309

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,591,821 B2

DATED : **September 20, 2009** **DRAFT**

INVENTOR(S) : David Kelman.

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 777 days

Delete the phrase "by 777 days" and insert – by 1343 days--

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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
10/991,644	11/08/2004	3652	920	09124.144US01	4	13	1

CONFIRMATION NO. 7606

23552
MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

CORRECTED FILING RECEIPT

OC000000016286325

Date Mailed: 06/15/2005

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)

Ronen Ben Horin, Haifa, ISRAEL;
Moshe Shoham, M.P. Hamovil, ISRAEL;
Hagay Bamberger, Kfar Hasidim, ISRAEL;

Assignment For Published Patent Application

RAFAEL-ARMAMENT DEVELOPMENT, Haifa, ISRAEL
THE TECHNION RESEARCH AND DEVELOPMENT FOUNDATION LTD., Haifa, ISRAEL

Power of Attorney: The patent practitioners associated with Customer Number **23352**.

Domestic Priority data as claimed by applicant

Foreign Applications

ISRAEL 158870 11/13/2003

If Required, Foreign Filing License Granted: 12/21/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/991,644

Projected Publication Date: 06/23/2005

Non-Publication Request: No

Early Publication Request: No

Title

Mechanical structure providing six degrees of freedom

Preliminary Class

414

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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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/991,651	11/08/2004	3672	790	11123.93US01	3	9	1

CONFIRMATION NO. 7609

CORRECTED FILING RECEIPT

23552
MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

OC000000016263759

Date Mailed: 06/13/2005

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)

Fabrice Mathieu, Nanterre, FRANCE;

Assignment For Published Patent Application

COMPAGNIE DU SOL, Nanterre, FRANCE

Power of Attorney:

Curtis Hamre--29165
John Clifford--30247
Douglas Mueller--30300
Michael Schumann--30422
Brian Batzli--32960
John Gresens--33112
Gregory Sebald--33280
James Larson--40443
Robert Kalinsky--50471
Joshua Randall--50719

Domestic Priority data as claimed by applicant

Foreign Applications

FRANCE 03/13460 11/18/2003

If Required, Foreign Filing License Granted: 03/01/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/991,651

Projected Publication Date: Not Applicable

Non-Publication Request: No

BEST AVAILABLE COPY

Early Publication Request: No

Title

Drilling machine having rotary tools

Preliminary Class

172

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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P.O. Box 889
Belmont, CA 94002-0889

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OCT 16 2008

OFFICE OF PETITIONS

In re Application of :
Chih-Ping Liu et al. :
Application No. 10/991,653 : ON PETITION
Filed: November 17, 2004 :
Attorney Docket No. 55600-8012.US01 :

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

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** 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 July 16, 2007. No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is October 17, 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 3.

The showing of record raises questions as to whether the abandonment of this application was unintentional within the meaning of 35 USC 41(a)(7) and 37 CFR 1.137 (b). Petitioner asserts

that applicant's representatives were notified, however mistakenly, to allow the application to lapse.

MPEP 711.03 (c)(II)(C)(1) states:

> Where the applicant deliberately permits an application to become abandoned (e.g., due to a conclusion that the claims are unpatentable, that a rejection in an Office action cannot be overcome, or that the invention lacks sufficient commercial value to justify continued prosecution), the abandonment of such application is considered to be a deliberately chosen course of action, and the resulting delay cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). See *In re Application of G*, 11 USPQ2d 1378, 1380 (Comm'r Pat. 1989). An intentional course of action is not rendered unintentional when, upon reconsideration, the applicant changes his or her mind as to the course of action that should have been taken. See *In re Maldague*, 10 USPQ2d 1477, 1478 (Comm'r Pat. 1988).
> A delay resulting from a deliberately chosen course of action on the part of the applicant does not become an "unintentional" delay within the meaning of 37 CFR 1.137(b) because:
>
> (A)the applicant does not consider the claims to be patentable over the references relied upon in an outstanding Office action;
> (B)the applicant does not consider the allowed or patentable claims to be of sufficient breadth or scope to justify the financial expense of obtaining a patent;
> (C)the applicant does not consider any patent to be of sufficient value to justify the financial expense of obtaining the patent;
> (D)the applicant does not consider any patent to be of sufficient value to maintain an interest in obtaining the patent; or
> (E)the applicant remains interested in eventually obtaining a patent, but simply seeks to defer patent fees and patent prosecution expenses.
>
> Likewise, a change in circumstances that occurred subsequent to the abandonment of an application does not render "unintentional" the delay resulting from a previous deliberate decision to permit an application to be abandoned. These matters simply confuse the question of whether there was a deliberate decision not to continue the prosecution of an application with why there was a deliberate decision not to continue the prosecution of an application.

MPEP 711.03(c)(III)(D) states:

> There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137:
> (A) the delay in reply that originally resulted in the abandonment;
> (B) the delay in filing an initial petition pursuant to 37 CFR 1.137 to revive the application; and
> (C) the delay in filing a grantable petition pursuant to 37 CFR 1.137 to revive the

application.

As discussed above, the abandonment of an application is considered to be a deliberately chosen course of action, and the resulting delay cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b), where the applicant deliberately permits the application to become abandoned. See *Application of G*, 11 USPQ2d at 1380. Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). An intentional delay resulting from a deliberate course of action chosen by the applicant is not affected by:
(A) the correctness of the applicant's (or applicant's representative's) decision to abandon the application or not to seek or persist in seeking revival of the application;
(B) the correctness or propriety of a rejection, or other objection, requirement, or decision by the Office; or
(C) the discovery of new information or evidence, or other change in circumstances subsequent to the abandonment or decision not to seek or persist in seeking revival.
Obviously, delaying the revival of an abandoned application, by a deliberately chosen course of action, until the industry or a competitor shows an interest in the invention is the antithesis of an "unavoidable" or "unintentional" delay. An intentional abandonment of an application, or an intentional delay in seeking the revival of an abandoned application, precludes a finding of unavoidable or unintentional delay pursuant to 37 CFR 1.137. See *Maldague*, 10 USPQ2d at 1478.

The instant petition states "Dr. Liu mistakenly notified Applicants' representatives to allow the application to lapse." Thus, applicant's representative was deliberately notified to allow the application to lapse; the correctness of applicant's notification to abandon the application does not affect the intentionality of that course of action. Accordingly , the resulting delay in filing the appropriate reply to the final Office action of July 16, 2007 cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b).

35 U.S.C. § 41(a)(7) authorizes the Commissioner to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where there is a question whether the delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). See *In re Application of G*, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989). Here, in view of petitioners' intentional delay in filing the reply that originally resulted in the abandonment, there is a question whether the entire delay was unintentional.

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.

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

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

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

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to Shelley Clement at (571)272-6052 or in her absence to the undersigned at (571)272-7099.

for David Bucci
Petitions Examiner
Office of Petitions

cc: King & Spalding
1000 Bridge Parkway
Suite 100
Redwood Shore, CA 94065

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United States Patent and Trademark Office
P.O. Box 1450
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JUDY M. MOHR
KING & SPALDING LLP
P.O. BOX 889
BELMONT CA 94002-0889

MAILED

JUN 05 2009

OFFICE OF PETITIONS

In re Application of :
Chih-Ping Liu et al :
Application No.10/991,653 : ON PETITION
Filed: November 17, 2004 :
Attorney Docket No.55600-8012.US01 :

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

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 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 and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is October 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 a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $770; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 1647 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.

David Bucci
Petitions Examiner
Office of Petitions

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BOWMAN GREEN HAMPTON & KELLY, PLLC
ATTN: PETER A. SHADDOCK II
SUITE 201
501 INDEPENDENCE PARKWAY
CHESAPEAKE VA 23320

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OFFICE OF PETITIONS

In re Application of :
Caroon, Robert S. :
Application No. 10/991,657 : ON PETITION
Filed: November 18, 2004 :
Attorney Docket No. 1040-002 :

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 18, 2004, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes a statement from the applicant, Robert S. Caroon. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3206. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 2834 for action on the merits commensurate with this decision.

Liana Chase
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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IBM RP-RPS
SAWYER LAW GROUP LLP
2465 E. BAYSHORE ROAD
SUITE NO. 406
PALO ALTO CA 94303

COPY MAILED

MAR 2 3 2009

OFFICE OF PETITIONS

In re Application of :
Crockett et al. :
Application No. 10/991,668 : DECISION ON PETITION
Filed: November 17, 2004 :
Attorney Docket No. RPS920040175US1 3313P :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 2, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 16, 2008. Accordingly, the application became abandoned on October 17, 2008.

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

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).

The Examiner has responded to the Amendment After Final with an Advisory Action (copy enclosed).

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

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

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

The centralized facsimile number is **(571) 273-8300.**

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

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

Enclosure: Examiner's Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/991,668	Applicant(s) CROCKETT ET AL.	
	Examiner WILLIAM L. BODDIE	Art Unit 2629	

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

THE REPLY FILED 02 March 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

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

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

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

NOTICE OF APPEAL

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

AMENDMENTS

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

   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *10-18*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

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

REQUEST FOR RECONSIDERATION/OTHER

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

Continuation of 3. NOTE: the proposed amendments alter the scope of the claims in that previously it was not required that both sides have beveled edges. Additionally it should be noted that claims 1-9 have been restated after previously being cancelled.

Continuation of 11. does NOT place the application in condition for allowance because: the proposed arguments detail new limitations which were not contemplated based on the previously presented claim sets.

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

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MAY 13 2009

OFFICE OF PETITIONS

In re Application of	:	
Crockett et al.	:	
Application No. 10/991,668	:	DECISION ON PETITION
Filed: November 17, 2004	:	
Attorney Docket No. RPS920040175US1	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed April 10, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely and properly reply to the final Office action mailed July 16, 2008. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on October 17, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00 and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620.00 (previously submitted on March 2, 2009; and (3) a proper statement of unintentional delay.

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

The file is now being forwarded to Technology Center 2629 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI, OH 45202

Mail Date: 04/21/2010

Applicant	: Richard A. Cote	: DECISION ON REQUEST FOR
Patent Number	: 7641859	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/991,673	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/18/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1091** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO, IL 60601-6780

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JUL 17 2006
OFFICE OF PETITIONS

In re Application of :
Denison et al. :
Application No. 10/991,696 :
Filed: November 18, 2004 : ON PETITION
Attorney Docket Number: :
232112 :

This is a decision on the Response to Notice of Incomplete Nonprovisional Application and Petition Pursuant to 37 C.F.R. §1.53(e) to Accord the Application a Filing Date, filed December 27, 2005. The delay in treating this petition is regretted.

The petition is **granted**.

The application was filed on November 18, 2004. However, on October 24, 2005, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application (hereinafter "Notice"), stating that a filing date had NOT been accorded the application because the application appeared to have been deposited without drawings.

In response, Applicant files the instant petition wherein Applicant avers that 4 pages of drawings were originally filed with the application on November 18, 2004, and were received by this Office as evidenced by the return-receipt postcard. In support, Petitioner provides a copy of a return receipt postcard acknowledging receipt of, *inter alia*, 4 pages of drawings on November 18, 2004.

A review of the return receipt postcard reveals that Petitioner is correct. The postcard acknowledges receipt of, *inter alia*, 4 pages of drawings on November 18, 2004. Petitioner has also re-submitted 4 pages of drawings with the instant petition.

As Applicant notes in the petition, 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. See MPEP § 503[1].

The copy of 4 pages of drawings supplied with the instant petition will be made part of the application file.

A refund of the petition fee to deposit account 12-1216 has been scheduled as authorized in the instant petition.

The application will be returned to the Office of Initial Patent Examination for further processing as a provisional application with a filing date of November 18, 2004, and an indication that 4 pages of drawings were present on filing, using the 4 pages of drawings supplied with the instant petition.

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

Derek L. Woods
Attorney
Office of Petitions

[1] In view of the evidence filed in support of receipt in this Office of 4 pages of drawings on November 18, 2004, it is unnecessary to consider the issue of priority claim/incorporation by reference (under 37 CFR 1.57).

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JOSEPH HYOSUK KIM, Ph.D.
JHK LAW
P.O. BOX 1078
LA CANADA, CA 91012-1078

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JUL 29 2008

OFFICE OF PETITIONS

In re Application of :
OH, Il-Hoan :
Application No. 10/991,716 : DECISION ON PETITION
Filed: November 17, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. **12070-03USA** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 21, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of October 17, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). Accordingly, the date of abandonment of this application is January 18, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $395, and the submission required by 37 CFR 1.114; (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 $510 extension of time fee submitted with the petition on June 21, 2007 was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the following address: Mail Stop 16, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

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 1633 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

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Stanley Z. Cole
26620 St. Francis Road
Los Altos, CA 94022

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MAR 31 2005

OFFICE OF PETITIONS

In re Application of :
Fairbairn, et al. :
Filed: November 18, 2004 : ON PETITION
Application No. 10/991,722 :
Atty. Dkt. No.: EPD 182 :

This decision is in response to the "Petition under Rule 1.82," filed October 12, 2004, requesting that the above-identified application be accorded a filing date of November 18, 2004 and that the application be referred to the appropriate division for examination.

The petition is hereby GRANTED.

The above-identified application was filed November 18, 2004. The Notice of Omitted Items in a Nonprovisional Application ("Notice") mailed December 28, 2004 indicated that Figure 4I appeared to have been omitted from the application as filed.

The Notice permits applicant to either: (I) establish prior receipt in the PTO of Figure 4I of the specification; (II) submit the omitted figure and accept the date of such submission as the application filing date. An assertion that the missing page of specification was in fact deposited in the PTO with the application papers must made by way of petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted item in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted item with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such item and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the Notice (37 CFR 1.181(f)); or (III) take no action thereby constructively accepting the application as deposited in the USPTO.

Petitioners contend that the application as filed contained no omissions and that there is no reference to a Figure 4I in the specification; thus Figure 4I could not have been omitted as indicated in the Notice.

A review of the specification reveals there is no reference to a Figure 4I as argued by petitioners. Accordingly, Figure 4I could not have been omitted from the drawing sheets. Therefore, the Notice was incorrect in advising applicant that Figures 4I appeared to have been omitted. Therefore, the Notice was improperly mailed and will be withdrawn.

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 (i.e., the original disclosure of the invention) will include only those application papers present in the USPTO on the date of deposit.

No petition fee is due in connection with this matter.

The application is being returned to the Initial Patent Examination Division for further processing with a filing date of November 18, 2004.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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AHSAN & ASSOCIATES
P.O. BOX 251
HOPEWELL JUNCTION, NY 12533

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In re Application of
Michael Athanas, et al.
Application No. 10/991,731
Filed: November 18, 2004
Attorney Docket No. 1592-3

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 28, 2009.

The request is **NOT APPROVED**.

The Office will no longer accept address changes to a new practitioner of law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because the request does not include an acceptable current correspondence address for future communications from the Office.

Additionally, as set forth in MPEP 403(I), the addition or deletion of a practitioner from the list of persons associated with a Customer Number should be done by way of a *Request for Customer Number Data Change* (PTO/SB/124) and not a *Request for Withdrawal As Attorney or Agent and Change of Correspondence Address* (Form PTO/SB/83).

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

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

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

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INTERNATIONAL BUSINESS MACHINES CORPORATION
9000 SOUTH RITA ROAD
TUCSON, AZ 85744

Mail Date: 04/20/2010

Applicant	: Timothy J. Crawford	: DECISION ON REQUEST FOR
Patent Number	: 7581046	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/991,732	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/18/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **467** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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740 WEST NEW CIRCLE ROAD
BLDG. 082-1
LEXINGTON, KY 40550-0999

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FEB 28 2008

OFFICE OF PETITIONS

In re Application of :
Raymond Michael MAROWSKI, et al :
Application No. 10/991,768 : DECISION ON PETITION
Filed: November 17, 2004 :
Attorney Docket No. 2004-0390.01 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 7, 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 5, 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 6, 2007.

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

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

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

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 2612 for appropriate action by the Examiner in the normal course of business on the reply received December 7, 2007.

April Wise
Petitions Examiner
Office of Petitions

cc : STEVEN J. GROSSMAN
GROSSMAN, TUCKER,
PERREAULT & PFLEGER, PLLC
55 SOUTH COMMERCIAL STREET
MANCHESTER, NH 03101

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INTERNATIONAL BUSINESS MACHINES CORPORATION
9000 SOUTH RITA ROAD
TUCSON, AZ 85744

Mail Date: 04/20/2010

Applicant	: Daniel F. De Araujo	: DECISION ON REQUEST FOR
Patent Number	: 7624305	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/991,780	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/18/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **884** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Paper No.

FORTKORT GRETHER & KELTON LLP
9442 N. Capital of Texas Hwy.
Arboretum Plaza One, Suite 500
AUSTIN TX 78759

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OCT 27 2009

OFFICE OF PETITIONS

In re Application of :
Ari Kogut : DECISION ON PETITION
Application No. 10/991,817 :
Filed: November 18, 2004 :
Atty Docket No. GBKR001US0 :

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed January 26, 2009.

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 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)."

The above-identified application became abandoned for failure to file a reply to the non-final Office action mailed September 7, 2007. This Office action set a one month period for reply, with extensions of time obtainable under § 1.136(a). No reply filed and no extension of time obtained, the application became abandoned October 8, 2007. A courtesy Notice of Abandonment was mailed on March 18, 2008.

The provisions of 37 C.F.R. § 1.137(b) provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent. A petition filed pursuant to 37 C.F.R. §1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;

(2) The petition fee as set forth in § 1.17(m);

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

(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

The petition includes payment of the petition fee and the required statement of unintentional delay. No terminal disclaimer is required. The instant petition does not satisfy requirement (1) above.

With respect to requirement (1), the petition does not include the reply required to the outstanding Office action. No reply was previously submitted to the non-final Office action mailed September 7, 2007 and no reply is submitted on petition. Submission of a reply to the Office action is required before the application can be revived. The statements made within the petition to revive are not sufficient as a response to the Office action. A response directed solely to the restriction requirement is required.

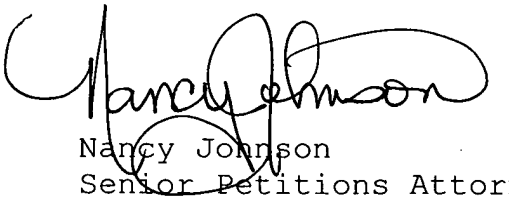
Further correspondence with respect to this matter should be addressed as follows:

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



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

HULSEY IP INTELLECTUAL
PROPERTY LAWYERS, P.C.
919 Congress Avenue, Suite 919
AUSTIN TX 78701

COPY MAILED
JAN 29 2010

In re Application of :
Ari Kogut : DECISION ON PETITION
Application No. 10/991,817 :
Filed: November 18, 2004 :
Atty Docket No. GBKR001US0 :

This is a decision on the Renewed Petition Under 37 C.F.R. §1.137(b) filed December 11, 2009.

The petition is **GRANTED**.

The above-identified application became abandoned effective October 8, 2007 for failure to file a reply to the non-final Office action mailed September 7, 2007. A courtesy Notice of Abandonment was mailed on March 18, 2008. By decision mailed October 27, 2009, the initial petition filed January 26, 2009 pursuant to the provisions of 37 C.F.R. § 1.137(b) was dismissed for failure to supply the reply required to the outstanding Office action or notice. (All other requirements of 37 CFR 1.137(b) were met).

On instant renewed petition, the required reply has been provided. No additional fee is required on this renewed petition.

The above-identified application has been abandoned for an extended period of time. The United States Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was

unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the United States Patent and Trademark Office.)

Technology Center AU 3635 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the response submitted on renewed petition filed December 11, 2009.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/23/2009

TO SPE OF : ART UNIT 1793

SUBJECT : Request for Certificate of Correction for Appl. No 10/991824.: 7611687

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)

Should the change(s) Be made?

RoChaun Johnson
Certificates of Correction Branch
571 272-0470

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**

1793 **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

STANDLEY LAW GROUP LLP
495 METRO PLACE SOUTH
SUITE 210
DUBLIN, OH 43017

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MAY 31 2006
OFFICE OF PETITIONS

In re Application of :
William R. Dunn et al :
Application No. 10/991,826 : DECISION ON PETITION
Filed: November 18, 2004 : TO WITHDRAW
Attorney Docket No. AMC 1638-004B : FROM RECORD
:

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 11, 2005.

The request is **APPROVED**.

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

The request was signed by Stephen L. Grant on behalf of all attorneys of record who are associated with Customer No. 08698.

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.

The Power of Attorney received December 9, 2005 is not accepted. In this regard, compliance with 37 CFR 3.73(b) has not been satisfied in that the reel and frame number where the recorded assignment appears in the assignment records of the USPTO has not been provided. Therefore, in order for the power of attorney to be acceptable, compliance with 37 CFR 3.73(b) must be

satisfied. A form for complying with the provisions of 37 CFR 3.73(b) may be found on the USPTO.gov website (Form No. PTO/SB/96).

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

Amelia Au
Petitions Examiner
Office of Petitions

cc: William R. Dunn
4445 Burgess Hill Lane
Alpharetta, GA 30022

cc: Greenberg Traurig LLP
2450 Colorado Avenue, Suite 400E
Santa Monica, CA 90404

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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LSI LOGIE CORPORATION
LEGAL DEPARTMENT – IP
MS D-106
1621 BARBER LANE
MILPITAS CA 95035

MAILED

MAR 25 2009

OFFICE OF PETITIONS

In re Application of
Ramond Cid Trombetta et al
Application No. 10/991,844
Filed: November 18, 2004
Attorney Docket No. 04-1425

DECISION ON PETITION

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 petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal rejection mailed April 21, 2008, is accepted as having been unintentionally delayed.

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 documents must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

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

This application is being referred to Technology Center AU 2626 for appropriate action by the Examiner in the normal course of business on the reply received March 5, 2009.

Karen Creasy
Petitions Examiner
Office of Petitions

cc:

JAMES O. SKARSTEN
YEE & ASSOCIATES, P.C.
P.O. BOX 802333
DALLAS TX 75380

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

MIDDLETON & REUTLINGER
2500 BROWN & WILLIAMSON TOWER
LOUISVILLE, KY 40202

Mail Date: 04/21/2010

Applicant	: Dennis Colleran	: DECISION ON REQUEST FOR
Patent Number	: 7569061	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/991,845	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/18/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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OLIFF & BERRIDGE
P.O. BOX 19928
ALEXANDRIA VA 22320

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NOV 0 9 2006
OFFICE OF PETITIONS

In re Application of :
Sasaki et al. :
Application No. 10/991,852 : DECISION ON PETITION
Filed: November 19, 2004 : TO MAKE SPECIAL UNDER
Attorney Docket No. 120983 : 37 CFR 1.102(d)
:

This is a decision on the petition under 37 CFR 1.102(d), filed August 15, 2005, to make the above-identified application special based on actual infringement as set forth in M.P.E.P. § 708.02, Section II.

The petition is **GRANTED**.

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

(A) That there is an infringing device or product actually on the market or method in use;

(B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and

(C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.

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.

Applicant has satisfied the provisions set forth in M.P.E.P. § 708.02, Section II and therefore the petition to make special is granted.

Telephone inquiries concerning this decision should be directed to Ramesh Krishnamurthy at 571-272-4914, or to the undersigned at 571-272-7099.

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

The application is being forwarded to the Technology Center Art Unit 2853 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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ROTHWELL, FIGG, ERNST &
MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON DC 20005

COPY MAILED

MAR 2 6 2007

OFFICE OF PETITIONS

In re Application of :
Jeremy Rosenberg :
Application No. 10/991,863 : ON PETITION
Filed: November 19, 2004 :
Attorney Docket No. 2917-137 :

This is a decision on the petition, filed March 23, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 2, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 3625 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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AUG 28 2007

OFFICE OF PETITIONS

In re Application of :
Jeremy Rosenberg :
Application No. 10/991,863 : DECISION ON PETITION
Filed: November 19, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 2917-137 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 18, 2007, to revive this 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, on April 12, 2006, a continuation-in-part application was filed under a multinational treaty that requires publication of applications eighteen months after filing. Petitioner further indicates in a footnote that, based on his understanding of 35 U.S.C. 122(b)(2)(B)(iii), he does not believe that this application is abandoned, but fails to state why he feels this application should not be regarded as abandoned.

The statute at 35 U.S.C. § 122(b)(1)(B)(i) states that, upon filing of a request for nonpublication, applicant must certify that the invention "disclosed" in the application has not and will not be the subject of an application filed in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing. Further, the U.S. Patent and Trademark Office must be notified of such filing not later than 45 days after the date of the filing of such foreign or international application or the application shall be regarded as abandoned.

Petitioner is advised that the USPTO does not make any determination as to whether the subject matter of an application is disclosed in a PCT application in those instances where a petition under 37 CFR 1.137(b) has been filed. The determination as to whether or not a petition under 37 CFR 1.137(b) is

necessary must be made by the applicant and the burden of such determination cannot be shifted to the USPTO.

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

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing, which sets forth the projected publication date of December 6, 2007, has been mailed under separate cover.

A Notice of Allowability and a Notice of Allowance and Fee(s) Due were mailed in this case on May 25, 2007 and the issue fee was paid on August 21, 2007. However, in view of the nonpublication request filed with the application, the Notice of Allowance and Fee(s) Due mailed in this case did not require the submission of a publication fee, which is now due. Accordingly, as authorized, the $300 publication fee will be charged to petitioner's deposit account. **If publication of the application does not occur, applicant may file a request for a refund after the patent has issued. *See* 37 CFR 1.211(e).**

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

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

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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1425 K STREET, N.W.
SUITE 800
WASHINGTON DC 20005

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SEP 1 1 2007

OFFICE OF PETITIONS

In re Application of	:	
Jeremy Rosenberg	:	
Application No. 10/991,863	:	DECISION GRANTING PETITION
Filed: November 19, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2917-137	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 7, 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 August 21, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 3625 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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July 2005

STEVENS, DAVIS, MILLER, & MOSHER, L.L.P.
1615 L STREET, NW, SUITE 850
P.O. BOX 34387
WASHINGTON, DC 20043-4387

AUG 26 2005

In re Application of:
MASANORI MINAMIO ET AL.
Serial No.: 10/991,864
Filed: 19 November 2004
Docket: JEL 30763B
Title: RESIN MOLDED TYPE SEMICONDUCTOR DEVICE AND A METHOD OF MANUFACTURING THE SAME

DECISION ON REQUEST TO ACKNOWLEDGE SPECIAL STATUS UNDER 35 U.S.C. § 120 AND 37 C.F.R. § 1.102(d)

This is a decision on the "NOTICE OF SPECIAL STATUS" filed by applicant on November 19, 2004, to make the above-identified application special under the accelerated examination procedure set forth in MPEP § 708.02(VIII) in accordance with 37 C.F.R. § 1.102(d).

The request to have the application recognized as special is **GRANTED**, to the extent that petitioner maintains the assertions contained in the prior petition filed in the parent application 10/147,982. If a restriction requirement is made by the Office and applicant refuses to make an election without traverse, the application will not be further examined at that time. Instead, the special status of the application will be revoked on the ground that all the claims are not directed to a single invention and the application will be returned to normal status and await action in its regular turn.

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

If the examiner can make this application special without prejudice to any possible interfering applications, and he/she should make a rigid search for such, he/she is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

If the examiner finds any interfering application for the same subject matter, he/she should consider such application simultaneously with this application and should state in the official letter of such application that he/she is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application becomes involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

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

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

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WINSTON & STRAWN LLP
PATENT DEPARTMENT
1700 K STREET, N.W.
WASHINGTON DC 20006

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JAN 07 2010

In re Application of :
KEENAN, Desmond B. et al. :
Application No. 10/991,877 : DECISION ON PETITION
Filed: November 18, 2004 : TO WITHDRAW
Attorney Docket No. **85167-74000** : FROM RECORD
:

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 11, 2009.

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

A review of the file record indicates that the power of attorney to Winston & Strawn LLP has been revoked by the assignee of the patent application on December 11, 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 the undersigned at 571-272- 4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **FRANCIS LAW GROUP**
1942 EMABARCADERO
OAKLAND CA 94606

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DARBY & DARBY P.C.
P.O. BOX 770
CHURCH STREET STATION
NEW YORK NY 10008-0770

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APR 21 2009

OFFICE OF PETITIONS

In re Application of	:	
Merry, Alan Forbes	:	
Application No. 10/991,881	:	DECISION GRANTING PETITION
Filed: November 17, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 20294/100G778-US1	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed January 30, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of a prior-filed international application designating the United States of America (Application No. PCT/NZ98/00133, filed September 3, 1998.

The petition is **DISMISSED AS MOOT.**

37 CFR 1.78(a)(2)(ii) indicates that the time periods set forth therein do not apply if the later-filed application is: (1) an application for a design patent; (2) an application filed under 35 U.S.C. § 111(a) before November 29, 2000; and (3) **a nonprovisional application which entered the national stage after compliance with 35 U.S.C. § 371 from an international application filed under 35 U.S.C. § 363 before November 29, 2000.**

Since this application is the national stage entry of an international application filed prior to November 29, 2000, the provisions of 37 CFR 1.78(a)(3) for acceptance of a late claim for priority do not apply to the subject nonprovisional application.

Accordingly, the petition is dismissed as involving a moot issue.

In view of the above, the $1,410.00 fee submitted is unnecessary, and will be refunded to petitioner's deposit account in due course.

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

This application is being returned to Technology Center Art Unit 3774 for examination in due course.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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IBM CORPORATION
3039 CORNWALLIS RD.
DEPT. T81 / B503, PO BOX 12195
RESEARCH TRIANGLE PARK, NC 27709

Mail Date: 04/20/2010

Applicant	: Steve Wang	: DECISION ON REQUEST FOR
Patent Number	: 7617482	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/991,893	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/18/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1392** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

Mail Date: 04/21/2010

Applicant	: Sang-Hoon Sung	: DECISION ON REQUEST FOR
Patent Number	: 7580400	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/991,895	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/18/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1315** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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ROBERT DEBERARDINE
ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK, IL 60064-6008

COPY MAILED

JUN 30 2006

OFFICE OF PETITIONS

In re Application of :
Chetan P. Pujara :
Application No.: 10/991,909 : ON PETITION
Filed: November 18, 2004 :
Attorney Docket No: 7262.US.02 :

This is in response to the petition under 37 CFR 1.137(b) filed June 15, 2006.

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

This application became abandoned for failure to respond in a timely manner to the Notice to File Missing Parts of Non-Provisional Application mailed March 7, 2005. The notice set a shortened period for reply of two-months from its mailing date. Extensions of time were available pursuant to 37 CFR 1.136(a). No response was received within the allowed period, and the application became abandoned on May 8, 2005. A Notice of Abandonment was mailed on November 8, 2005.

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

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

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

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

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

The instant petition does not satisfy the requirements of item (2) above.

The petition fee did not accompany the instant petition. Neither was there an authorization to charge a deposit account for the petition fee; the authorizations found in the application where for specific fees only, but no general authorization was found. The fee for the instant petition is $1,500.00 for a large entity and $750.00 for a small entity and must accompany any renewed petition filed.

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

By mail:

Mail Stop Petitions
Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

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

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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AUG 22 2006
OFFICE OF PETITIONS

ROBERT DEBERARDINE
ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK, IL 60064-6008

In re Application of :
Chetan P. Pujara :
Application No.: 10/991,909 : ON PETITION
Filed: November 18, 2004 :
Attorney Docket No. 7262.US.02 :

This is in response to the renewed petition under 37 CFR 1.137(b) filed July 24, 2006.

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

A "Notice to File Missing Parts of Nonprovisional Application" (the "Notice") was mailed by the Office on March 7, 2005, allowing a shortened period of reply of two-months from its mailing date. Extensions of time set for reply were available pursuant to 37 CFR 1.136(a). The Notice required an oath or declaration to be filed and $130.00 surcharge for the late filing of the same. A complete response was not received within the allowable period, and the application became abandoned on May 8, 2005. A Notice of Abandonment was mailed on November 8, 2005. A petition under 37 CFR 1.137(b) was first filed on June 15, 2006, and dismissed by a decision mailed June 30, 2006.

The petition fee of $1,500.00 was charged to the authorized deposit account.

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) 272-3222.

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

ATTENTION OF: ROBERT J. CRAWFORD
CRAWFORD MAUNU PLLC
SUITE 390
1270 NORTHLAND DRIVE
ST. PAUL MN 55120

COPY MAILED

MAR 26 2008

In re Application of :
Robert Giannini :
Application No. 10/991,912 : ON PETITION
Filed: November 18, 2004 :
Attorney Docket No. JARB.003C1 :

This is a decision on the petition filed June 18, 2007, to withdraw the holding of abandonment under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition under 37 CFR 1.181(b) is **DISMISSED.**

This application became abandoned January 30, 2007 for failure to timely reply to the non-Final Office Action mailed October 26, 2006 which set a three month period for reply. Accordingly, a Notice of Abandonment was mailed June 19, 2007.

Although the file record discloses that the Notice was mailed to what was believed to be the address of record, the same address to which the Notice of Abandonment was mailed, petitioner contends that it was not received.

In support of the argument of non-receipt, petitioners have provided copies of what purports to be their docket, entitled "TO DO REPORT". However, the evidence presented does not make a showing that the office action was not received at the address to which it is was properly sent by the USPTO. The "TO DO REPORT" was printed May 30, 2007 and the period covered by the records provided begins with June 18, 2007. A true docket record should be inclusive of all actions for the instant application or at least for purposes of showing non-receipt should cover the periods in question, those being around the mail date of the non-Final Office Action. It can't be determined from the docket record submitted whether or not the non-Final Office Action mailed October 26, 2006 was received. To show non-receipt, more convincing evidence would not begin at June 18, 2007.

As non-receipt has not been established, this application became properly abandoned January 30, 2007 for failure to file a timely reply to the non-Final Office Action.

In view thereof, the holding of abandonment will not be withdrawn.

ALTERNATIVE VENUES

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(a)[1] or 37 CFR 1.137(b),[2] which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A 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).

---

[1]A grantable petition under 37 CFR 1.137(a) must be accompanied by:

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

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

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

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

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

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

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

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

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

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

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

By FAX: (571) 273-8300

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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ATTENTION OF: ROBERT J. CRAWFORD
CRAWFORD MAUNU PLLC
SUITE 390
1270 NORTHLAND DRIVE
ST. PAUL MN 55120

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APR 23 2008

In re Application of
Robert Giannini
Application No. 10/991,912
Filed: November 18, 2004
Attorney Docket No. JARB.003C1

ON PETITION

This is a decision on the renewed petition filed April 4, 2008, to withdraw the holding of abandonment under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513 and in the alternative, the petition under 37 CFR 1.137(b) to revive the above-identified application.

The petition under 37 CFR 1.181(b) is **DISMISSED.**
The petition under 37 CFR 1.137(b) is **GRANTED.**

This application became abandoned January 30, 2007 for failure to timely reply to the non-Final Office Action mailed October 26, 2006 which set a three month period for reply. Accordingly, a Notice of Abandonment was mailed June 19, 2007. In a petition filed June 18, 2007 petitioner argued that the office action was not received. That petition was dismissed in a decision mailed March 26, 2008 because the evidence presented in the form of the "TO DO REPORT" did not make a showing that the office action was not received at the address to which it is was properly sent by the USPTO.

Comes now petitioner with a declaration signed by employees of the assignee stating that a review of the relevant files including the file jacket and electronic database did not reveal evidence that the office action had been received. No other documentary evidence, such as the file jacket or docket was presented and thus, the evidence presented is not enough to substantiate the claim of non-receipt. Since no other corroborating evidence to prove non-receipt has been presented and as non-receipt has not been established, this application became properly abandoned January 30, 2007 and the holding of abandonment cannot be withdrawn.

With respect to the petition to revive, the petition fee in the amount of $770.00 has been applied and all other requirements under 37 CFR 1.137(b) having been met, this matter is being referred to Technology Center 2174 for appropriate action on the

amendment filed June 18, 2007 and resubmitted with the instant petition.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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JAN 25 2008

OFFICE OF PETITIONS

Kunzler & McKenzie
8 EAST BROADWAY
SUITE 600
SALT LAKE CITY, UT 84111

In re Application of
Michael T. Benhase, et al.
Application No. 10/991,931
Filed: November 18, 2004
Attorney Docket No. TUC920040131US1

ON PETITION

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

The petition is GRANTED.

This application became abandoned for failure to timely pay the issue fees on or before August 30, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed May 30, 2007. A Notice of Abandonment was mailed on September 27, 2007. In response, on October 1, 2007, the present petition was filed.

It is noted that the petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Kurt P. Goudy appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. A courtesy copy of this decision is being mailed to petitioner. If Mr. Goudy desires to receive future correspondence regarding this application, then the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,440 and the publication fee of $300, (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay[1].

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

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: KURT P. GOUDY
INTERNATIONAL BUSINESS MACHINES CORPORATION
9000 SOUTH RITA ROAD
TUCSON, AZ 85744

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 8-1709

Paper No.: _____

TO SPE OF : ART UNIT 2894

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/941936 Patent No.: 7297582

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

FOR IFW FILES: Please Review drawings

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

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

FOR PAPER FILES:

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

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

Ennis Young
Certificates of Correction Branch
703-756-1542

Thank You For Your Assistance

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

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

Comments: COC is approved by Primary Examiner.

/Kimberly D Nguyen/ — SPE

2894 — Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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JAMES REEBER
948 US HIGHWAY 22
NORTH PLAINFIELD, NJ 07060

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JAN **2 5** 2007

OFFICE OF PETITIONS

In re Application of	:	
Logvinov, Oleg	:	
Application No. 10/991,939	:	ON PETITION
Filed: November 18, 2004	:	
Attorney Docket No. 34585-523-059	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 5, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Oath/Declaration and surcharge; (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 Oath/Declaration submitted with the instant petition does not appoint power of attorney to anyone. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

Cc:

MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO, P.C.
THE CHRYSLER CENTER
666 THIRD AVENUE, 24TH FLOOR
NEW YORK, NY 10017

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JAMES REEBER
948 US HIGHWAY 22
NORTH PLAINFIELD NJ 07060

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SEP 2 9 2008

OFFICE OF PETITIONS

In re Application of
LOGVINOV, Oleg
Application No. 10/991,939
Filed: November 18, 2004
Attorney Docket No. **34585-523-059**

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 27, 2008.

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 the customer (35437) does not have power in this application.

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: **ARKADOS, INC.**
220 OLD NOW BRUNSWICK ROAD
SUITE 202
PISCATAWAY NJ 08854

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United States Patent and Trademark Office
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OFFICE OF PETITIONS

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

In re Application of :
COOK, Scoot J. et al. :
Application No. 10/991,947 : DECISION ON PETITION
Filed: November 18, 2004 : TO WITHDRAW
Attorney Docket No. **LGASK.001A** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 12, 2008.

The request is **APPROVED**.

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

The request was signed by Ted M. Cannon on behalf of all attorneys of record who are associated with customer No. 20995. All attorneys/agents associated with the Customer Number 20995 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Scoot Cook at the address indicated below. There is an outstanding Office action mailed September 04, 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: **SCOTT J. COOK**
1513 9TH STREET, #3
SANTA MONICA CA 90401

cc: **JEAN-GUY POITRAS**
BUILDING ADDRESS, INC.
511 N. LA CIENEGA BLVD., SUITE 214
WEST HOLLYWOOD CA 90048

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P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

In re Application of :
Vedantham, et al. :
Application No. 10/991,968 : ON APPLICATION FOR
Filed: November 17, 2004 : PATENT TERM ADJUSTMENT
Atty Docket No. 088245-0133 :

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705 filed March 2, 2009. Applicant submits that the correct patent term adjustment to be indicated on the patent is four hundred ninety-eight (498) days, not four hundred twenty-three (423) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

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

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

It is acknowledged that applicant is correct that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including –

---

[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.

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

It is noted that a Request for Continued Examination (RCE) was filed in this application on January 31, 2008.

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 specific to this decision should be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

In re Patent No. 7,594,154	:	DECISION ON REQUEST
Vedantham, et al.	:	FOR
Issue Date: September 22, 2009	:	RECONSIDERATION OF
Application No. 10/991,968	:	PATENT TERM ADJUSTMENT
Filed: November 17, 2004	:	and
Atty Docket No. 088245-0133	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on November 17, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by five hundred and eighty (580) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by five hundred and seventy-nine (579) 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 January 18, 2007, and ends on January 30, 2008, the day before the RCE was filed, and is 74 (not 75) days. See 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 579 days, not 580 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.

Deposit account 19-0741 will be charged $200.00 for the petition fee under 37 CFR 1.18(e). No additional fees are due.

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **five hundred and seventy-nine (579)** days.

Telephone inquiries specific to this matter should be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

for

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,594,154 B2

DATED : Sept. 22, 2009

INVENTOR(S) : Vedantham 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 (505) days

Delete the phrase "by 505 days" and insert – by 579 days--

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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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Schwegman, Lundberg, Woessner & Kluth, P.A.
P.O. Box 2938
Minneapolis MN 55402

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AUG 1 1 2006

OFFICE OF PETITIONS

In re Application of
Balay et al.
Application No. 10/991,969
Filed: November 18, 2004
Attorney Dkt. No.: 1384.030US1
Title of Invention: Method and Apparatus for Managing Subscriber Profiles

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), April 3 2006, to revive the above-identified application.

This petition is hereby **Dismissed.**

Any request for reconsideration must be submitted within TWO (2) Months from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)". This is **not** 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 Missing Parts of a Nonprovisional Application which was mailed on December 23, 2004. The Notice to File Missing Parts set an extendable two (2) month period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on February 24, 2005. A Notice of Abandonment was mailed on September 14, 2005.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply

until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03 (c)(III)(c) and (D).

The instant petition lacks item (1). Although petitioner has provided an executed declaration, the declaration contains non-initialed alterations to the declaration. Specifically, inventors Balay, Lemarchand and Khetawat have failed to initial the changes made to the declaration. A newly executed supplemental declaration pursuant to 37 CFR 1.67 or an ADS should be submitted to correct the changes made to the addresses provided in the declaration.

Petitioner submitted a five (5) month request for extension of time. However, pursuant to 37 CFR §1.136, an extension of time must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988) Petitioner's period for extension of time expired on November 13, 2004. Petitioner is ineligible for any extensions of time. Accordingly, deposit account number 19-0743 will be credited with $2,160.00 for fees paid to acquire an extension of time.

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
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www.uspto.gov

MICHAEL A. DE SANCTIS
756 HARRISON ST.
DENVER CO 80206

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JAN 0 8 2007

OFFICE OF PETITIONS

In re Application of
Balay et al.
Application No. 10/991,969
Filed: November 18, 2004
Attorney Dkt. No.: FORT-003000
Title of Invention: Method and Apparatus for Managing Subscriber Profiles

DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR §1.137(b), December 11, 2006, to revive the above-identified application.

This above-identified application became abandoned for failure to file a response to a Notice to file Missing Parts of a Nonprovisional Application which was mailed on December 23, 2004. The Notice to File Missing Parts set an extendable two (2) month period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on February 24, 2005. A Notice of Abandonment was mailed on September 14, 2005. A petition under 37 CFR 1.137(b) was dismissed on August 11, 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
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P.O. Box 2938
Minneapolis MN 55402

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OFFICE OF PETITIONS

In re Application of
Balay et al.
Application No. 10/991,970
Filed: November 18, 2004
Attorney Dkt. No.: 1384.031US1
Title of Invention: Method and Apparatus for Managing Subscriber Profiles

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), April 3 2006, to revive the above-identified application.

This petition is hereby **Dismissed.**

Any request for reconsideration must be submitted within TWO (2) Months from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)". This is **not** 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 Missing Parts of a Nonprovisional Application which was mailed on December 23, 2004. The Notice to File Missing Parts set an extendable two (2) month period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on February 24, 2005. A Notice of Abandonment was mailed on September 14, 2005.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply

until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03 (c)(III)(c) and (D).

The instant petition lacks item (1). Although petitioner has provided an executed declaration, the declaration contains non-initialed alterations to the declaration. Specifically, inventors Balay, Lemarchand and Khetawat have failed to initial the changes made to the declaration. A newly executed supplemental declaration pursuant to 37 CFR 1.67 or an ADS should be submitted to correct the changes made to the addresses provided in the declaration.

Petitioner submitted a five (5) month request for extension of time. However, pursuant to 37 CFR §1.136, an extension of time must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988) Petitioner's period for extension of time expired on November 13, 2004. Petitioner is ineligible for any extensions of time. Accordingly, deposit account number 19-0743 will be credited with $2,160.00 for fees paid to acquire an extension of time.

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

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

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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DENVER CO 80206

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OFFICE OF PETITIONS

In re Application of
Balay et al.
Application No. 10/991,970
Filed: November 18, 2004
Attorney Dkt. No.: FORT-003100
Title of Invention: Method and Apparatus for Managing Subscriber Profiles

DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR §1.137(b), December 11, 2006, to revive the above-identified application.

This above-identified application became abandoned for failure to file a response to a Notice to file Missing Parts of a Nonprovisional Application which was mailed on December 16, 2004. The Notice to File Missing Parts set an extendable two (2) month period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on February 24, 2005. A Notice of Abandonment was mailed on September 14, 2005. A petition filed under 37 CFR 1.137(b) was dismissed on August 10, 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

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OFFICE OF PETITIONS

Mark Farber, Esq.
United States Surgical,
A Division of Tyco Healthcare Group, LP
150 Glover Avenue
Norwalk CT 06856

In re Application of	:	
Sean T. Dycus	:	
Application No. 10/991,975	:	DECISION ON PETITION
Filing Date: November 18, 2004	:	PURSUANT TO
Attorney Docket No.: 2937 (203-3642)	:	37 C.F.R. § 1.78(A)(3)
Title: MOVABLE HANDLE FOR VESSEL SEALER	:	

This is a decision on the submission filed on November 7, 2008, which is being treated as a petition pursuant to 37 C.F.R. § 1.78(a)(3), to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed non-provisional application 10/179,863, set forth in a concurrently filed amendment to the specification.

This petition pursuant to 37 C.F.R. § 1.78(a)(3) is **DISMISSED**.

A petition for acceptance of a claim for late priority pursuant to 37 C.F.R. § 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 C.F.R. § 1.78(a)(2)(ii). In addition, the petition pursuant to 37 C.F.R. § 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 C.F.R. § 1.78(a)(2)(i) of the prior-filed applications, unless previously submitted;
(2) the surcharge set forth in 37 C.F.R. § 1.17(t), and;
(3) a statement that the entire delay between the date the claim was due under 37 C.F.R. § 1.78(a)(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.

37 C.F.R. § 1.78(a)(3)(iii) requires a statement that the entire delay between the date the claim was due under paragraph (a)(2)(ii) of 37 C.F.R. § 1.78 and the date the claim was filed was unintentional.

Since the statement contained in this renewed petition varies slightly from the language required by 37 C.F.R. § 1.78(a)(3)(iii), the statement contained in this petition is being construed as the statement required by 37 C.F.R. § 1.78(a)(3)(iii), and Petitioner must notify the Office if this is not a correct interpretation of the statement contained in this petition.

With this petition, Petitioner has included an amendment to the specification and a statement that is being construed as the proper statement of unintentional delay.

The surcharge that is associated with the filing of this petition will be charged to Petitioner's Deposit Account in due course, as authorized in the petition.

All of the above requirements have been satisfied. However, the late claim for priority pursuant to 35 U.S.C. § 120 cannot be accepted, as application numbers 10/116,944 and 10/179,863 do not share a common inventor. 35 U.S.C. § 120 indicates, *in pertinent part*:

> An application for patent for an invention disclosed in the manner provided by the first paragraph of section 112 of this title in an application previously filed in the United States, or as provided by section 363 of this title, **which is filed by an inventor or inventors named in the previously filed application** (emphasis added) shall have the same effect, as to such invention, as though filed on the date of the prior application, if filed before the

> patenting or abandonment of or termination of proceedings on the first application or on an application similarly entitled to the benefit of the filing date of the first application and if it contains or is amended to contain a specific reference to the earlier filed application.

The portion of the text emphasized above makes it clear that there must be a common inventor between the applications listed in the benefit claim. This priority claim cannot be accepted, as application number 10/116,944 lists Messrs. Couture, Nguyen, Johnson, and Moses as the inventive entities, whereas application number 10/179,863 lists Messrs. Dycus and Peterson as the inventive entities. Hence, there is no common inventor between these two applications.

If reconsideration of this decision is desired, a renewed petition pursuant to 37 C.F.R. § 1.78(a)(3) is required.

Any renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[1] hand-delivery,[2] or facsimile.[3] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[4]

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the deciding official.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence

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1 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
2 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
3 (571) 273-8300- please note this is a central facsimile number.
4 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found here: http://www.uspto.gov/web/forms/sb0122.pdf.

Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.[5] All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Anthony Knight
Supervisor
Office of Petitions

cc: Covidien
60 Middletown Avenue
North Haven, CT 06473

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

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

Tyco Healthcare Group LP
60 MIDDLETOWN AVENUE
NORTH HAVEN CT 06473

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AUG 19 2009

OFFICE OF PETITIONS

In re Application of	:	
Sean T. Dycus	:	
Application No. 10/991,975	:	DECISION ON RENEWED
Filing Date: November 18, 2004	:	PETITION PURSUANT TO
Attorney Docket No.: 2937 (203-3642)	:	37 C.F.R. § 1.78(A)(3)
Title: MOVABLE HANDLE FOR VESSEL SEALER	:	

This is a decision on the renewed petition pursuant to 37 C.F.R. § 1.78(a)(3), filed on February 4, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed non-provisional application 10/179,863, set forth in a preveniently filed amendment to the specification.

This renewed petition pursuant to 37 C.F.R. § 1.78(a)(3) is **GRANTED**.

The concurrently submitted Change of Correspondence Address has been entered and made of record.

A petition for acceptance of a claim for late priority pursuant to 37 C.F.R. § 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 C.F.R. § 1.78(a)(2)(ii). In addition, the petition pursuant to 37 C.F.R. § 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 C.F.R. § 1.78(a)(2)(i) of the prior-

filed applications, unless previously submitted;

(2) the surcharge set forth in 37 C.F.R. § 1.17(t), and;

(3) a statement that the entire delay between the date the claim was due under 37 C.F.R. § 1.78(a)(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.

An original petition pursuant to 37 C.F.R. § 1.78(a)(3) was filed on November 7, 2008, and was dismissed via the mailing of a decision on January 5, 2009, which indicated that each of the above three requirements had been satisfied, however the late claim for priority pursuant to 35 U.S.C. § 120 could not be accepted, as application numbers 10/116,944 and 10/179,863 do not share a common inventor.

With this renewed petition, Petitioner has indicated that application number 10/116,944 (now matured into U.S. Patent No. 7,083,618) contains a certificate of correction, and as such, both application numbers 10/116,944 and 10/179,863 share a common inventor by the name of Dycus.

Office records have been reviewed, and Petitioner's assertion has been confirmed to be correct.

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

The granting of this petition to accept the delayed benefit claim to the prior-filed application pursuant to 37 C.F.R. § 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 C.F.R. §§ 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that Applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the Examiner will, in due course, consider this benefit claim and determine whether the

application is entitled to the benefit of the earlier filing date.

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

This application is being forwarded to Technology Center Art Unit 3739 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.

Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.[1]

Anthony Knight
Supervisor
Office of Petitions

Encl. Corrected Filing Receipt

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

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OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8403

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JUN 05 2008

OFFICE OF PETITIONS

In re Application of :
Mikael Wallerstrom :
Application No. 10/991,984 : DECISION ON PETITION
Filed: November 18, 2004 :
Attorney Docket No. P/102-75 :

This is a decision on the petition under 37 CFR 1.137(b), filed on July 2, 2007, to revive the above-identified application.

The application became abandoned for failure to file a complete reply to the non-final Office action mailed on November 6, 2006. A Notice of Abandonment was mailed on June 12, 2007.

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

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment and one sheet of replacement drawing containing Figure 1; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 2836 for review of the amendment filed with the instant petition.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OLIFF & BERRIDGE PLC
P. O. BOX 320850
ALEXANDRIA, VA 22320-4850

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OCT 18 2007

OFFICE OF PETITIONS

In re Application of	:	
Hidefumi Sakata et al	:	
Application No. 10/992,000	:	DECISION GRANTING PETITION
Filed: November 19, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 121365	:	

This is a decision on the petition, filed October 17, 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 25, 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 2851 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\992000.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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14TH FLOOR
VIENNA VA 22182-6212

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JUL 17 2009

OFFICE OF PETITIONS

In re Application of :
Kiss, et al. :
Application No. 10/992,010 : ON PETITION
Filed: November 19, 2004 :
Attorney Docket No. 059864.01610 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 19, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to file a timely and proper response to the final Office action mailed December 16, 2008, which set a shortened statutory period for reply of three months from its mailing date. A response was filed on March 9, 2009. By an Advisory Action mailed March 23, 2009, petitioner was informed that the response of March 9, 2009, did not place the application in condition for allowance. The application became abandoned on March 17, 2009.

The Request for Continued Examination filed June 19, 2009, is noted.

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

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application,

the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

The request for an extension of time within the third month is noted, but cannot be granted because the request was made outside the maximum statutory period for reply to the final Office action. The amount of $1,110.00 will be refunded, in due course.

The application file is being forwarded to Technology Center 2400, GAU 2442 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:
Mintz, Levin, Cohn, Ferris,
Glovsky and Popeo, PC
3580 Carmel Mountain Road, Suite 300
San Diego, CA 92130

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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WEI TE CHUNG
FOXCONN INTERNATIONAL, INC.
1650 MEMOREX DRIVE
SANTA, CLARA CA 95050

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AUG 0 9 2005

OFFICE OF PETITIONS

In re Application of :
Hsu : DECISION REFUSING STATUS
Application No. 10/992,022 : UNDER 37 CFR 1.47(b)
Filed: October 26, 2004 :
For: DIMMING CONTROL METHOD AND :
LIGHTING SYSTEM WITH DIMMING :
CONTROL :

This decision is in response to the petition under 37 CFR 1.47(b) filed April 29, 2005.

The petition under 37 CFR 1.47(b) is **DISMISSED**.

Petitioners are given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," and should only address the deficiencies noted herein. The reply under 37 CFR 1.47(b) may include an oath or declaration executed by the non-signing inventors. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed October 26, 2004 without an executed oath or declaration and names Cheng Chia Hsu as sole inventor. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed December 27, 2004 requiring an executed oath or declaration and surcharge.

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee;(4) a statement of the last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) a showing that such action is required to preserve the rights of the parties or to prevent irreparable damages.

The petition fails to satisfy items (1) and (5) set forth above.

At to item (1), petitioner has failed to establish that the non-signing inventor received a complete copy of the application papers (specification, including claims, drawings, and oath or declaration) and thereafter refused to execute an oath or declaration.

The statement of facts signed by Lin Han Ming states that the inventor was called several times in August of 2004 and that the inventor refused to sign the declaration. The statement further states that the inventor was requested to sign the oath or declaration for the instant application sent via certified mail, and that the inventor has not responded.

Petitioner is reminded that before a refusal to sign an oath or declaration can be alleged, it must be demonstrated that bona fide effort has been made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor or the legal representative of non-signing inventor. A copy of the application papers must be presented to the inventor at the inventor's last known address. Proof of the pertinent events should be made by someone having first hand knowledge of the events in the form of an affidavit or declaration. In particular, the declaration or affidavit must set forth the manner in which the application papers were presented to the non-signing inventor. Statements based on hearsay, will not normally be accepted. Petitioner may elect to include copies of dated cover letters and, if available, copies of mailing receipts as evidence that the non-signing inventor was presented with a copy of the application papers, or, having been presented with the application papers, refused to sign the oath or declaration. If, after having been presented with the application papers, an oral refusal is made by a non-signing inventor, this fact along with the time and place of the refusal must be stated in an affidavit or declaration signed by the person to whom the refusal was made. Any written refusal to execute the oath or declaration by an inventor should likewise be submitted. Petitioner's attention is directed to MPEP 409.03(d) for further information on the presumptive evidence required for accordance of status under 37 CFR 1.47.

As to item (5), petitioner has failed to sufficiently establish a proprietary interest in the instant application. While the instant petition references the enclosure of an employment agreement and English translation, said does not appear to be among the papers submitted with the instant petition. Accordingly, any renewed petition must be accompanied by evidence to sufficiently establish that (1) that the invention has been assigned to assignee or (2)

that (1) that the invention has been assigned to assignee or (2) that the inventor has agreed in writing to assign the invention to assignee or (3) otherwise demonstrate a proprietary interest in the subject matter of the application. *See*, MPEP 409.03(f).

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

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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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WEI TE CHUNG
FOXCONN INTERNATIONAL, INC.
1650 MEMOREX DRIVE
SANTA, CLARA CA 95050

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MAR 0 6 2006

OFFICE OF PETITIONS

In re Application of :
Hsu : DECISION REFUSING STATUS
Application No. 10/992,022 : UNDER 37 CFR 1.47(b)
Filed: October 26, 2004 :
For: DIMMING CONTROL METHOD AND :
LIGHTING SYSTEM WITH DIMMING :
CONTROL :

This decision is in response to the renewed petition under 37 CFR 1.47(b) filed October 17, 2005.

The petition under 37 CFR 1.47(b) is **DISMISSED**.

Petitioners are given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," and should only address the deficiencies noted herein. The reply under 37 CFR 1.47(b) may include an oath or declaration executed by the non-signing inventors. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed October 26, 2004 without an executed oath or declaration and names Cheng Chia Hsu as sole inventor. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed December 27, 2004 requiring an executed oath or declaration and surcharge. A petition under 37 CFR 1.47(b) was filed April 29, 2005 and dismissed August 9, 2005.

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee;(4) a statement of the last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) a showing that such action is required to preserve the rights of the parties or to prevent irreparable damages.

The petition fails to satisfy required (5) set forth above.

As to item (5), petitioner has failed to sufficiently establish a proprietary interest in the instant application. Petitioner indicates that Ambit Microsystems Corp., for whom the inventor as a former employee would be obligated to execute the declaration as set forth in the copy of the employment contract submitted herewith, merged with Hon Hai Precision Ind. Co., Ltd. (hereinafter "Hon Hai").

Petitioner has failed to establish evidence of such a merger. Accordingly, it cannot be found that the inventor is obligated to assign his interests in the instant application to Hon Hai. Accordingly, petitioner has failed to sufficiently establish propriety interest in the instant application.

Any renewed petition must be accompanied by evidence to sufficiently establish that (1) that the invention has been assigned to assignee or (2) that the inventor has agreed in writing to assign the invention to assignee or (3) otherwise demonstrate a proprietary interest in the subject matter of the application. *See*, MPEP 409.03(f).

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

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

By facsimile:
(571) 273-8300

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUL 17 2006

OFFICE OF PETITIONS

WEI TE CHUNG
FOXCONN INTERNATIONAL, INC.
1650 MEMOREX DRIVE
SANTA, CLARA CA 95050

In re Application of	:
Hsu	: DECISION GRANTING STATUS
Application No. 10/992,022	: UNDER 37 CFR 1.47(b)
Filed: November 17, 2004	:
For: DIMMING CONTROL METHOD AND	:
LIGHTING SYSTEM WITH DIMMING	:
CONTROL	:

This decision is in response to the renewed petition under 37 CFR 1.47(b) filed June 6, 2006.

The petition is **GRANTED**.

Petitioner has shown that inventor Cheng-Chia Hsu has refused to execute the declaration for the above-identified application after having been presented with the application papers.

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

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

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

CHENG-CHIA HSU
272, BA GUA ROAD
FU SHAN LI,
NAN TOU CITY, NAN TOU HSIEN
PEOPLE'S REPUBLIC OF CHINA

In re Application of :
HSU :
Application No. 10/992,022 : LETTER
Filed: November 17, 2004 :
For: DIMMING CONTROL METHOD :
AND LIGHTING SYSTEM WITH :
DIMMING CONTROL :

Dear Sir or Madam:

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

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining 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 the Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington, DC area).

ALESIA M. BROWN
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LEE & HAYES, PLLC
601 W. RIVERSIDE AVENUE, SUITE 1400
SPOKANE, WA 99201

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JAN 21 2009

In re Application of :
John R. **DOUCEUR, et al.** :
Application No. 10/992,024 : DECISION GRANTING PETITION
Filed: November 18, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **MS1-0769USC1** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 16, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

The petition is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.34, the signature of Ms. Beatrice Koempel-Thomas 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.

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

This application is being referred to Technology Center AU 2154 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HOWARD J. GREENWALD P.C.
349 W. COMMERCIAL STREET
SUITE 2490
EAST ROCHESTER, NY 14445-2408

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OCT 1 1 2005

OFFICE OF PETITIONS

In re Application of	:	
John A. Meyer et al	:	DECISION ON PETITION
Application No. 10/992,040	:	TO MAKE SPECIAL
Filed: November 18, 2004	:	37 CFR 1.102(c)
Attorney Docket No. JAM-747	:	

This is a decision on the petition under 37 CFR §1.102(c), filed September 9, 2005, to make the above-identified application special.

The petition requests that the above-identified application be made special as set forth in M.P.E.P. § 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied any evidence showing that the applicant is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a copy of birth certificate and a statement by John A. Meyer attesting that he is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

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

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

This matter is being referred to Technology Center AU 2646 for expedited prosecution.

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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PVF -- SUN MICROSYSTEMS INC.
C/O PARK, VAUGHAN & FLEMING LLP
2820 FIFTH STREET
DAVIS, CA 95618-7759

Mail Date: 04/21/2010

Applicant	: Stephen A. Chessin	: DECISION ON REQUEST FOR
Patent Number	: 7596738	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/992,056	: 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 **1233** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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PVF -- ORACLE AMERICA, INC.
C/O PARK, VAUGHAN & FLEMING LLP
2820 FIFTH STREET
DAVIS, CA 95618-7759

Mail Date: 05/18/2010

Applicant : Stephen A. Chessin
Patent Number : 7596738
Issue Date : 09/29/2009
Application No: 10/992,056
Filed : 11/17/2004

: 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 **1342** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND, WA 98052-6399

Mail Date: 04/20/2010

Applicant	: Thomas A. Abrams	: DECISION ON REQUEST FOR
Patent Number	: 7580762	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/992,057	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/18/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1239** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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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MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND, WA 98052-6399

Mail Date: 05/17/2010

Applicant : Thomas A. Abrams
Patent Number : 7580762
Issue Date : 08/25/2009
Application No: 10/992,057
Filed : 11/18/2004

: 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 **1295** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

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

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

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

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SMYRSKI LAW GROUP, A PROFESSIONAL CORPORATION
3310 AIRPORT AVENUE, SW
SANTA MONICA, CA 90405

Mail Date: 04/21/2010

Applicant	: David Lee Brown	: DECISION ON REQUEST FOR
Patent Number	: 7609309	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/992,063	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/18/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1148** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND, WA 98052

Mail Date: 04/26/2010

Applicant	: Josh A. Clow	: DECISION ON REQUEST FOR
Patent Number	: 7634738	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/992,092	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/19/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **936** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON, DC 20005-3096

Mail Date: 05/03/2010

Applicant	: Tetsuya Nakanishi	: DECISION ON REQUEST FOR
Patent Number	: 7637125	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/992,102	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/19/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1250** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

Mail Date: 04/30/2010

Applicant	: Kazuyuki Inokuma	: DECISION ON REQUEST FOR
Patent Number	: 7619634	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/992,103	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/19/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1398** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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DLA PIPER LLP US
P. O. BOX 2758
RESTON, VA 20195

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FEB 23 2009

OFFICE OF PETITIONS

In re Application of :
Robert Rhett Slagel :
Application No. 10/992,126 : DECISION GRANTING PETITION
Filed: November 19, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 364776-P0001 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 20, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 20, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642.

This application is being referred to Technology Center AU 3635 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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CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA CA 91109-7068

COPY MAILED

OCT 16 2007

OFFICE OF PETITIONS

In re Application of :
CHOI, et al. :
Application No. 10/992,147 : DECISION GRANTING PETITION
Filed: November 17, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **53778/P849** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 12, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 17, 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 1755 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Frances Hicks
Petitions 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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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/992,165	11/17/2004	2663	1814	706316-4010	25	72	4

CONFIRMATION NO. 9265

CORRECTED FILING RECEIPT

34313
ORRICK, HERRINGTON & SUTCLIFFE, LLP
IP PROSECUTION DEPARTMENT
4 PARK PLAZA
SUITE 1600
IRVINE, CA 92614-2558

OC000000016899217

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)

Barton L. Quayle, San Jose, CA;
Mitchell G. Poplack, Mountain View, CA;
Peter Tannenbaum, Highland, NY;

Power of Attorney:

Jeffrey Miller--35287

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/576,611 06/01/2004
and claims benefit of 60/576,691 06/01/2004

Foreign Applications

If Required, Foreign Filing License Granted: 12/13/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/992,165

Projected Publication Date: 12/08/2005

Non-Publication Request: No

Early Publication Request: No

Title

System and method for configuring communication systems

Preliminary Class

370

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The

date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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H.C. PARK & ASSOCIATES, PLC
8500 LEESBURG PIKE
SUITE 7500
VIENNA, VA 22182

Mail Date: 04/20/2010

Applicant	: Jin-Woo Park	: DECISION ON REQUEST FOR
Patent Number	: 7589461	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/992,219	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/19/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1118** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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H.C. PARK & ASSOCIATES, PLC
8500 LEESBURG PIKE
SUITE 7500
VIENNA, VA 22182

Mail Date: 05/17/2010

Applicant : Jin-Woo Park
Patent Number : 7589461
Issue Date : 09/15/2009
Application No: 10/992,219
Filed : 11/19/2004

: 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 **1185** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

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OFFICE OF PETITIONS

WONG, CABELLO, LUTSCH, RUTHERFORD
& BRUCCULERI, L.L.P.
20333 SH 249
SUITE 600
HOUSTON, TX 77070

In re Application of :
Jason M. Destefano :
Application No. 10/992,230 : ON PETITION
Filed: November 18, 2004 :
Attorney Docket No. 298-0009US :

This is a decision on the petition under 37 CFR 1.137(b), filed November 2, 2006, to revive the above-identified application.

The petition is GRANTED.

The Office acknowledges receipt of the Notice of Appeal filed November 2, 2006.

Extensions of time under 37 CFR 1.136 are available only if asked for "prior to or with the response." In no case, however, may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response has expired. Therefore, no extension of time fees are due on a petition for revival. In view thereof, the $510 extension of time fee submitted with the petition is unnecessary and will be refunded to petitioner's deposit account as authorized.

The 2-month period for filing the Appeal Brief under 37 CFR 41.37(a)(1), accompanied by the fee set forth in 37 CFR 41.20(b)(2), runs from the date of this decision.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204.

This application is being forwarded to Technology Center AU 2162.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

10-21-08

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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Patent No. : 7,425,602 B2
Ser. No. : 10/992,234
Inventor(s) : L. Scott Howard, et. al.
Issued : September 16, 2008
Title : NOVOLAK RESINS AND RUBBER COMPOSITIONS COMPRISING THE SAME
Docket No. : 071014-205000

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.

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 is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Antonio Johnson
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext. 111** or (703) 308-8309

Nixon Peabody
401 9th Street, NW
Washington, DC 20004

es

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OSI PHARMACEUTICALS, INC.
41 PINELAWN ROAD
MELVILLE NY 11747

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JUL 27 2007

OFFICE OF PETITIONS

In re Application of :
Castelhano et al. :
Application No. 10/992,239 : ON PETITION
Filed: November 18, 2004 :
Attorney Docket No. 66450-AA/JPW/GJG/ALW :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 5, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

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 1600 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

CC:

COOPER & DUNHAM LLP
1185 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

KIRKPATRICK & LOCKHART NICHOLSON
GRAHAM LLP
535 SMITHFIELD STREET
PITTSBURGH, PA 15222

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JUN 0 8 2006
OFFICE OF PETITIONS

In re Application of	:	
Matyjaszewski et al.	:	DECISION ON PETITION
Application No. 10/992,249	:	
Filed: November 18, 2004	:	
Attorney Docket No.	:	
00155DIVDIVCONCON	:	

This is a decision on the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 C.F.R. 1.181(a)" filed February 17, 2006.

The petition under 1.181 is **GRANTED**.

The above-identified application became abandoned for failure to file a timely and proper reply to the non-final Office action mailed March 4, 2005. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply considered filed and no extension of time considered obtained, the application became abandoned effective June 5, 2005. A courtesy Notice of Abandonment was mailed on January 13, 2006.

In response, petitioner filed the instant petition. Petitioner asserts that, in fact, a Reply to the Office letter was timely mailed. As evidence thereof, petitioner submits a date-stamped postcard indicating receipt of the Reply by the Office on July 5, 2005, an Express Mail label for the Reply dated July 5, 2005, and a copy of the Response.

Petitioner's evidence is persuasive; however, further consideration of the evidence is unnecessary. A review of the

postcard and response reveals that the papers included the wrong application number. Thus, the papers were entered with a date of receipt of July 5, 2005 in the misidentified application. This has been corrected. The papers filed July 5, 2005, have been "moved" from the electronic record of the incorrectly identified application to the record of the instant application.

The required extension of time for response within the first month, having never been charged, has been charged to Deposit Account No. 11-1110, as authorized.

In view thereof, the notice of abandonment mailed January 13, 2006 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.

Technology Center AU 1713 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical staff to withdraw the holding of abandonment and for the examiner to consider the response filed July 5, 2005.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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JUN 21 2007

OFFICE OF PETITIONS

KIRKPATRICK & LOCKHART PRESTON GATES ELLIS LLP
535 SMITHFIELD STREET
PITTSBURGH PA 15222

In re Application of
Matyjaszewski et al.
Application No. 10/992,249
Filed: November 18, 2004
Attorney Docket Number:
00155DIVDIVCONCON

ON PETITION

This is a decision on the petition under 37 CFR §1.181 filed February 21, 2007 to withdraw the holding of abandonment.

The petition filed under 37 CFR 1.181 is **Granted**.

This above-identified application became abandoned for failure to file a response to a final Office action mailed on June 27, 2006. The final Office action set an extendable three (3) 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 was held abandoned on September 28, 2006. A Notice of Abandonment was mailed on February 1, 2007.

Petitioner contends a reply to the final Office action was received in the Office on October 24, 2006. Petitioner states that the reply in the form of Request for Continuing Examination (RCE), amendment, IDS and request for one month extension of time were submitted on October 24, 2006. Petitioner acknowledges that the reply submitted on October 24, 2006 contained a transposed application number. In support of the petition, petitioner has provided a post card receipt.

The reply has been located in the Office. The reply did contain the correct art unit, attorney docket number, filing date and title of invention. The reply also contained a

certificate of mailing pursuant to 37 CFR 1.8.

Correspondence directed to the Patent and Trademark Office concerning a previously filed application for a patent must identify the application number and filing date assigned to that application by the Office. See, 37 CFR 1.5(a). In the above-referenced application, applicant failed to correctly identify the application by citing application 10/922,249 rather than the correct application No. 10/**992**,249. The Office elects, in this instance, to treat applicants' listing of a transposed application number as a correctable minor error as permitted under MPEP 502. However, applicant is reminded that minor errors, such as occurred in the instant application, are to be avoided in the future by the careful review of correspondence prior to submission to the Office.

The response submitted October 24, 2006 has been located. 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.

This application is being forwarded to the Art Unit 1713 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petition Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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COMBIMATRIX CORPORATION
6500 HARBOUR HEIGHTS PARKWAY
MUKILTEO, WA 98275

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JUN 14 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of
Karl Maurer et al.
Application No. 10/992,252
Filed: November 18, 2004
Attorney Docket No. COS-97-101

This is a decision on the petition filed April 1, 2005, under 37 CFR § 1.48 and 37 CFR § 1.47.The petition seeks to correct the inventorship of the above-identified application and accord status under 37 CFR 1.47 in the absence of the signatures of all the named inventors.

The petition under 37 CFR § 1.48 is **DISMISSED.**
The petition under 37 CFR § 1.47 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. FAILURE TO TIMELY RENEW THE PETITION WILL RESULT IN ABANDONMENT. The reconsideration request should include a cover letter entitled "Renewed Petitions under 37 CFR §§ 1.48.

The application was filed naming Karl Maurer, John J. Cooper and Michael Strathmann as joint inventors. The oath or declaration filed with the application was only signed by inventors Maurer and Cooper. Accordingly, a Notice to File Missing Parts "Notice" was mailed December 30, 2004. Subsequent to the filing of the application and the mailing of the "Notice", it was learned that Andre Gindilis was also a co-inventor. Petitioner seeks under 37 CFR § 1.48(a) to amend the inventive entity by the addition of Andre Gindilis, and status under 37 CFR 1.47(a) because joint inventor Strathmann refuses to execute the oath or declaration and thus, by his actions, to cooperate with the filing of the application. The instant petitions were filed with a request for a one month extension of time.

37 CFR § 1.48(a) requires that an amendment to the named inventive entity be accompanied by:

(1) a petition including a statement from *each person being added* and from each person being deleted as an inventor that the error occurred without deceptive intention on his or her part;

(2) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47;

(3) the fee set forth in 37 CFR 1.17 (I); and

(4) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment.

This petition under 37 CFR 1.48 lacks item (1).

The statement submitted by Andre Gindilis does not indicate that it was without deceptive intent that he wasn't included as an inventor when the application was filed.

However, the petition bears proof that the application papers were sent to joint inventor Michael Strathmann as well as to his legal counsel, Kelby Fletcher and that in an email between Mr. Strathmann and Jeffrey Oster, Attorney of Record, Mr. Strathmann questioned the inventorship indicated in the instant application and in consequence, refused to execute the oath or declaration. The above-identified application and papers have therefore been reviewed and found in compliance with 37 CFR 1.47(a).[1] However, until such time as the noted deficiencies in the statement provided by Mr. Gindilis have been corrected, the application will not be accorded Rule 1.47(a) status.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

[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.

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COMBIMATRIX CORPORATION
6500 HARBOUR HEIGHTS PARKWAY
MUKILTEO, WA 98275

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OCT 14 2005

OFFICE OF PETITIONS

In re Application of :
Karl Maurer et al. :
Application No. 10/992,252 : ON PETITION
Filed: November 18, 2004 :
Attorney Docket No. COS-97-101 :

This is a decision on the renewed petitions under 37 CFR 1.48 and under 37 CFR 1.47(a), filed on June 21, 2005. The petition seeks to correct the inventorship of the above-identified application and accord status under 37 CFR 1.47 in the absence of the signatures of all the named inventors.

The petition under 37 CFR 1.48 is GRANTED.
The petition under 37 CFR 1.47(a) is GRANTED.

The application was filed naming Karl Maurer, John J. Cooper and Michael Strathmann as joint inventors. The oath or declaration filed with the application was only signed by inventors Maurer and Cooper. Accordingly, a Notice to File Missing Parts "Notice" was mailed December 30, 2004. Subsequent to the filing of the application and the mailing of the "Notice", it was learned that Andre Gindilis was also a co-inventor. Petitions under 37 CFR 1.47 and 1.48 were filed April 1, 2005 with a one month extension of time request, seeking to amend the inventive entity by the addition of Andre Gindilis, and status under 37 CFR 1.47(a) because joint inventor Strathmann refused to execute the oath or declaration and thus, by his actions, to cooperate with the filing of the application.

37 CFR § 1.48(a) requires that an amendment to the named inventive entity be accompanied by:

(1) a petition including a statement from *each person being added* and from each person being deleted as an inventor that the error occurred without deceptive intention on his or her part;

(2) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47;

(3) the fee set forth in 37 CFR 1.17 (I); and

(4) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment.

The petition filed April 1, 2005 was dismissed in a decision mailed June 14, 2005 because the statement submitted by Andre Gindilis did not indicate that it was without deceptive intent that he wasn't included as an inventor when the application was filed.

The renewed petition is accompanied by a statement of lack of deceptive intent executed by Mr. Gindilis.

The petition bears proof that the nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and, accordingly, this application has been corrected in compliance with 37 CFR 1.48. The inventorship of this application has been changed by the addition of Andre Gindilis.

Petitioners maintain their argument that joint inventor Strathmann Levy appears either unwilling or unable to cooperate with the furthering prosecution of the above-identified application and in lieu of a declaration executed by Mr. Strathmann, seeks status under 37 CFR § 1.47(a).

A grantable petition under 37 CFR § 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee; and

(4) a statement of the last known address of the non-signing inventor.

The petition bears proof that the application papers were sent to joint inventor Michael Strathmann as well as to his legal counsel, Kelby Fletcher and that in an email between Mr. Strathmann and Jeffrey Oster, Attorney of Record, Mr. Strathmann questioned the inventorship indicated in the instant application and in consequence, refused to execute the oath or declaration. Therefore, the above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). In view thereof, this application is hereby accorded Rule 1.47(a) status.

Thus, as provided in Rule 1.47c, this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This matter will be referred to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, correction of the file and PTO PALM data to reflect the inventorship as corrected and for further pre-examination processing.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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OCT 1 4 2005

OFFICE OF PETITIONS

MICHAEL STRATHMANN
1205 8TH AVENUE WEST
SEATTLE, WA 98119

In re Application of
Karl Maurer et al.
Application No. 10/992,252
Filed: November 18, 2004
For: ELECTRODE ARRAY DEVICE HAVING AN ADSORBED POROUS REACTION LAYER

Dear Mr. Strathmann:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned Petitions Attorney at (571) 272-3212. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:
COMBIMATRIX CORPORATION
6500 HARBOUR HEIGHTS PARKWAY
MUKILTEO, WA 98275

KELBY FLETCHER, ESQ
PETERSON YOUNG
2800 CENTURY SQUARE
SEATTLE, WA 98101

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HONEYWELL INTERNATIONAL INC.
101 COLUMBIA ROAD
P.O. BOX 2245
MORRISTOWN, NJ 07962-2245

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APR 22 2009

OFFICE OF PETITIONS

In re Application of :
Vladimir Havlena et al :
Application Number: 10/992,254 : ON PETITION
Filing Date: November 18, 2004 :
Attorney Docket Number: H0008063-07601100.1310101 :

This is a decision on the petition filed February 6, 2009 which is being treated as a petition under 37 CFR 1.183 to waive the need for the signature of Michael L. Rhodes on the 37 CFR 1.131 declaration.[1]

The petition is **granted.**

37 CFR 1.131(a) states,

> When any claim of an application or a patent under reexamination is rejected, the inventor of the subject matter of the rejected claim, the owner of the patent under reexamination, or the party qualified under §§ 1.42, 1.43, or 1.47, may submit an appropriate oath or declaration to establish invention of the subject matter of the rejected claim prior to the effective date of the reference or activity on which the rejection is based.

Based on 37 CFR 1.131(a), the following parties may make an affidavit or declaration under 37 CFR 1.131 without need for a petition:

(1) All the inventors of the subject matter claimed.

(2) An affidavit or declaration by less than all named inventors of an application is accepted where it is shown that less than all named inventors of an application invented the subject matter of the claim or claims under rejection. For example, one of two joint inventors is accepted where it is shown that one of the joint inventors is the sole inventor of the claim or claims under rejection.

[1] Once an application has received a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. The instant petition is properly treated under 37 CFR 1.183.

(3) If a petition under 37 CFR 1.47 was granted or the application was accepted under 37 CFR 1.42 or 1.43, the affidavit or declaration may be signed by the 37 CFR 1.47 applicant or the legal representative, where appropriate.
(4) The owner if the affidavit or declaration is being filed for a patent under reexamination.

The Office has stated the signature requirements can be waived in certain circumstances.
(1) The assignee or other party in interest can sign the affidavit or declaration if none of the inventors will sign the declaration. See MPEP 714.
(2) The affidavit or declaration can be signed by fewer than all the inventors if the other inventors are deceased, refuse to sign, or are unavailable. The affidavit or declaration must show reduction to practice or conception of the invention coupled with due diligence by the non-signing inventors.

In view of the efforts recounted in the petition to obtain the signature of Michael L. Rhodes, it is agreed that justice would be served by waiving the requirement for his signature on the declaration filed February 6, 2009.

The aforementioned declaration has been accepted, on petition, and placed in the file.

Telephone inquires related to this decision should be directed to Irvin Dingle at (571) 272-3210.

David Bucci
Petitions Examiner
Office of Petitions

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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JUL 14 2005

OFFICE OF PETITIONS

In re Application of :
Ewers et al. :
Application No. 10/992,306 : ON PETITION
Filed: November 17, 2004 :
Attorney Docket No. 021496-002514US :

This is a decision on the petition filed March 3, 2005, which is being treated as a petition under 37 CFR 1.53(e)(2), to establish that page 1 of the specification was part of the originally filed application.

The application was filed November 17, 2004. On January 28, 2005, a Notice was mailed stating that page 1 of the specification did not appear to be included as part of the application filed.

The present petition alleges that page 1 of the specification was deposited on November 17, 2004. In support, petitioner has submitted a postcard receipt which acknowledges receipt of 71 pages of specification, including a title page, on November 17, 2004.[1]

The USPTO file for this application includes only 70 pages of specification including the title page. Specifically the file contains the title page and pages 2-70 of the specification. Based on the evidence submitted, the Office concludes page 1 of the specification was filed as part of the original application but was later misplaced. Therefore, the petition is **granted**.

Petitioner submitted $130 for the petition fee. The $130 will be credited back to petitioner's deposit account.

The Notice mailed January 28, 2005, was sent in error and is hereby vacated.

The Office of Initial Patent Examination will further process the application with a filing date of November 17, 2004, using the application papers filed on November 17, 2004, and the copy of page 1 of the specification filed on March 3, 2005.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

---

[1] Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self addressed post card properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the post card in the outgoing mail. "A post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." M.P.E.P. § 503.

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OFFICE OF PETITIONS

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

In re Application of :
Hiroshi Ohno et al :
Application No. 10/992,312 : ON PETITION
Filed: November 17, 2004 :
Attorney Docket No. 26869T-001100US

This is a decision on the petition, filed September 11, 2008 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 30, 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 2189 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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United States Patent and Trademark Office
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SCHWEGNAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

MAILED

AUG 26 2009

OFFICE OF PETITIONS

In re Application of	:	
Imad Libbus et al	:	
Application No. 10/992,320	:	DECISION ON PETITION
Filed: November 18, 2004	:	UNDER 37 CFR 1.313(c)
Attorney Docket No. 279.764US1	:	

This is a decision on the petition under 37 CFR 1.313(c), filed August 25, 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 August 25, 2009, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 3762 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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

Basch & Nickerson LLP
1777 Penfield Road
Penfield, NY 14526

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OFFICE OF PETITIONS

In re Application of	:	
Robert W. Gray, et al.	:	
Application No. 10/992,335	:	DECISION ON PETITION
Filed: August 20, 2004	:	TO WITHDRAW
Attorney Docket No. 1008 017 307 0201	:	FROM RECORD
	:	

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 5, 2009.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Basch & Nickerson LLP has been revoked by the assignee of the patent application on February 17, 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 Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Biophan Technologies, Inc.**
15 Schoen Place
Pittsford, NY 14534

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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H.C. PARK & ASSOCIATES, PLC
8500 LEESBURG PIKE
SUITE 7500
VIENNA VA 22182

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JUL 0 2 2008

OFFICE OF PETITIONS

In re Application of	:	
Jin-Woo Park, et al.	:	
Application No. 10/992,367	:	DECISION GRANTING PETITION
Filed: November 19, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 6161.0326.US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 30, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 4, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 2889 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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United States Patent and Trademark Office
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OFFICE OF PETITIONS

Stephen M. Patton
7881 Grove Court East
Germantown, TN 38138

In re Application of	:	
Troy C. Menebroker et al.	:	
Application No. 10/992,373	:	DECISION ON PETITION
Filed: November 18, 2004	:	TO WITHDRAW
Attorney Docket No. 17810	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 17, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, **I no longer legally represent the assignee**, do not meet any the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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DIW Jan-06

IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11400 BURNET ROAD
AUSTIN TX 78758

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JAN 11 2006

OFFICE OF PETITIONS

In re Application of :
Joseph Herbert McIntyre :
Application No. 10/992,379 : DECISION ON PETITION
Filed: 18 November, 2004 :
Atty Docket No. AUS92004D783US1 :

This is a decision on the petition filed on 4 October, 2005, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 18 February, 2005, for failure to timely submit replacement drawings in accordance with 37 CFR 1.84 and 1.121 as required by the Notice to File Corrected Application Papers mailed on 17 December, 2004, which set a two (2) month shortened period for reply. No extensions of time in

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 14 September, 2005.

The present petition is accompanied by a replacement sheet of drawings.

This application is being referred to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY, UT 84110

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MAR 3 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Robert L. Canella	:	
Application No. 10/992,384	:	ON PETITION
Filed: November 18, 2004	:	
Attorney Docket No. 2269-4323.3US (MUEI-0543.03/US)	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on February 16, 2006, to revive the above-identified application.

The application became abandoned for failure to respond to the non-final Office action mailed on July 20, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

The application file is being referred to Technology Center Art Unit 2813, for review of the amendment filed with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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P.O. Box 1450
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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 New York Avenue, NW
Washington, DC 20001-4413

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AUG 14 2009

OFFICE OF PETITIONS

In re Application of	:	
Yunsheng Wang, et al.	:	
Application No. 10/992,428	:	DECISION ON PETITION
Filed: November 17, 2004	:	TO WITHDRAW
Attorney Docket No. 9145.0019-00	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed 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 C. Larry O'Rourke 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.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Yunsheng Wang**
4858 Tuscany Circle
San Jose, CA 95135

cc: **HAYNES AND BOONE, LLP**
IP Section
2323 Victory Avenue, Suite 700
Dallas, TX 75219

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/992,428	11/17/2004	Yunsheng Wang	9145.0019-00

CONFIRMATION NO. 8868

POWER OF ATTORNEY NOTICE

22852
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

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

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HAYNES AND BOONE, LLP
IP Section
2323 Victory Avenue
Suite 700
Dallas TX 75219

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OFFICE OF PETITIONS

In re Application of :
Yunsheng Wang, et al. :
Application No. 10/992,428 : DECISION ON PETITION
Filed: November 17, 2004 :
Attorney Docket No. 70107.59 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 1, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before February 1, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed October 30, 2009. Accordingly, the date of abandonment of this application is February 2, 2010. The Notice of Abandonment was mailed February 18, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510 and the publication fee of $300, (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to the Office of Data Management for processing into a patent.

Terri Johnson
Petitions Examiner
Office of Petitions

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JUL 21 2005

Director's Office
Group 3700

Andre Im
FULBRIGHT & JAWORSKI L.L.P.
666 Fifth Avenue
New York, New York 10103

In re application of
Arthur S. Lukach, et al.

Serial Number: 10/992438
Filed: November 17, 2004

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 CFR. 1.102(c)

For: **CLEAN-IN-PLACE VALVE AND VALVE SEAT**

This is a decision on the petition filed on April 08, 2005, under 37 CFR. 1.102(c) to make special the above identified application because of the age/health of the applicant. Since the requirements of the M.P.E.P Section 708.02 IV have been met, the petition will be GRANTED.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only is Petitioner makes a prompt bona-fide effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the Examiner to accomplish this purpose.

Summary: Decision on Petition **GRANTED**.

Richard A. Bertsch
Director
Technology Center 3700
(571) 272-3750

rt: 7/20/05

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450Alexandria, VA 22313-1450
www.uspto.gov

DINSMORE & SHOHL LLP
ONE DAYTON CENTRE
SUITE 1300
ONE SOUTH MAIN STREET
DAYTON OH 45402-2023

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JUN 21 2005

OFFICE OF PETITIONS

In re Application of :
John Rocco Elia et al. :
Application No. 10/992,453 : DECISION REFUSING STATUS
Filed: November 18, 2004 : UNDER 37 CFR 1.47(a)
Attorney Docket No. DAY0670/IA40195.922 :

This is a decision on the paper filed June 2, 2005, in response to the "Notice To File Missing Parts In a Nonprovisional Application" (Notice) mailed December 28, 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).

Effective November 22, 2004, the petition fee has been increased from $130.00 to $200.00. Therefore, since the fees submitted are deficient and since no deposit account has been authorized, this petition cannot be treated on the merits and will not receive any consideration until such time as $70.00 has been submitted. See the Notice published in the Federal Register on September 21, 2004 and in the Official Gazette of the United States Patent and Trademark Office on October 12, 2004.

The application will be retained in the Office of Petitions for two months after which time if the fees have not been submitted, the application will be forwarded to the Office of Initial Patent Examination and the proceedings terminated. A request for reconsideration with the appropriate fees should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Office of Petitions

Telephone inquiries regarding this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450Alexandria, VA 22313-1450
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DINSMORE & SHOHL LLP
ONE DAYTON CENTRE
SUITE 1300
ONE SOUTH MAIN STREET
DAYTON OH 45402-2023

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OFFICE OF PETITIONS

In re Application of
John Rocco Elia et al.
Application No. 10/992,453
Filed: November 18, 2004
Attorney Docket No. DAY0670/IA40195.922

: DECISION NOTING JOINDER OF
: INVENTOR AND PETITION UNDER
: **37 CFR 1.47(a) DISMISSED** AS
: INVOLVING MOOT ISSUES

A petition under 37 CFR 1.47(a) was filed June 2, 2005 and was dismissed in a decision mailed June 21, 2005.

Papers filed July 1, 2005, in reply to the "Decision Refusing Status Under 37 CFR 1.47(a)" mailed June 21, 2005, included a declaration signed by the previously non-signing legal representative, Sandra H. Ferguson, on behalf of deceased inventor Thomas Gerald Ferguson and in compliance with 37 CFR 1.63.

In view of the joinder of the legal representative, further consideration under 37 CFR 1.47(a) is unnecessary.

The renewed petition filed July 1, 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 2854 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
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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DINSMORE & SHOHL LLP
One Dayton Centre
Suite 1300
One South Main Street
Dayton, OH 45402-2023

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OFFICE OF PETITIONS

In re Application of :
Elia, et al. :
Application No. 10/992,453 : DECISION ON PETITION UNDER
Application Filing Date: November 19, 2004 : 37 CFR 1.137(f)
Attorney Docket No. DAY 0670 IA/40195.922

This is a decision on the petition under 37 CFR 1.137(f), filed December 12, 2005, to revive the instant non-provisional application.

The petition under 37 CFR 1.137(f) is granted.

This application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B(iii) for failure to timely notify the Office of the filing of an application in a foreign country.

A petition under 37 CFR 1.137(f) must be accompanied by: (1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty[1]; (2) the petition fee as set forth in 37 CFR 1.17(m), and (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition is found in compliance with 37 CFR 1.137(f).

Accordingly, the failure to timely notify the Office of a foreign filing within 45 days as provided by 35 U.S.C. § 122(b)(2)(B)(iii) is accepted as having been unintentionally delayed.

The application file is being directed to Technology Center 2800, GAU 2854 for further processing.

Further inquiries regarding this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing

[1] The filing of a petition under this section will not relieve applicant of his obligation to reply to any outstanding Office action.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
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ANDREWS & KURTH, L.L.P.
600 TRAVIS, SUITE 4200
HOUSTON TX 77002

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SEP 25 2008

In re Application of
Arthur L. Smalley, III
Application No. 10/992,497
Filed: November 18, 2004
Attorney Docket No. SMA002/155779

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed June 20, 2008, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on November 16, 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 accompanies this decision on petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

This application is being forwarded to Technology Center Art Unit 3635 for examination in due course.

K. A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petition

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/992,497	11/18/2004	Arthur L. Smalley III	SMA002/155779

CONFIRMATION NO. 8201

23444
ANDREWS & KURTH, L.L.P.
600 TRAVIS, SUITE 4200
HOUSTON, TX 77002

NONPUBLICATION RESCISSION LETTER

Date Mailed: 09/23/2008

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 01/01/2009.

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".

/kathornton mclaughl/

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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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www.uspto.gov

WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

Mail Date: 04/21/2010

Applicant	: Karl J. Weinmeister	: DECISION ON REQUEST FOR
Patent Number	: 7653546	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/992,516	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/18/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1263** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Greg Goshorn, P.C.
9600 Escarpment
Suite 745-9
AUSTIN TX 78749

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AUG 15 2008

In re Application of :
Naick, et al. :
Application No. 10/992,517 : DECISION ON PETITION
Filed: November 18, 2004 :
Attorney Docket No. AUS920040548US1 :

This is a decision on the petition, filed June 30, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the final Office action mailed September 25, 2007, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on April 28, 2008.

Petitioners assert that the Office action dated September 25, 2007 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center technical support staff of Art Unit 2161 for re-mailing the Office action of September 25, 2007. The period for reply will run from the mailing date of the Office action.

Telephone inquiries pertaining to this decision may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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MAY 2 5 2007

TECHNOLOGY CENTER 3600

EDWARD ETKIN, ESQ.
LAW OFFICE OF EDWARD ETKIN, PC
228 WEST END AVENUE, SUITE A
BROOKLYN, NY 11235

In re application of : **DECISION ON PETITION**
Boris Hitalenko et al. : **TO MAKE SPECIAL**
Application No. 10/992,532 : **(ACCELERATED**
Filed: November 17, 2004 : **EXAMINATION)**
For: SYSTEM AND METHOD FOR CONDUCTING SECURE COMMERCIAL ORDER TRANSACTIONS

This is in response to the petition filed on November 17, 2004 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

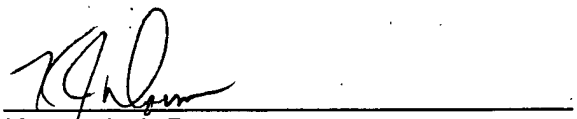
The petition fails to adequately meet requirements (B) above. Regarding item (B), the petition does not include a statement of all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention.

For the above stated reasons, the petition is **DISMISSED**.

Petitioner is given one more opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

Applicant should promptly submit a renewed petition to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.



Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(571) 272-6587

KJD/slb: 05/22/07

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TECHNOLOGY CENTER 3600

EDWARD ETKIN, ESQ
LAW OFFICE OF EDWARD ETKIN, PC
228 WEST END AVENUE, SUITE A
BROOKLYN, NY 11235

In re application of : **DECISION ON PETITION**
Boris Hitalenko et al. : **TO MAKE SPECIAL**
Application No. 10/992,532 : **(ACCELERATED**
Filed: November 17, 2004 : **EXAMINATION)**
For: SYSTEM AND METHOD FOR CONDUCTING SECURE COMMERCIAL ORDER TRANSACTIONS

This is in response to the renewed petition filed on July 02, 2007 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED.**

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(571) 272-6611

SNM/slb: 01/03/08

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Mark F. Smith
905 Ohio Pike
Cincinnati OH 45255

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OFFICE OF PETITIONS

In re Application of	:	
Ted M. Ness	:	
Application No. 10/992,562	:	DECISION ON PETITION
Filed: November 18, 2004	:	
Attorney Docket No. NTM-001PAT	:	

This is a decision on the petition, filed February 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 **DISMISSED.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704. No additional petition fee is required.

As this petition is for the purpose of reviving the application for failure to timely notify the Office of the filing of an application in a foreign country or under a multinational treaty that requires publication of applications eighteen months after filing, petitioner must provide the exact filing date of the foreign application so that a proper determination on the merits of the petition can be given. *Note* USPTO form PTO/SB/64a on the USPTO.gov website.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By Fax: (571) 273-8300
ATTN: Office of Petitions

Correspondence regarding this decision may also be filed through the Electronic Filing System of the USPTO.

To expedite consideration, petitioner may wish to contact the undersigned regarding the filing of the renewed petition under 37 CFR 137(b).

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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MARK F. SMITH
905 OHIO PIKE
CINCINNATI, OH 45255

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OFFICE OF PETITIONS

In re Application of :
Ted M. Ness :
Application No. 10/992,562 : DECISION ON PETITION
Filed: November 18, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. NTM-001PAT :

This is a decision on the renewed petition, filed July 30, 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 applications filed in an eighteen-month publication country on November 15 and 16, 2006, which applications did not claim benefit of the U.S. filing date. 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.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This application is currently before Technology Center Art Unit 2781 for examination in due course.

Frances Hicks
Petitions Examiner
Office of Petitions

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411 E. WISCONSIN AVENUE
SUITE 2040
MILWAUKEE, WI 53202-4497

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APR 13 2005

OFFICE OF PETITIONS

In re Application of
Anthony C. Brummel et al
Application No. 10/992,568
Filed: November 18, 2004
Attorney Docket No. 310265.00039

DECISION GRANTING
PETITION

This is a decision on the paper styled "Request For Correction Of Filing Date" filed February 22, 2005, which is being treated as a petition under 37 CFR 1.10(d), requesting that the above-identified application be accorded a filing date of November 18, 2004, rather than the presently accorded filing date of November 19, 2004.

Petitioner requests the earlier filing date on the basis that the application was purportedly deposited in Express Mail service on November 18, 2004, pursuant to the requirements of 37 CFR 1.10. While the copy of the Express Mail label receipt no. EV510904874US bears a handwritten "date-in" of November 19, 2004, it also includes a USPS date stamp receipt of November 18, 2004. In further support, the petition is accompanied by a copy of the USPS sales receipt and the Track/Confirm system information, both clearly showing that the package in question was accepted for deposit on November 18, 2004. The same Express Mail Number was found on the utility patent application transmittal located in the official file.

In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on November 18, 2004. Accordingly, the instant application is entitled to a filing date of November 18, 2004, and has been so accorded.

The petition is granted.

This matter is being referred to Technology Center AU 3622 for examination in due course.

Telephone inquires specific to this matter should be directed to Wan Laymon at (571) 272-3220.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

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MAR 3 0 2010

OFFICE OF PETITIONS

In re Patent No. 7,615,058
Issued: November 10, 2009
Application No. 10/992,569
Filed: November 18, 2004
Attorney Docket No. ISD-039 C1

: DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT
: AND
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the PETITION TO HAVE PATENT TERM ADJUSTMENT RECALCULATED filed on January 11, 2010, in accordance with the holding in United States Court of Appeals for the Federal Circuit decision 2009-1120, Wyeth andElan Pharma International Limited v. Kappos.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent, considering the 222 days of overlap, is adjusted by one thousand three hundred ninety-two (1392) days and is **GRANTED**.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand three hundred ninety-two (1392)** days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

/Kery A. Fries/

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Associate Commissioner
for Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

Day : Friday
Date: 3/26/2010

PALM INTRANET

Time: 16:40:12

PTA Calculations for Application: 10/992569			
Application Filing Date:	11/18/2004	PTO Delay (PTO):	891
Issue Date of Patent:	11/10/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	1392
PTO Delay Adjustment:	501		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
68	03/26/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	501		
64.5	10/21/2009	PTA 36 MONTHS			
64	11/10/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
63	09/24/2009	EXPORT TO FINAL DATA CAPTURE			
62	09/23/2009	DISPATCH TO FDC			
61	09/23/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
60	09/23/2009	CORRESPONDENCE ADDRESS CHANGE			
59	09/15/2009	ISSUE FEE PAYMENT VERIFIED			
58	09/15/2009	ISSUE FEE PAYMENT RECEIVED			
57	07/15/2009	FINISHED INITIAL DATA CAPTURE			
56	06/16/2009	EXPORT TO INITIAL DATA CAPTURE			
54	06/15/2009	MAIL NOTICE OF ALLOWANCE			
53	06/12/2009	ISSUE REVISION COMPLETED			
52	06/12/2009	DOCUMENT VERIFICATION			
51	06/12/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
50	06/12/2009	EXAMINER'S AMENDMENT COMMUNICATION			
49	06/08/2009	NOTICE OF ALLOWABILITY			
48	06/05/2009	PARALEGAL TD ACCEPTED			
47	05/27/2009	TERMINAL DISCLAIMER FILED		0	45
46	05/28/2009	DATE FORWARDED TO EXAMINER			
45	05/27/2009	AMENDMENT AFTER FINAL REJECTION			
43	03/30/2009	MAIL FINAL REJECTION (PTOL - 326)			
42	03/26/2009	FINAL REJECTION			
41	01/28/2009	DATE FORWARDED TO EXAMINER			

40	01/06/2009	RESPONSE AFTER NON-FINAL ACTION			
39	01/28/2009	CORRESPONDENCE ADDRESS CHANGE			
38	10/16/2008	MAIL NON-FINAL REJECTION			
37	10/14/2008	NON-FINAL REJECTION			
36	06/25/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
35	06/25/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
34	06/25/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
33	06/25/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
32	06/25/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
31	12/19/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
30	04/20/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
26	08/14/2008	DATE FORWARDED TO EXAMINER			
25	07/15/2008	RESPONSE TO ELECTION / RESTRICTION FILED			
24	06/27/2008	MAIL RESTRICTION REQUIREMENT	891		-1
23	06/23/2008	REQUIREMENT FOR RESTRICTION / ELECTION			
22	01/02/2008	CASE DOCKETED TO EXAMINER IN GAU			
21	06/25/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	06/25/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	06/25/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	06/25/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	06/25/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	11/28/2006	CASE DOCKETED TO EXAMINER IN GAU			
15	11/11/2006	CASE DOCKETED TO EXAMINER IN GAU			
14	12/19/2005	REFERENCE CAPTURE ON IDS			
13.7	12/19/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	12/19/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	11/02/2005	IFW TSS PROCESSING BY TECH CENTER			

		COMPLETE			
11	11/02/2005	CASE DOCKETED TO EXAMINER IN GAU			
10	04/20/2005	REFERENCE CAPTURE ON IDS			
9.7	04/20/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	04/20/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	11/18/2004	PRELIMINARY AMENDMENT			
7	01/14/2005	APPLICATION RETURN FROM OIPE			
6	01/14/2005	APPLICATION RETURN TO OIPE			
5	01/14/2005	APPLICATION DISPATCHED FROM OIPE			
4	01/18/2005	APPLICATION IS NOW COMPLETE			
3	01/06/2005	CLEARED BY OIPE CSR			
2	01/03/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	11/18/2004	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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DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,615,058 B2

DATED : November 10, 2009

INVENTOR(S) Sixto Jr.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 (891) days

Delete the phrase "by 891 days" and insert – by 1392 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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CAREY, RODRIGUEZ, GREENBERG & PAUL LLP
ATTN: STEVEN M. GREENBERG, ESQ.
950 PENINSULA CORPORATE CIRCLE
SUITE 3020
BOCA RATON, FL 33487

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SEP 25 2007

OFFICE OF PETITIONS

In re Application of

Harley Nicole Gould :

Application No. 10/992,573

: DECISION ON PETITION

Filed: November 18, 2004

:

Attorney Docket No. 1020-001U

This is a decision on the petition under 37 CFR 1.137(b), filed June 7, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 28, 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 October 29, 2006. A Notice of Abandonment was mailed on February 7, 2007.

The amendment filed June 7, 2007, is noted.

The application is being forwarded to Technology Center 2600, GAU 2612 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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LUNDBECK RESEARCH USA, INC.
ATTENTION: STEPHEN G. KALINCHAK, LEGAL
215 COLLEGE ROAD
PARAMUS, NJ 07652

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JUL 29 2005

OFFICE OF PETITIONS

In re Application of :
Gerald, et al. :
Application No. 10/992,577 : ON PETITION
Filed: November 18, 2004 :
Attorney Docket No. 57155-US-CNT3 :

This is a decision on the papers styled, "Petition in Response to Notice of Omitted Item(s) in a Nonprovisional Application," filed June 28, 2005, which has been treated as a petition under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of November 18, 2004, including page 66 of the specification.

The application was filed on November 18, 2004. However, on April 29, 2005, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" (Notice) that stated the application had been accorded a filing date, but page 66 of the specification appears to have been omitted.

In response, on June 28, 2005, the instant petition and a copy of page 66 of the specification were submitted. The instant petition is accompanied by a copy of applicants' postcard receipt that acknowledges receipt of "Specification (198 pages)" on November 18, 2004. A review of the application file indicates the presence of one hundred ninety-seven (197) pages of specification. It is assumed that page 66 of the specification was misplaced by the Office.

In view of the above, the petition is granted.

The petition fee will be refunded to deposit account no. 50-3201.

This application will be returned to OIPE for further processing with a filing date of November 18, 2004, using the copy of page 66 of the specification, supplied on June 28, 2005.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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Charles E. Baxley, ESQ.
3rd Floor
90 John Street
New York, NY 10038

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JUN 07 2007

OFFICE OF PETITIONS

In re Application of Liao :
Application No. 10/992,580 : Decision on Petition
Filing Date: November 19, 2004 :
Attorney Docket No. 16427 B (4642 SS) :

This is a decision on the petition under 37 CFR 1.137(b), filed January 8, 2007, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed August 8, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on November 9, 2006. A Notice of Abandonment was mailed on December 6, 2006.

The instant petition requests revival of the application.

Petitioner has submitted the required petition fee of $750. Petitioner has submitted a reply to the Notice of Allowance in the form of the issue fee and publication fee. Petitioner has stated the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

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 Publications 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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IBM CORPORATION
LOTUS SOFTWARE
ONE ROGERS STREET
CAMBRIDGE, MA 02142

Mail Date: 04/20/2010

Applicant	: Poonam P. Chitale	: DECISION ON REQUEST FOR
Patent Number	: 7669198	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/992,585	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/18/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1497** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

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OFFICE OF PETITIONS

In re Patent of Bernabei :
Patent No. 7,496,401 :
Issue Date: February 24, 2009 :
Application No. 10/992,597 :
Filing Date: November 19, 2004 :
Attorney Docket No. 080004-0188 :

DECISION ON APPLICATION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT

This is in response to the "Request for Reconsideration of Patent Term Adjustment Under 37 C.F.R. §1.705" filed April 24, 2009. Patentee requests that the determination of patent term adjustment indicated on the patent be corrected from five hundred thirty-six (536) days to seven hundred eighty-one (781) days.

The request for reconsideration of the patent term adjustment indicated on the patent is **dismissed**.

The application matured into United States Patent No. 7,496,401 with a revised patent term adjustment of 536 days on February 24, 2009. This request for reconsideration was timely filed within two months of the issue date of the patent. The request states, "The patent is subject to a terminal disclaimer resulting in an expiration date of ....." However, a review of the record indicates a terminal disclaimer has not been filed.

As a preliminary matter, the Office notes the request references an "attached sheet [showing] the relevant delays." The Office record does not include the attached sheet and the Electronic Acknowledgement Receipt fails to indicate such a sheet was filed. Therefore, the instant decision is based solely on the three pages of "Request for Reconsideration of Patent Term Adjustment Under 37 C.F.R. §1.705" filed April 24, 2009.

Patentee asserts the correct patent term adjustment is 781 days. Patentee appears to be asserting the Office should have increased the patent term adjustment of 536 days by 245 days for Office delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay).

As stated in 35 U.S.C. § 154(b)(1)(B)(i), B Delay does not include "any time consumed by continued examination of the application requested by the applicant under section 132(b)." In other words, B Delay in this case does not include the number of days from the date a request for

continued examination is filed until the patent is issued.[1] A Request for Continued Examination was filed July 21, 2008, which is a date three years and 245 days after the filing date of the application. Therefore, the amount of B delay in the instant case is 245 days.[2]

35 U.S.C. § 154(b)(2)(A) limits Office delay to the sum of delay under 35 U.S.C. § 154(b)(1)(A) ("A Delay") and B Delay to the extent such periods of delay are not overlapping. Specifically, 35 U.S.C. § 154(b)(2)(A) states,

> To the extent that time periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

Patentee does not dispute that the total period of Office delay is the sum of the period of A Delay (628 days) and the period of B Delay (245 days) to the extent the periods of delay do not overlap. However, patentee appears to assert the period of overlap is zero days. The Office contends the period of overlap is 245 days.

The Office has described its position regarding the proper interpretation of 35 U.S.C. § 154(b)(2)(A) as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment.[3]

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[1] 35 U.S.C. § 154(b)(1)(B)(i). *See also Changes to Implement Patent Term Adjustment Under Twenty-Year Patent Term; Final Rule*, 65 Fed. Reg. 56,366, 53,370-53,371 (September 18, 2000), 1239 Off. Gaz. Pat. Office (October 3, 2000):

> 35 U.S.C. 154(b)(1)(B) provides that an applicant may receive a term adjustment if the application is not issued within three years of the filing date of the application, excluding (among other things) any time consumed by continued examination requested under 35 U.S.C. 132(b). Once a request for continued examination under 35 U.S.C. 132(b) and § 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and § 1.114.

[2] The instant case does not contain any time periods falling under 35 U.S.C. §§ 154(b)(1)(B)(ii)-(iii).

[3] *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004) (*quoting Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704, 21706 (April 22, 2004)). The Notice also provided a discussion of an example of the application of the overlap provision:

> A two month delay in issuing a first Office action (35 U.S.C. 154(b)(1)(A)(i)) and a two-month delay in issuing the patent (35 U.S.C. 154(b)(1)(B)) [are] considered overlapping delays, even though the two-

In this case, the relevant time period when determining if periods of delay "overlap" is the time period from the filing date of the application, November 19, 2004, to the date a request for continued examination was filed, July 21, 2008.[4]

The 245 days of B Delay overlap with 245 of the 628 days of Office delay incurred pursuant to 37 C.F.R. § 1.702(a)(1).

The Office recognizes patentee's assertion concerning the proper interpretation to be given to the overlap provision set forth in 35 U.S.C. § 154(b)(2)(A) based on the Memorandum and Order entered in *Wyeth v. Dudas*, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). However, the Office is not persuaded that the Office's current and long standing interpretation of the statute is incorrect. The Office's interpretation of 35 U.S.C. § 154(b)(2)(A) is consistent with the purpose of the statute. The language in 35 U.S.C. § 154(b)(2)(A) is the result of the passage of the American Inventors Protection Act, Pub. L. No. 106-113, §§ 4401, 113 Stat. 1501, 1501A-552 (1999).
A section-by-section analysis of the American Inventors Protection Act, published in the Congressional Record at the request of Senator Lott, elaborated this limitation:

> [T]otal adjustments granted for restorations under (b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order * * * and administrative delay under section 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed.[5]

In view of the previous discussion, the patent term adjustment set forth on the patent remains 536 days.

Submission of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. This fee is required and will not be refunded.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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month delay in issuing the first Office action occurred prior to three years (thirty-six months) after the application's filing date. This is because if the Office does not issue the patent until three years and two months (thirty-eight months) after its filing date, the relevant period in determining the Office delay in issuing the patent is not just the period between three years (thirty-six months) after the application's filing date and the date the patent issues (thirty-eight months after the application's filing date), but is the entire period between the application's filing date and the date the application issues.

[4] The instant case does not contain any time periods falling under 35 U.S.C. §§ 154(b)(1)(B)(ii)-(iii).

[5] 145 Cong. Rec. S14,708, S14,718 (Nov. 17, 1999).

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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

In re Patent of Bernabei	:	DECISION ON REQUEST
Patent No. 7,496,401	:	FOR RECONSIDERATION OF
Issue Date: February 24, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/992,597	:	AND NOTICE OF INTENT TO
Filing Date: November 19, 2004	:	ISSUE CERTIFICATE OF
Attorney Docket No. 080004-0188	:	CORRECTION

This is a decision on the renewed petition filed November 20, 2009, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting the patent term adjustment indicated on the patent be corrected to indicate the term of the patent is extended or adjusted by seven hundred eighty-one (781) days.

The petition to correct the patent term adjustment indicated on the patent to indicate the term of the patent is extended or adjusted by seven hundred eighty-one (781) days is **GRANTED to the extent indicated herein**.

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 is 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.

A chart supplied with the petition appears to indicate the petition is asserting the period of delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay") is 245 days.

Pursuant to 35 U.S.C. § 154(b)(1)(B)(i), B Delay does not include any time period consumed by continued examination. Although Patentee recognizes the need to exclude a time period due to the RCE, Patentee fails to exclude the actual date the RCE was filed from the period of B Delay.

B Delay is 244 days, not 245 days, after removal of the entire time period consumed by continued examination including the date the RCE was filed.

Since B Delay is 244 days, not 245 days, the patent term adjustment is 780 days, not the 781 days requested by Patentee.

The Office acknowledges submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the patent is extended or adjusted by **seven hundred eighty (780)** days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.	:	7,496,401 B2
ISSUE DATE	:	February 24, 2009
INVENTOR(S)	:	Bernabei

DRAFT

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 536 days.

Delete the phrase "by 536 days" and insert - by 780 days--

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ARRAY BIOPHARMA, INC.
3200 WALNUT STREET
BOULDER CO 80301

In re Application of :
Wallace, et al. :
Application No. 10/992,605 : ON APPLICATION FOR
Filed: November 18, 2004 : PATENT TERM ADJUSTMENT
Atty Docket No. 100-14-US3

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION UNDER 37 C.F.R. § 1.705(d), filed April 5, 2010. The petition is properly treated under 37 CFR 1.705(b). Applicants submit that the correct patent term adjustment to be indicated on the patent is one thousand one hundred and ninety (1,190) days, not five hundred thirty-one (531) 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 § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

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).

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Senior Petitions Attorney
Office of Petitions

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HOGAN & HARTSON LLP
ONE TABOR CENTER
1200 17TH STREET, SUITE 1500
DENVER CO 80202

In re Application of :
Marlow et al. :
Application No. 10/992,612 : ON APPLICATION FOR
Filed: November 18, 2004 : PATENT TERM ADJUSTMENT
Atty Docket No. ARR008 CIP1 :

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION UNDER 37 CFR 1.705(d) filed February 5, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is at minimum one thousand seventy-four (1074) days. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent[1].

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.703(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

[1] Applicants assert this calculation based on a hypothetical issue date.

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. As such, it is appropriate to dismiss as premature such a request.

Rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b). No additional fees are required for such consideration.

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).

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

DIGIMARC CORPORATION
9405 SW GEMINI DRIVE
BEAVERTON, OR 97008

In re Application of :
CARR, et al. :
Application No. 10/992,614 : DECISION GRANTING PETITION
Filed: November 17, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **P1047W** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 22, 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 May 19, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 2624 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Frances Hicks
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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In re Application of :
Wyman et al. :
Application No. 10/992615 : ON PETITION
Filed: November 16, 2004 :
Atty Docket No. 7814-118 (UCHI Ref. No. 1 :

This is a decision on the petition under 37 CFR 1.10(c), filed November 17, 2006, requesting that the above-identified application be accorded a filing date of November 16, 2004, rather than the presently accorded filing date of November 18, 2004.

Petitioner alleges that the application was deposited in Express Mail service on November 16, 2004. In support of the allegation, a copy of Express Mail label No. EV327172170US accompanies the petition. The "date-in" indicated on the Express Mail label is November 16, 2004. The same Express Mail label number was placed on the original application papers located in the official file.

Accordingly, the petition is **granted**.

The Office of Initial Patent Examination is directed to correct the filing date of the above-identified application to November 16, 2004, and to mail a corrected filing receipt.

Telephone inquiries regarding this matter should 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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LEGAL DEPARTMENT - TP12
17301 SOUTH RIDGELAND AVENUE
TINLEY PARK IL 60477

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OFFICE OF PETITIONS

In re Reissue Application No. 10/992,640	:
Filed: November 18, 2004	:
Original Patent No. 6,766,093	: Decision on Petition:
Issue Date: July 20, 2004	:
Original Application No. 09/814,621	:
Filed: March 22, 2001	:
Inventor: McGrath, Goodwin	:

This is a decision on the petition filed November 18, 2004, requesting under 35 U.S.C. § 120 and 37 CFR 1.78 acceptance of the accompanying claim for priority, which is being treated as a petition under 37 CFR 1.78(a)(3) to accept as unintentionally delayed a claim for benefit of a prior non provisional application.

The petition is **dismissed**. This is not a final agency action.

The instant application for reissue seeks to remedy two asserted defects in the above-noted original patent: (1) the lack of a benefit claim under 35 U.S.C. § 120 and 37 CFR 1.78 to the filing date of prior, formerly copending, application No. 09/261,881 (('881) now U.S. 6,437,243) and (2) the lack of at least one common inventor with the aforementioned '881 application, which, *inter alia*, is a statutory prerequisite for a § 120 benefit claim.

Petitioner asserts under 37 CFR 1.78 that the delayed claim for benefit of the prior '881 application was unintentional and likewise asserts that the failure to list inventors VanderVelde and Wiencek as joint inventors of the above-identified patent was inadvertent. Nevertheless, as petitioner acknowledges, since the patented '881 application facially lacks any named inventor in common with the '093 patent, the petition cannot currently be favorably treated.

The issuance of the original patent naming McGrath and Goodwin as joint inventors creates a presumption that the 2 named inventors are the true and only inventors. See Hess v. Advanced Cardiovascular Sys., Inc., 106 F.3d 976, 980, 41 USPQ2d 1782, 1785-86 (Fed. Cir.), cert. denied. 117 S.Ct. 2459 (1997). While it is recognized that reissue is a viable mechanism for ultimately correcting, *inter alia*, nonjoinder in an issued patent, the mere filing of this or any other pending reissue application simply does not operate to change the inventorship, or effectuate any other changes, in the as-issued patent as such actually occurs by operation of law upon grant of the reissue in its amended form. See 35 U.S.C. § 252; MPEP 1460

which states in pertinent part:

> The effect of the reissue of a patent is stated in 35 U.S.C. 252. With respect to the Office treatment of the reissued patent, the reissued patent will be viewed as if the original patent had been originally granted in the amended form provided by the reissue

That is, the above-identified original patent remains, as issued, in full force and effect unless (and until) a reissue patent is granted by the Director, and as such, no change in inventorship in the as-issued patent has been effectuated by the assertions presented on the instant filing.[1] See 35 U.S.C. § 252, first paragraph ("[t]he surrender of the original patent shall take effect upon the issue of the reissued patent...and every reissued patent shall have the same effect and operation in law...as if the same had been originally granted in the amended form"; Spectronics Corp. v. H.B. Fuller Co., Inc., 940 F2d. 631, 19 USPQ2d 1545 (Fed. Cir 1991) (court dismissing a declaratory judgment action in that the mere filing of a reissue application by defendant did not raise a reasonable apprehension of suit in plaintiff and noting:

> "[t]here is, however, no guarantee that the reissue patent will eventually issue. 37 C.F.R. §1.178 (1990) ("[i]f a reissue be refused, the original patent will be returned to applicant upon his request"); see State Indus., Inc. v. A.O. Smith Corp., 751 F.2d 1226, 1236, 224 USPQ 418, 425 (Fed. Cir. 1985) (ultimate fate and legal effect of pending patent application is inherently uncertain)").

Thus, the mere filing of this reissue application naming 2 additional inventors not named as inventors in the original letters patent, and further, the mere assertion in, *inter alia*, the reissue declaration by four inventors that the latter 2 were non-joined, does not operate at this time to amend the inventorship of the original patent. As no amendment to the inventorship of the as-issued patent has yet been effectuated by the mere filing of this reissue application, the requirement of § 120, that there be at least one inventor in common with the application for which benefit is claimed, remains lacking. See 35 U.S.C. § 120.

Petitioner is not without relief, however. 35 U.S.C. § 256 permits correction of non-joinder or misjoinder by the USPTO if all parties *i.e*, all inventors and assignees consent. See MCV Inc v. King-Seeley Thermos Co., 870 F.2d 1568, 10 USPQ2d 1287, 1289 (Fed. Cir. 1989). As the record shows that all named inventors and the assignee are in consensus as to the correct inventive entity, the USPTO would have jurisdiction of any forthcoming proceeding in the original patent under 35 U.S.C. § 256 and 37 CFR 1.324, which would correct the patent directly by way of a certificate of correction. See MPEP 1481. Petitioner could then promptly present this same petition in the original patent, or renew the petition in this reissue. See MPEP 1481. Alternately, if this reissue issues with the currently named inventive entity, petitioner could

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[1]See also Frank's Casing Crew & Rental Tools inc. v. PMR Technologies Ltd., 292 F.3d 1363 (Fed. Cir. 2002)(court recognizing assignee of the entire interest's oral admission as to non-joinder of a currently unnamed inventor, but nevertheless remanding for further proceedings under 35 U.S.C. § 256 if so desired by that inventor's assignee, to actually change the inventive entity named in the patent in suit.)

promptly renew the petition herein and thereafter obtain a certificate correcting the priority claim in the reissued patent.

As 37 CFR 1.78(a)(2)(ii) states that: "[e]xcept as provided in paragraph (a)(3) of this section, the failure to timely submit the reference required by 35 U.S.C. 120 and paragraph (a)(2)(i) of this section is considered a waiver of any benefit under 35 U.S.C. 120, 121, or 365(c) to such prior-filed application," and the remedy set forth in paragraph (a)(3) of that rule has not been herein realized, the prior waiver of the § 120 benefit claim in the original patent of the prior '881 application stands. Accordingly, unless and until a decision on a petition under 37 CFR 1.78(a)(3) is granted that reinstates the waived benefit claim, it is inappropriate for the records of the USPTO to reflect the currently waived claim. USPTO continuing data records for the above-identified have been amended consistent with the waived claim. A corrected filing receipt is enclosed for petitioner's convenience.

As authorized, the $1370 petition fee has been charged to counsel's deposit account. The fee was owed for consideration of the petition, regardless of the outcome of the decision. See Ex parte VENTURA CITRUS ASSOCIATION, 71 USPQ 103, 104 (Comm'r Pat. 1946).

This application is being brought to the attention of the Technology Center for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned at (703) 305-1820.

Brian Hearn

Brian Hearn
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Corrected Filing Receipt

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OFFICE OF PETITIONS

PANDUIT CORP.
LEGAL DEPARTMENT - TP12
17301 SOUTH RIDGELAND AVENUE
TINLEY PARK IL 60477

In re Reissue Application No. 10/992,640 :
Filed: November 18, 2004 :
Original Patent No. 6,766,093 : Decision on Petition:
Issue Date: July 20, 2004 :
Original Application No. 09/814,621 :
Filed: March 22, 2001 :
Inventor: McGrath, Goodwin :

This is a decision on the petition filed May 19, 2006, which in essence is a repeat of the petition filed November 18, 2004, requesting under 35 U.S.C. § 120 and 37 CFR 1.78 acceptance of the accompanying claim for priority, which is being treated as a petition under 37 CFR 1.78(a)(3) to accept as unintentionally delayed a claim for benefit of a prior non provisional application.

The petition is **dismissed**. This is not a final agency action. A decision on the petition must be held in abeyance until the original patent is amended by way of a certificate of correction, or by way of reissue, to include at least one inventor in common with application no. 09/261,881 ('881) now U.S. 6,437,243

The instant application for reissue seeks to remedy two asserted defects in the above-noted original patent: (1) the lack of a benefit claim under 35 U.S.C. § 120 and 37 CFR 1.78 to the filing date of prior, formerly copending, application No. 09/261,881 (('881) now U.S. 6,437,243) and (2) the lack of at least one common inventor with the aforementioned '881 application, which, *inter alia*, is a statutory prerequisite for a § 120 benefit claim.

The adverse decision of March 23, 2005, on the same petition was grounded in the fact that unless and until a reissue patent is granted to the above-captioned application for reissue, which would presumably amend the inventive entity to include at least one inventor in common with application no. 09/261,881 (('881) now U.S. 6,437,243) , the original patent 6,766,093 ("093) remains in its as-issued state. As originally issued, the '093 patent has no named inventor in common with prior non provisional application no. 09/261,881 now U.S. 6,437,243.

Since § 120 sets forth a statutory requirement that there be at least one named inventor in common between parent and child application in order for a priority claim to lie, the petition under § 120 and 37 CFR 1.78 must be held in abeyance until there is at least one inventor in

common between the original or reissues patent and the '881 application (now U.S. 6,437,243). Petitioner, however, points to the alleged fact that "the inventorship of the '093 patent has been changed by adding Charles F. VanderVelde and Donald C. Wiencek as inventors." Petitioner concludes that: "[a]ccordingly, the '093 patent now has at least one common inventor with the '881 application."

However, inspection of relevant USPTO records for the '093 patent fails to reveal any basis for the contention that the patent has been amended to recite two additional joint inventors. The November 2, 2004, Certificate of Correction attended to typographical errors only. While petitioner points to page 3 of the November 17, 2005 Office action in this reissue application, inspection of that communication fails to reveal any reasonable assurance of a competent change that would have any force and effect on the issued patent. That is, the Office action (at 3) asserts that the instant application as filed "improperly set forth the inventorship" and that such defect was remedied by the additon of Vander Velde and Wiencek as inventors. However inspection of this application as filed reveals that Vander Velde and Wiencek were already named as inventors. It is far from clear what addition was required. An even more conspicuous error, however, is the cited reliance on 37 CFR 1.48(c)(sic) as authority for the alleged "change" in inventorship. Both petitioner and the examiner appear to have overlooked that 37 CFR 1.48 by its express terms is not applicable to applications for reissue. See 37 CFR 1.48(h):

> Reissue applications not covered. The provisions of this section do not apply to reissue applications. See §§ 1.171 and 1.175 for correction of inventorship in a patent via a reissue application.

Accordingly, any contention by either the examiner or applicant that the inventive entity was "changed" herein by authority of 47 CFR 1.48 is simply untenable. Further, as noted above, the inventive entity of the original patent remains in its as-issued state. See again the decision of March 23, 2005:

> That is, the above-identified original patent remains, as issued, in full force and effect unless (and until) a reissue patent is granted by the Director, and as such, no change in inventorship in the as-issued patent has been effectuated by the assertions presented on the instant filing.[1] See 35 U.S.C. § 252, first paragraph ("[t]he surrender of the original patent shall take effect upon the issue of the reissued patent...and every reissued patent shall have the same effect and operation in law...as if the same had been originally granted in the amended form"; Spectronics Corp. v. H.B. Fuller Co., Inc., 940 F2d. 631, 19 USPQ2d 1545 (Fed. Cir 1991) (court dismissing a declaratory judgment action in that the mere filing of a reissue application by defendant did not raise a reasonable apprehension of suit in plaintiff and noting:

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[1]See also Frank's Casing Crew & Rental Tools inc. v. PMR Technologies Ltd., 292 F.3d 1363 (Fed. Cir. 2002)(court recognizing assignee of the entire interest's oral admission as to non-joinder of a currently unnamed inventor, but nevertheless remanding for further proceedings under 35 U.S.C. § 256 if so desired by that inventor's assignee, to actually change the inventive entity named in the patent in suit.)

> "[t]here is, however, no guarantee that the reissue patent will eventually issue. 37 C.F.R. §1.178 (1990) ("[i]f a reissue be refused, the original patent will be returned to applicant upon his request"); see State Indus., Inc. v. A.O. Smith Corp., 751 F.2d 1226, 1236, 224USPQ 418, 425 (Fed. Cir. 1985) (ultimate fate and legal effect of pending patent application is inherently uncertain)").

Thus, the mere filing of this reissue application naming 2 additional inventors not named as inventors in the original letters patent, and further, the mere assertion in, *inter alia*, the reissue declaration by four inventors that the latter 2 were non-joined, does not operate at this time to amend the inventorship of the original patent. As no amendment to the inventorship of the as-issued patent has yet been effectuated by the mere filing of this reissue application, the requirement of § 120, that there be at least one inventor in common with the application for which benefit is claimed, remains lacking. See 35 U.S.C. § 120.

As noted before, petitioner's remedy is to seek directly in the original patent, a change in inventorship under 35 U.S.C. § 256 and 37 CFR 1.324, or if this reissue issues with the change in inventive entity, and in either event, to then seek renewal of the petition under 37 CFR 1.78.

This application is being brought to the attention of the Technology Center for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned at (703) 305-1820.

Brian Hearn
Petitions Examiner
Office of Petitions

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McANDREWS, HELD & MALLOY, LTD.
500 West Madison Street, 34th Floor
Chicago, Illinois 60661

In re Application of:
MCGRATH *et al.*
Serial No.: 10/992,640
Filed: November 18, 2004
Attorney Docket No.: **LCB330-RE**

DECISION RETURNING PAPERS
FILED UNDER 37 C.F.R. § 1.291

The protest filed on June 01, 2006, under 37 C.F.R. § 1.291 is before the Group Director for consideration.

The protest is **RETURNED**.

BACKGROUND

On November 17, 2005, the examiner issued a first Office action.
On May 19, 2006, an extension of time (3 months) and an Amendment was filed.
On June 01, 2006, Steven J. Hampton filed this protest.

REGULATIONS AND PRACTICE

37 C.F.R. § 1.291 provides:

(a) A protest may be filed by a member of the public against a pending application, and it will be matched with the application file if it adequately identifies the patent application. A protest submitted within the time frame of paragraph (b) of this section, which is not matched in a timely manner to permit review by the examiner during prosecution, due to inadequate identification, may not be entered and may be returned to the protestor where practical, or, if return is not practical, discarded.

(b) The protest will be entered into the record of the application if, in addition to complying with paragraph (c) of this section, the protest has been served upon the applicant in accordance with § 1.248, or filed with the Office in duplicate in the event service is not possible; and, except for paragraph (b)(1) of this section, the protest was filed prior to the date the application was published under § 1.211, or a notice of allowance under § 1.311 was mailed, whichever occurs first:

(1) If a protest is accompanied by the written consent of the applicant, the protest will be considered if the protest is matched with the application in time to permit review during prosecution.

(2) A statement must accompany a protest that it is the first protest submitted in the application by the real party in interest who is submitting the protest; or the protest

must comply with paragraph (c)(5) of this section. This section does not apply to the first protest filed in an application.

(c) In addition to compliance with paragraphs (a) and (b) of this section, a protest must include.

(1) A listing of the patents, publication, or other information relied upon;

(2) A concise explanation of the relevance of each item listed pursuant to paragraph (c)(1) of this section;

(3) A copy of each listed patent, publication, or other item of information in written form, or at least the pertinent portions thereof;

(4) An English language translation of all the necessary and pertinent parts of any non-English language patent, publication, or other item of information relied upon; and

(5) If it is a second or subsequent protest by the same party in interest, an explanation as to why the issue(s) raised in the second or subsequent protest are significantly different than those raised earlier and why the significantly different issue(s) were not presented earlier, and a processing fee under § 1.17(i) must be submitted.

(d) A member of the public filing a protest in an application under this section will not receive any communication from the Office relating to the protest, other than the return of a self-addressed postcard which the member of the public may include with the protest in order to receive an acknowledgement by the Office that the protest has been received. The limited involvement of the member of the public filing a protest pursuant to this section ends with the filing of the protest, and no further submission on behalf of the protestor will be considered, unless the submission is made pursuant to paragraph (c)(5) of this section.

(e) Where a protest raising inequitable conduct issues satisfies the provisions of this section for entry, it will be entered into the application file, generally without comment on the inequitable conduct issues raised in it.

(f) In the absence of a request by the Office, an applicant has no duty to, and need not, reply to a protest.

(g) Protests that fail to comply with paragraphs (b) or (c) of this section may not be entered, and if not entered, will be returned to the protestor, or discarded, at the option of the Office.

M.P.E.P. § 1901 provides in pertinent part:

> A protestor does not,* by the mere filing of a protest, obtain the "right" to argue the protest before the Office. Active participation by a protestor *ends with the filing of the protest, and no further submission on behalf of the protestor will be considered, ** unless the submission is made pursuant to 37 CFR 1.291(c)(5). See 37 CFR 1.291(d). The USPTO will acknowledge the receipt of a protest in an original or a reissue application file, only if a self-addressed postcard is included with the protest (see MPEP § 1901.05). The question of whether or not a patent will issue is a matter between the applicant and the Office acting on behalf of the public.

OPINION

The protest fails to comply with 37 CFR 1.291(c)(1-4), in that there is no listing of information relied upon, or a concise explanation of the relevance of each listed item.

In addition, although the prosecution history of a Reissue application can be readily viewed by the public, participation in the prosecution by a third party is prohibited. This protest includes comments directed to the response to the Office action filed May 19, 2006, and suggestions on

how the response should be treated and addressed by the examiner. Further the protest instructs the Office on how to treat the second petition filed by the applicant with the response. As such, it is hereby concluded that the comments in the protest are improper attempts to participate in the prosecution of the instant application.

Accordingly, pursuant to the 37 CFR 1.291(g), the protest will not be entered, and will be returned to the protestor.

A copy of this decision is being retained in the file record.

Inquiries regarding this decision should be directed to Clayton LaBalle at (571) 272-1594.

Janice A. Falcone, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

Cc: PANDUIT CORP.
Legal Department - TP12
17301 South Ridgeland Avenue
Tinley Park, IL 60477

Enclosure: original protest

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PANDUIT CORP.
LEGAL DEPARTMENT - TP12
17301 SOUTH RIDGELAND AVENUE
TINLEY PARK IL 60477

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OFFICE OF PETITIONS

In re Reissue Application No. 10/992,640
Filed: November 18, 2004
Original Patent No. 6,766,093
Issue Date: July 20, 2004
Original Application No. 09/814,621
Filed: March 22, 2001
Inventor: McGrath et al.

: Decision on Petition:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed January 22, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed prior to the instant petition.

The petition is GRANTED.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those original 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 pending reissue application was filed on November 18, 2004, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii), and is also the subject of correction by way of a forthcoming Examiner's Amendment.

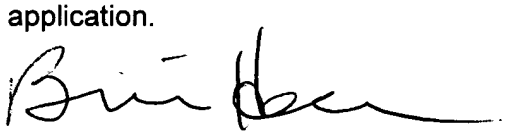
The instant nonprovisional reissue application was filed after November 29, 2000, as was the original appliction for patent subject of this reissue and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed nonprovisional applications was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. See 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant reissue 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 under signed at (571) 272-3217.

This application is being forwarded to Technology Center for appropriate action on the amendment filed May 19, 2006, including consideration by the examiner of applicants' entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application.



Brian Hearn
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
10/992,640	11/18/2004	2882	790	LCB330-RE	9	33	7

CONFIRMATION NO. 9084
CORRECTED FILING RECEIPT
OC000000022713779
OC000000022713779

32915
PANDUIT CORP.
LEGAL DEPARTMENT - TP12
17301 SOUTH RIDGELAND AVENUE
TINLEY PARK, IL 60477

Date Mailed: 03/01/2007

Receipt is acknowledged of this reissue 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)

Michael J. McGrath, New Lenox, IL;
Kevin L. Goodwin, Frankfort, IL;
Charles F. Vander Velde, Frankfort, IL;
Donald C. Wiencek, Homer Glen, IL;

Power of Attorney:

Robert McCann--35606
Christopher Clancy--44618

Domestic Priority data as claimed by applicant

This application is a REI of 09/814,621 03/22/2001 PAT 6,766,093
which is a CIP of 09/261,881 03/03/1999 PAT 6,437,243

Foreign Applications

If Required, Foreign Filing License Granted: 03/01/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/992,640

Projected Publication Date: None, application is not eligible for pre-grant publication

Non-Publication Request: No

Early Publication Request: No

Title

CABLE MANAGER FOR NETWORK RACK

Preliminary Class

385

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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VIENNA, VA 22182

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OFFICE OF PETITIONS

In re Application of	:	
Jin-Sung Kim, et al.	:	
Application No. 10/992,646	:	DECISION GRANTING PETITION
Filed: November 22, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 61610447US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 11, 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 August 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 regarding this decision should be directed to undersigned at (571) 272-1642.

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.

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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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

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SEP 0 7 2005

OFFICE OF PETITIONS

In re Application of :
Tetsuya Wakui :
Application No. 10/992,696 : ON PETITION
Filed: November 22, 2004 :
Attorney Docket No. 00862.102526 :

This is a decision on the petition filed April 6, 2005, which is being treated under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of November 22, 2004, with Figure 12 as part of the original disclosure.

The application was filed on November 22, 2004. On March 14, 2005, the Office of Initial Patent Examination mailed a "Notice Of Omitted Item(s) in A Nonprovisional Application (Notice)" stating that the application has been accorded a filing date of November 22, 2004, but that Figure 12 described in the specification appeared to have been omitted from the filed application.

In response, on March 14, 2005, the petition contends that the allegedly omitted drawing was filed with other application papers on November 22, 2004. In support, the petition is accompanied by a copy of a postcard receipt, indicating receipt in the USPTO for this application on November 22, 2004 of, *inter alia*, "24 sheets of formal drawings." The petition also encloses a copy of drawing (Figure 12) purportedly filed on November 22, 2004.

In view of the evidence presented, the Office concludes that the drawing of Figure 12 was filed on November 22, 2004, but was later misplaced. Accordingly, the petition is granted.

No fee is required and none has been charged.

Telephone inquires specific to this matter should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to the Office of Initial Patent Examination for further processing with a filing date of November 22, 2004, using the application papers filed on that date, and the copy of drawing Figure 12 supplied with the present petition, and for indicating in the USPTO record that 24 sheets of drawings were present on filing.

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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30 ROCKEFELLER PLAZA
NEW YORK NY 10112

MAIL

SEP2 5 2007

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of	:	
TETSUYA WAKUI	:	DECISION ON REQUEST TO
Application No. 10/992696	:	PARTICIPATE IN PATENT
Filed: November 22, 2004	:	PROSECUTION HIGHWAY
Attorney Docket No. 00862.102526	:	PILOT PROGRAM AND PETITION
	:	TO MAKE SPECIAL UNDER
	:	37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed August 29, 2007, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to John Peng at 571-272-7272.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

John Peng
TC 2600
Quality Assurance Specialist

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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

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OFFICE OF PETITIONS

In re Application of
Masashi Kohchi et al.
Application No. 10/992,738
Filed: November 22, 2004
Attorney Docket No. 261707US-2

: DECISION ON PETITION
: UNDER 37 CFR 1.55(a)

This is a decision on the petition under 37 CFR 1.55(a), filed December 1, 2005, for entry of priority papers submitted after the date the issue fee was paid.

The petition is **GRANTED**.

Receipt is acknowledged of papers submitted under 35 U.S.C. § 119(a)-(d).

The priority papers are accepted as timely filed and have been placed of record in the file.

Petitioner is advised that the rule affecting the submission of a claim for priority or a certified priority document under 37 CFR 1.55(a) was changed effective November 7, 2000. In effect, the Office will permit applicants to file a priority claim or certified priority document with the processing fee set forth in 37 CFR 1.17(i) between the date the issue fee is paid and the date a patent is issued. The Office will, however, merely place such submission in the application file but will not attempt to determine whether the applicant has met the conditions of 35 U.S.C. § 119(a)-(d) to make the priority claim nor include the priority information in the text of the patent. In such a situation, the patent will not contain the priority claim information. The patentee may request a certificate of correction and a determination of entitlement for such priority will be made after the patent is granted. *See* Federal Register/Vol. 65, No. 175, September 8, 2000, page 54622.

Since this matter is presently before the deciding official in the Office of Petitions, action on the petition under 37 CFR 1.55(a)(2) has been undertaken. However, if the printing of the patent has progressed to the point where the priority data cannot be included on the printed patent, petitioner may request a certificate of correction pursuant to the provisions of 37 CFR 323 and pay the required fee of $100.

Any questions concerning this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212. Any questions concerning the issuance of a

Certificate of Correction should be directed to the Certificate of Corrections Branch at (571) 272-4200.

The patent file is being directed to Publishing Division for processing into a patent.

Ira Lazarus
Supervisory Petitions Examiner
Office of Petitions

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BALMAIN NSW 2-041 AU AUSTRALIA

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MAR 0 2 2006

OFFICE OF PETITIONS

In re Application of	:	
Silverbrook, Kia	:	
Application No. 10/992,739	:	DECISION ON PETITION
Filed: November 22, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. XMB033US	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed December 9, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed on April 18, 2005.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(s), unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The 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.

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 (571) 272-3206.

Liana Chase
Petitions Examiner
Office of Petitions

[1] *Note* 37 CFR 1.121

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OFFICE OF PETITIONS

In re Application of	:	
Silverbrook, Kia	:	
Application No. 10/992,739	:	DECISION GRANTING PETITION
Filed: November 22, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. XMB033US	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed March 15, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional application is submitted after expiration of the period specified by 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the 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 applications under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3282.

This application is being forwarded to Technology Center Art Unit 2861 for appropriate action on the amendment filed March 15, 2006, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

Liana Chase
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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393 DARLING STREET
BALMAIN, 2041
AUSTRALIA

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OFFICE OF PETITIONS

In re Application of	:	
Kia Silverbrook	:	
Application No. 10/992,747	:	DECISION ON PETITION
Filed: November 22, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. XMB035US	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 29, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the

benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed 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 application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3208. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2861 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to prior-filed Application No. 09/662,210, filed September 15, 2000..

Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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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
10/992,747	11/22/2004	2861	790	XMB035US	8	1

CONFIRMATION NO. 9573

CORRECTED FILING RECEIPT

24011
SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN, 2041
AUSTRALIA

Date Mailed: 01/22/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Kia Silverbrook, Balmain, AUSTRALIA;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of 10/636,244 08/08/2003 PAT 6,926,455
which is a CON of 09/662,210 09/15/2000 PAT 6,612,240

Foreign Applications

If Required, Foreign Filing License Granted: 12/27/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/992,747**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Print media air drying inkjet printer

Preliminary Class

347

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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June 25, 2007

Kia Silverbrook
SILVERBROOK RESEARCH PTY LTD.
393 Darling Street
Balmain NSW 2041
AUSTRALIA

Patent No.: 7196814 B2
Application No.: 10/992757
Inventor(s): **Kia Silverbrook**
Issued: **March 27, 2007**
Title: **INKJET PRINTER PRINTHEAD INTERFACE CIRCUIT**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481)*. This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and

C. A copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-0025 ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Virginia Tolbert
For Cecelia Newman
Decisions & Certificate of Correction Branch
(703) 305-8309 or (703) **308-9390 ext 113**

vt

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OFFICE OF PETITIONS

SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN 2041 AUSTRALIA

In re Patent No. 7,196,814 :
Issue Date: March 27, 2007 :
Application No. 10/992,757 : ON PETITION
Filed: November 22, 2004 :
Attorney Docket No. XMB038US :

This is a decision on the petition filed October 31, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to add the name of the assignee to the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to Carl Friedman at (571) 272-6842. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

David Bucei
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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H.C. PARK & ASSOCIATES, PLC
8500 LEESBURG PIKE
SUITE 7500
VIENNA, VA 22182

Mail Date: 04/20/2010

Applicant	: Hun-Jung Lee	: DECISION ON REQUEST FOR
Patent Number	: 7663310	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/992,769	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/22/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1103** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

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AUG 17 2007

OFFICE OF PETITIONS

In re Patent No. 7,146,946
Issue Date: 12/12/2006
Application No. 10/992,775
Filed: 11/22/2004
Attorney Docket No. Q84727

DECISION ON PETITION

This is a decision on the petition filed March 14, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3211. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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JUN 08 2010

OFFICE OF PETITIONS

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JUN 08 2010

OFFICE OF PETITIONS

CANTOR COLBURN, LLP
20 CHURCH STREET, 22ND FLOOR
HARTFORD, CT 06103

In re Application of :
Hee Gyoung KANG, et *al.* :
Application No. 10/992,800 : DECISION ON PETITION
Filed: November 19, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. **CMT0004US** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 30, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed April 13, 2009, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on June 14, 2009. *See* MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an appeal brief with appeal fee $540, (2) the petition fee of $1620; and (3) an adequate statement of unintentional delay.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 1795 for appropriate action by the Examiner in the normal course of business on the reply received April 30, 2010.

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: **JOHN F. BUCKERT**
201 W. BIG BEAVER ROAD, SUITE 1101
TROY, MI 48084

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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MAR 09 2007

OFFICE OF PETITIONS

SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN 2041 AU AUSTRALIA

In re Application of :
Kia Silverbrook, et al . :
Application No. 10/992,828 : DECISION ON PETITION
Filed: November 22, 2004 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. XMB037US :

This is a decision in response to the petition under 37 CFR 1.78(a)(3), filed August 31, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> (1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(s), unless previously submitted;[1]
> (2) the surcharge set forth in § 1.17(t); and
> (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

The granting of the petition to accept the delayed benefit claim to the prior-filed application(s) under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application(s). In order for this application to be entitled to the benefit of the prior-filed application(s), all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application(s) should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application(s) noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Sherry D. Brinkley at (571) 272-3204. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2625 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Frances M. Hicks
Lead, Petitions Examiner
Office of Petitions

Attachment: Corrected Filing Receipt

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
10/992,828	11/22/2004	2625	790	XMB037US	8	1

CONFIRMATION NO. 1130

24011
SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN, 2041
AUSTRALIA

CORRECTED FILING RECEIPT

OC000000022797742

OC000000022797742

Date Mailed: 03/08/2007

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Kia Silverbrook, Balmain, AUSTRALIA;
Paul Lapstun, Balmain, AUSTRALIA;
Simon Robert Walmsley, Balmain, AUSTRALIA;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of 10/636,277 08/08/2003 PAT 7,077,494
which is a DIV of 09/436,747 11/09/1999 PAT 6,687,022

Foreign Applications

AUSTRALIA PP7024 11/09/1998

If Required, Foreign Filing License Granted: 12/28/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is
US10/992,828

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Inkjet printer ink volume monitoring arrangement

Preliminary Class

358

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.:20090515

DATE : May 15, 2009

TO SPE OF : ART UNIT 1621

SUBJECT : Request for Certificate of Correction on Patent No.: 7049344

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:

/DANIEL M SULLIVAN/
Supervisory Patent Examiner.Art Unit 1621

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 06-17-06

TO SPE OF : ART UNIT 2873

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/992853** Patent No.: **6995918**

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**	All changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

RICKY MACK
SUPERVISORY PATENT EXAMINER

SPE **Art Unit** 2873

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, DC 20005-3500

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MAR 30 2005

OFFICE OF PETITIONS

In re Application of :
Seo and Yamazaki :
Application No. 10/992,854 : ON PETITION
Filed: November 22, 2004 :
Attorney Docket No.: 12732-156002/US6487D1 :

This is a decision on the petition under 37 CFR 1.182, filed March 1, 2005, requesting that the above-identified application retain the presently accorded filing date with pages 19, 26, 28, and 33 of the specification as part of the original disclosure.

The petition is **dismissed**.

On November 22, 2004, the above-identified application was filed. However, on February 14, 2005, the Office of Initial Patent Examination mailed a "Notice of Omitted Items of Nonprovisional Application", stating that application had been accorded a filing date of November 22, 2004, and advising applicant that pages 19, 26, 28, and 33 of the specification appeared to have been omitted.

In response, on March 1, 2005, applicant filed the present petition. Applicant argues that the instant application is a continuation of a prior-filed application and that the instant application incorporated by reference the entirety of the prior application, which contained the alleged omitted pages of the specification, 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 does not argue that pages 19, 26, 28, and 33 of the specification were present on filing and does not request that the application be accorded a filing date as of the date of omitted items were 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, pages 19, 26, 28, and 33 of the specification are not new matter if they were a part of the disclosure of the prior application. Petitioner should file pages 19, 26, 28, and 33 of the specification as a preliminary amendment whereupon the examiner for 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 22, 2004, using only the application papers present on filing. The copies of the omitted pages 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 06-1050 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 22, 2004 using application papers filed on that date.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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JJGJR.:10-07

Paper No:__

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OCT 0 9 2007

OFFICE OF PETITIONS

RAGHAVAN RAJAGOPALAN, PH.D.
BIOFLEXIS, LLC
SUITE 260
11000 CEDAR AVENUE
CLEVELAND OH 44106

In re Application of :
Rajagopalan :
Application No. 10/992,906 :
Filing Date: 19 November, 2004 :
Attorney Docket No.: BFX-NPU: 11/04-01 :

DECISION

This is a decision on the petition filed on 18 November, 2006, under 37 C.F.R. §1.137(b) seeking to revive an application abandoned due to unintentional delay.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.[1]

The petition as under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and

[1] NOTE: Monitoring of the status of applications on PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected. Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181.

Fees Due mailed on 10 May, 2006, with reply due under a non-extendable deadline on or before 10 August, 2006;

- the application went abandoned after midnight 10 August, 2006;
- the Office mailed the Notice of Abandonment on 20 September, 2006;
- on 18 November, 2006, Petitioner filed the instant petition (with fee), the reply in the form of fees due having been made untimely on 11 August, 2006, and made the statement of unintentional delay.

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.[2]

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[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).

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

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).[3]

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.[4]

Delays in responding properly raise the question whether delays are unavoidable.[5] 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).[6] And the Petitioner must be diligent in attending to the matter.[7] 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.[8]))

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(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]

[3] 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.

[4] 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.

[5] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[6] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[7] 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.

[8] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

As to the Allegation
of Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

It appears that Petitioner has satisfied the requirements of the regulation.

CONCLUSION

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.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[9]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[9] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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CARPENTER & KULAS LLP
1900 EMBARCADERO ROAD
SUITE 109
PALO ALTO, CA 94303

COPY MAILED
MAY 24 2006
OFFICE OF PETITIONS

In re Application of :
Sara E. Schlosser :
Application No. 10/992,942 : DECISION ON PETITION
Filed: November 19, 2004 : TO WITHDRAW
Attorney Docket No. 100116-000100US : FROM RECORD
:

This is a decision on the request to withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 30, 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 record discloses that the applicant herein appointed the attorneys associated with Customer No. 37490. The request now directs that all the attorneys associated with Customer No. 37490 be withdrawn. However, the request cannot be approved because it fails to set forth the reason(s) for the requested withdrawal as required by 37 CFR 10.40. Therefore, the request cannot be granted under 37 CFR 1.36(b) until petitioner has complied with the provisions of 37 CFR 10.40.

It is noted that a change of address was submitted on January 3, 2006, by Mr. John W. Carpenter, one of the attorneys associated with Customer Number 37490. As requested, the address has been changed to the below-listed address. However, if the request to withdraw is ultimately approved, then all the attorneys associated with Customer No. 37490 will be withdrawn. If this occurs, the appropriate power of attorney documents must be submitted if applicant desires to have Mr. Carpenter receive future correspondence regarding this matter.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 3218.

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

John W. Carpenter
155 Jackson Street
Suite 2004
San Francisco, CA 94111

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Trellis Intellectual Property Law Group, PC
1900 EMBARCADERO ROAD
SUITE 109
PALO ALTO, CA 94303

Mail Date: 05/12/2010

Applicant	: Ajit Sanzgiri	: DECISION ON REQUEST FOR
Patent Number	: 7616613	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/992,943	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/19/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **955** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Paper No.

AGENSYS C/O MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO CA 92130-2040

MAILED

JUN 29 2009

OFFICE OF PETITIONS

In re Application of :
Hubert et al. :
Application No. 10/992,946 : ON APPLICATION FOR
Filed: November 18, 2004 : PATENT TERM ADJUSTMENT
Atty Docket No. 511582002301 :

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT 37 CFR 1.705 filed December 22, 2008. Applicant requests that the determination of patent term adjustment be increased by four hundred ninety-nine (499) days from one hundred twenty (120) days to six hundred nineteen (619) days, if the patent issues on Tuesday, March 31, 2009. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b).

Applicant is given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Applicant may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

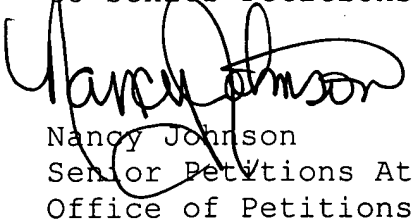
Rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3219.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Paper No.

AGENSYS C/O MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO CA 92130-2040

MAILED

MAR 25 2010

OFFICE OF PETITIONS

In re Patent No. 7,569,356	: DECISION ON REQUEST
Hubert et al.	: FOR
Issue Date: 08/04/2009	: RECONSIDERATION OF
Application No. 10/992,946	: PATENT TERM ADJUSTMENT
Filed: 11/18/2004	: and
Atty Docket No.	: NOTICE OF INTENT TO ISSUE
511582002301	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on October 2, 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 seven hundred forty-five (745) 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 seven hundred forty-five (745) days is **GRANTED**.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **seven hundred forty-five (745)** days.

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Anthony Knight
Supervisor
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,569,356 B2

DATED : **August 4, 2009** **DRAFT**

INVENTOR(S) : Afar 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 312 days.

Delete the phrase "by 312 days" and insert – by 745 days--

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CINCINNATI OH 45202

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MAR 1 8 2005

OFFICE OF PETITIONS

In re Application of :
Matthew John Tefend :
Application No.: 10/992,956 : ON PETITION
Filed: November 18, 2004 :
Attorney Docket No.: 100352/0520556 :

This a decision on the petition filed March 3, 2005 (certificate of mailing dated February 28, 2005). The petition will be treated under 37 CFR 1.182.

The petition is **dismissed.**

The application was filed on November 18, 2004. On December 27, 2004, the Initial Patent Examination Division mailed the Notice stating, in pertinent part, that the application had been accorded a filing date of November 18, 2004, but Figure 13, as described in the specification, appeared to have been omitted. Relative to the alleged omitted figure, the Notice allowed a non-extendable period for reply of two months from its mailing date.

The present petition was filed on March 3, 2005, responsively. Petitioner therein argued that Figure 13 accompanied the original application papers. In support, a statement form Edward Acheson, Jr. and a copy of the omitted figure, accompanies the petition. Petitioner also maintains that a copy of the Office date-stamped postcard acknowledging receipt of 17 sheets of drawings accompanied the instant petition.

The arguments have been considered, but are not persuasive. The Patent and Trademark Office (the "Office) file is the official record of the papers originally filed in this application. A review of the application file reveals that 17 sheets of drawings were filed on November 18, 2004, but that there were two figures labeled "Figure 11", and no Figure 13 among those drawings. An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence. The fact that counsel asserts that Figure 13 was among the eight sheets of drawings originally filed is not more persuasive than the actual drawings shown to have been received by the official file. Further, petitioner did not provide a copy of an itemized Office date-stamped postcard (notwithstanding petitioner's assertion to the contrary) whereby the Office would have acknowledged receiving four sheets of

drawings and that might serve as prima facie evidence that Figure 13 was received on November 18, 2004. Without further corroborating evidence, the documents filed with the instant petition are not sufficient to overcome petitioner's burden of proof. It is further noted that, even if petitioner had submitted the Office date-stamped postcard acknowledging receipt of 17 sheets of drawings, petitioner's argument may have still failed because the Office is already in receipt of 17 sheets of drawings because there are on file two figures labeled "11" contained on two separate sheets.

The petition is dismissed.

Of course, petitioner may submit Figure 13 in the form of an amendment for consideration by the examiner to determine whether Figure 13 contains new matter as compared to the original specification and drawings filed November 18, 2004. See 37 CFR 1.121.

Petitioner is advised that the fee for the instant petition is $400.00. See 37 CFR 1.182. See also 37 CFR 1.17(f). It is noted that $130.00 was previously remitted via check. Pursuant to an authorization found on the application transmittal sheet, deposit account 06-2226 will charged $270.00 for the remaining amount.

The application is being directed to the Office of Initial Patent Examination for further processing and consideration of the other documents filed in response to the "Notice to File Missing Parts of Nonprovisional Application."

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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JUN 15 2005

OFFICE OF PETITIONS

FROST BROWN TODD, LLC
2200 PNC CENTER
201 E. FIFTH STREET
CINCINNATI, OH 45202

In re Application of :
Matthew John Tefend :
Application No.: 10/992,956 : ON PETITION
Filed: November 18, 2004 :
Attorney Docket No.: 100352/0520556 :

This a decision on the renewed petition filed May 3, 2005. The petition will be treated under 37 CFR 1.182.

The renewed petition is **dismissed.**

The application was filed on November 18, 2004. On December 27, 2004, the Initial Patent Examination Division mailed the Notice stating, in pertinent part, that the application had been accorded a filing date of November 18, 2004, but Figure 13, as described in the specification, appeared to have been omitted. Relative to the alleged omitted figure, the Notice allowed a non-extendable period for reply of two months from its mailing date. A petition under 37 CFR 1.182 was filed on March 3, 2005, and dismissed by a decision mailed March 18, 2005. The instant renewed petition was filed on May 3, 2005. Petitioner again argues that Figure 13 accompanied the original application papers. In support, a statement from Edward Acheson, Jr., a copy of the omitted figure, and a copy of the Office date-stamped postcard acknowledging receipt of 17 sheets of drawings, among other items, was filed with instant petition.

The arguments have again been considered, but are not persuasive. The Patent and Trademark Office (the "Office") file is the official record of the papers originally filed in this application. A second review of the application file revealed that 17 sheets of drawings were filed on November 18, 2004, but that there were two figures labeled "Figure 11", and no Figure 13 among those drawings. The undersigned contacted that Image File Wrapper (IFW) Scanning Customer Support unit that is responsible for resolving problems related to scanned documents and asked that unit whether Figure 11 was scanned twice and if there was ever a Figure 13 with the original application papers. The IFW Scanning Customer Support unit replied that no Figure 13 was found with the original application papers and that it would have been technically impossible to scan Figure 11 twice. As indicated in the decision of March 18, 2005, an applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a

preponderance of the evidence. The fact that counsel asserts that Figure 13 was among the 17 sheets of drawings originally filed is not more persuasive than the actual drawings shown to have been received by the official file. Although an Office date-stamped postcard is normally *prima facie* evidence of the Office's receipt of a document, the Office date-stamped postcard is not dispositive of the Office's receipt of Figure 13, in this case, because the Office acknowledged receiving 17 sheets of drawings and 17 sheets of drawings are currently on file. In order for the Office date stamped postcard to serve as *prima facie* evidence in this case, the postcard would have had to list the figures contained in the 17 sheets of drawings. Without further corroborating evidence, the documents filed with the instant petition are not sufficient to overcome petitioner's burden of proof.

The renewed petition is dismissed.

Petitioner may submit Figure 13 in the form of an amendment for consideration by the examiner to determine whether Figure 13 contains new matter as compared to the original specification and drawings filed November 18, 2004. See 37 CFR 1.121.

It is noted that the Notice of Missing Parts of Nonprovisional Application provides that the instant petition fee is $130.00, however; when a petition is filed relative to an omitted item and maintains that the omitted item was provided with the application papers, the petition is treated under 37 CFR 1.182 which provides that:

> All situations not specifically provided for in the regulations of this part will be decided in accordance with the merits of each situation by or under the authority of the Director subject to such other requirements as may be imposed, and such decision will be communicated to the interested parties in writing. Any petition seeking a decision under this section must be accompanied by the petition fee set forth in § 1.17(f).

The Notice to File Missing Parts of Nonprovisional Application is incorrect as 37 CFR 1.17(f) sets forth a petition fee of $400.00. The amount of $270.00 previously charged to the deposit account will not be refunded as the Office of Petitions appropriately treated the petition as a petition filed under 37 CFR 1.182 and the fee for said petition is $400.00, pursuant to 37 CFR 1.17(f). Any further requests for a refund of the $270.00 charged should be made to the Office of Finance, Refund Division.

The application is being directed to the Office of Initial Patent Examination for further processing and consideration of the other documents filed in response to the "Notice to File Missing Parts of Nonprovisional Application."

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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MAILED

APR 15 2009

OFFICE OF PETITIONS

In re Application of :
Matthew J. TEFEND :
Application No. 10/992,956 : DECISION ON PETITION
Filed: March 03, 2005 :
Attorney Docket No. 100352/0520556 :

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 reply in a timely manner to the non-final Office action mailed, April 02, 2007, which set a shortened statutory period for reply of three (3) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 03, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of April 02, 2007 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

The application file is being referred to Technology Center AU 3651 for appropriate action on the concurrently filed amendment.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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HAYNES AND BOONE
901 MAIN STREET
SUITE 3100
DALLAS TX 75202-3789

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JUN 18 2007

OFFICE OF PETITIONS

In re Application of :

BARINK, Bernard et al. :
Application No. 10/992,958 : DECISION ON PETITION
Filed: November 19, 2004 : TO WITHDRAW
Attorney Docket No. **35485.4** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 29, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Wei Wei Jeang on behalf of all attorneys of record who are associated. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **BERNARD BARINK**
2301 BENTLEY COURT
MCKINNEY, TX 75070

cc: **TERRY STALFORD**
FISH AND RICHARDSON P.C.
1717 MAIN STREET
SUITE 5000
DALLAS, TX 75201

UNITED STATES PATENT AND TRADEMARK OFFICE

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Mr. Christopher John Rourk
GODWIN GRUBER, LLP
1201 Elm Street, Renaissance Tower
DALLAS, TX 75270

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APR 28 2005

OFFICE OF PETITIONS

In re Application of
Nicholls, Maragh, Detemple, Thomas, Holmes, Wilcox, Sapienza, and Shad
Application No.: 10/992,959
Filed: November 19, 2004
Attorney Docket No: 13647.0019
For: DYNAMIC CURRENCY CONVERSION SYSTEM AND METHOD

: DECISION ACCORDING
: RULE 47(a) STATUS

This is in response to the petition under 37 CFR 1.47(a), filed March 22, 2005.

The petition is **GRANTED**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

The above-cited application was filed on November 19, 2004, without a properly executed declaration. On December 22, 2004, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application requiring a declaration signed by all named inventors and a surcharge of $130.00 for the late filing of the declaration. The notice also required replacement drawings to be filed. On March 22, 2004, the instant petition was filed along with a request for an extension of time within the first month.

Petitioner has shown that inventor Shad is not able to be located after a diligent effort by the representatives of the 37 CFR 1.47 applicant. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Deposit account 50-0530 will be charged $200.00 for the instant petition fee.

This application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Lubna Shad
10853 43rd Street, North
Unit 1208
Clearwater, Florida 33762

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APR 28 2005

OFFICE OF PETITIONS

In re Application of :
Nicholls, Maragh, Detemple, Thomas, Holmes, Wilcox, :
Sapienza, and Shad :
Application No.: 10/992,959 : LETTER
Filed: November 19, 2004 :
Attorney Docket No: 13647.0019 :
For: DYNAMIC CURRENCY CONVERSION SYSTEM AND METHOD

Dear Inventor Shad:

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 joint inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Kenya A. McLaughlin at (571) 272-3222. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Mr. Christopher John Rourk
GODWIN GRUBER, LLP
1201 Elm Street, Renaissance Tower
DALLAS, TX 75270

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WILLIAMS, MORGAN & AMERSON
10333 RICHMOND, SUITE 1100
HOUSTON TX 77042

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JUN 18 2008

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Steven C. NETTLES et al. :
Application No. 10/992,962 :
Filed: November 19, 2004 :
Attorney Docket No. 2000.117400/TT5722 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 4, 2008, to revive the above-identified application.

The petition is **DISMISSED** as moot.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

A proper and timely reply to the Restriction requirement mailed March 4, 2008, which set a shortened statutory period for reply of one (1) month was filed April 4, 2008. Accordingly, the petition under 37 CFR 1.137(b) is unnecessary.

Since the petition pursuant to the provisions of 37 CFR 1.137(b) is unnecessary, the $1540 fee submitted with the petition will be credited to petitioner's deposit account.

It is noted that petitioner also filed on April 4, 2008, a Recission of Previous Nonpublication Request (Notice). As stated in the Notice, if notice of subsequent foreign or international filing required by 35 U.S.C. 122(b)(B)(iii) and 37 CFR 1.213(c) was not filed within forty-five (45) days after the date of filing of the foreign or international application, the application is ABANDONED, and a petition to revive under 37 CFR 1.137(b) is required. If the application is abandoned under 37 CFR 1.137(f), the applicant should file a petition for revival under 37 CFR 1.137(f), Form PTO/SB/64a. A copy of Form PTO/SB/64a is enclosed for petitioner's convenience.

Telephone inquiries concerning this decision should be directed to Lori Baker Amerson at (571) 272-6052 or in her absence to the undersigned at (571) 272-7099.

David Bucci
Petitions Examiner
Office of Petitions

Encl.: Form PTO/SB/64a Petition for Revival of an Application
For patent Abandoned for Failure to Notify the Office of a Foreign or International Filing (37 CFR 1.137(f))

PTO/SB/64a (01-08)
Approved for use through 06/30/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED FOR FAILURE TO NOTIFY THE OFFICE OFA FOREIGN OR INTERNATIONAL FILING (37 CFR 1.137(f))	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 pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to timely notify the Office of the filing of an application in a foreign country or under a multinational international treaty that requires publication of applications eighteen months after filing. The date of abandonment is the day after the expiration date of the forty-five (45) day period set in 35 U.S.C. 122(b)(2)(B)(iii).

PURSUANT TO 37 CFR 1.137(f), APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION UNDER 37 CFR 1.137(b)

1.Petition fee

☐ 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. Notice of Foreign or International Filing (35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c))

Subsequent to the filing of the above-identified application, an application was filed in another country, or under a multinational international treaty (e.g., filed under the Patent Cooperation Treaty), that requires publication of applications eighteen months after the filing. The filing date of the subsequently filed foreign or international application is _____.

This collection of information is required by 37 CFR 1.137. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

STATEMENT: The entire delay in filing the required notice of a foreign or international filing from the due date for the required notice until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information 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

☐ 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

WILLIAMS, MORGAN & AMERSON
10333 RICHMOND, SUITE 1100
HOUSTON TX 77042

COPY MAILED

JUL 18 2008

OFFICE OF PETITIONS

In re Application of :
Steven C. Nettles et al. :
Application No. 10/992,962 : DECISION GRANTING PETITION
Filed: November 19, 2004 :
Attorney Docket No. **2000.117400/TT5722** :

This is a decision on the petition, filed June 25, 2008, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of a foreign or international application filed on October 12, 2005. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The present petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(I) has been rescinded. The projected publication date is October 23, 2008 and a copy of the communication regarding rescission is included herein.

The petition fee in the amount of $1540.00 has been applied to the finance records for this application, not $1410.00 as was indicated on the fee transmittal. However, per the authorization set forth in the transmittal, the correct amount has been charged to petitioner's deposit account.

This matter is being referred to Technology Center 2123 for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
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
10/992,962	11/19/2004	Steven C. Nettles	2000.117400/TT5722

CONFIRMATION NO. 2036

23720
WILLIAMS, MORGAN & AMERSON
10333 RICHMOND, SUITE 1100
HOUSTON, TX 77042

NONPUBLICATION RESCISSION LETTER

Date Mailed: 07/14/2008

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 10/23/2008.

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.

[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".

/pffaison ball/

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

DENNIS W. BEECH (LAW OFFICE OF DENNIS W. BEECH)
P.O. BOX 519
MURRIETA CA 92564-0519

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OFFICE OF PETITIONS

In re Application of	:	
Thomas, Matthew E.	:	DECISION ON PETITION
Application No. 10/992,967	:	TO MAKE SPECIAL
Filed: November 19, 2004	:	37 CFR 1.102(c)
Title: FLUID CONTAINMENT ELEMENT LEAK DETECTION APPARATUS AND METHOD	:	

This is a decision on the petition under 37 CFR 1.102(c)(2)(i), filed April 14, 2006, to make the above-identified application special based on the invention materially enhancing the quality of the environment as set forth in M.P.E.P. § 708.02, Section V. The instant petition has been submitted to replace the petition filed March 23, 2006; therefore, the petition filed March 23, 2006 is considered moot.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(2)(i) and MPEP § 708.02, Section V: Environmental Quality, must state that special status is sought because the invention materially enhances the quality of the environment by contributing to the restoration or maintenance of basic life-sustaining natural elements. If the disclosure is not clear on its face that the claimed invention materially enhances the quality of the environment by contributing to the restoration or maintenance of one of the basic life-sustaining natural elements, the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. No fee is required

The petition states that the invention will "provide zero tolerance of leaking Underground Storage Tank Fueling Systems (UST)." Further, "the system is also designed to monitor both primary systems and the secondary containment portion of the UST system." Applicant's invention is considered to be merely ancillary to the possibly maintenance of the basic life-sustaining elements. There is no factual evidence that the invention "materially enhances the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life-sustaining natural elements." Other apparatus perform this leak detection function. The contribution of petitioner's invention, while beneficial to the environment, does not rise to the level intended by the Rule.

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 Petitions Examiner Liana Chase at 571-272-3206.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 2856 for action in its regular turn.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JOSEPH J. POPHAL
PARKER-HANNIFIN CORPORATION
6035 PARKLAND BOULEVARD
CLEVELAND, OH 44124-4141

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APR 27 2005

OFFICE OF PETITIONS

In re Application of :
Gill, et al. :
Application No. 10/992,974 :
Filed: November 19, 2004 :
Attorney Docket No. 2802-209-009 :

ON PETITION

This is a decision on the petition under 37 CFR 1.53, filed February 28, 2005, requesting that the above-identified application be accorded a filing date of November 19, 2004, including page 16 of the specification.

The application was filed on November 19, 2004. However, on January 26, 2005, the Office of Initial Patent Examination (OIPE) mailed a "Notice Of Omitted Item(s) In A Nonprovisional Application" (Notice) that stated the application had been accorded a filing date, but page 16 of the specification appears to have been omitted.

In response, on February 28, 2005, the instant petition and a copy of page 16 of the specification were submitted. The instant petition is accompanied by a copy of applicant's postcard receipt that acknowledges receipt on November 19, 2004 of (in pertinent part):

"Application: Specification (11 Pages)
Claims (6 Pages)
Abstract (1 Page)"

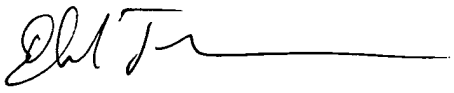
A review of the application file indicates the presence of eleven (11) pages of specification, five (5) pages of claims and one (1) page of abstract. It is assumed that page 16 of the specification, consisting of claims, was misplaced by the Office.

In view of the above, the petition is granted.

The petition fee, submitted February 28, 2005, will be refunded to deposit account no. 16-0325.

This application will be returned to OIPE for further processing with a filing date of November 19, 2004, using the copy of page 16 of the specification, supplied on February 28, 2005.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3228.



Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

Mail Date: 04/26/2010

Applicant	: Charles W. Cross	: DECISION ON REQUEST FOR
Patent Number	: 7650284	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/992,979	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/19/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1135** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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www.uspto.gov

Townsend and Townsend and Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

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OFFICE OF PETITIONS

In re Application of

James F. Zucherman et al.
Application No. 10/993,005
Filed: November 19, 2004
Attorney Docket No. 19433A-008910US

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 16, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Mark D. Barrish and all attorneys/agents associated with customer number 20350 has been revoked by the assignee of the patent application on March 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 Kimberly Inabinet at 571-272- 4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Krieg Devault, LLP
One Indiana Square, Suite 2800
Indianapolis, IN 46204-2709

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
10/993,005	11/19/2004	James F. Zucherman	19433A-008910US

CONFIRMATION NO. 8708

POWER OF ATTORNEY NOTICE

20350
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

OC000000030036909

Date Mailed: 05/20/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/25/2008.

- 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).

/kainabinet/

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

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UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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MARK B. GARRED
STETINA, BRUNDA, GARRED & BRUCKER
75 ENTERPRISE, SUITE 250
ALISO VIEJO, CA 92656

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NOV 09 2005

OFFICE OF PETITIONS

In re Application of	:	
Jae K. Kim	:	
Application No. 10/993,027	:	DECISION ON PETITION
Filed: November 19, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. PURIC-002A	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 27, 2005, for revival of the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to submit the issue fee, publication, and required drawings in a timely manner in reply to the Notice of Allowability/Notice of Allowance and Fee(s) Due mailed June 23, 2005, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on September 24, 2005. No notice of abandonment was mailed to the above-identified addressee.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed;
(2) the petition fee 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 thefiling 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. When 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.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the issue fee ($700) and publication fee ($300), and required drawings at the time of filing the petition; (2) the petition fee ($750) at the time of filing the petition; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of

Allowability/Notice of Allowance and Fee(s) Due, mailed June 23, 2005, is accepted as having been unintentionally delayed.

This matter is being referred to the Office of Publications to be processed into a patent.

Any inquiries concerning this decision may be directed to Angela Ortiz at (571) 272-6051, or in her absence, the undersigned at (571) 272-3217.

Brian Hearn
Petitions Examiner
Office of Petitions

Attachment: Notice of Draftsperson's Patent Drawing Review (PTO-948)

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MAR 25 2005

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MAR 25 2005

OFFICE OF THE DIRECTOR
TC 3600

Gregory J. Nelson
NELSON & ROEDIGER
Suite 212
3333 E. Camelback Road
Phoenix, AZ 85018

In re Application of:
Sandra M. Curry
Serial No. 10/993,033
Filed: November 18, 2004
For: MULTI-FUNCTION PATIENT IMMOBILIZATION DEVICE

DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S HEALTH)

This is a decision on the petition filed November 18, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the procedure set forth in MPEP 708.02, Section III: Applicant's Health. There is no fee for this petition.

A grantable petition to make an application special under 37 C.F.R. 1.102(c), MPEP 708.02, Section III requires evidence that the state of health of the applicant is such that he might not be able to assist in the prosecution of the application if it were to run it's normal course.

The petition includes a letter from the applicant's doctor dated November 10, 2004 attesting to the fact that the state of health of Sandra M. Curry is such that she might not be available to assist in the prosecution of his patent application if it were to run its normal course. It is therefore clear from the evidence that the applicant might not be able to assist in the prosecution of the application due to his health if said prosecution were to run it's normal course.

For the above stated reasons, 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
(703) 308-0866

KJD/jwk: 3/7/05

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/05/08

TO SPE OF : ART UNIT 3612

SUBJECT : Request for Certificate of Correction for Appl. No.: 10993038 Patent No.: 7188889 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: THE ORIGINAL DECLARATION IDENTIFIES "SCOTT W. THOMPSON" AS AN INVENTOR. A PETITION UNDER 37 CFR 1.324 TO CORRECT INVENTORSHIP MUST BE FILED, WITH AN AMENDED DECLARATION.

SPE 3612

SPE **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

Date Mailed : 11/14/08

Patent No. : 7188889 B2
Patent Issued : 03/13/07
Docket No. : **185891/US**

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.

Respecting the alleged errors in the documents filed on 10/09/08; please see attachment. **"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."**

In view of the foregoing, your request in this matter is hereby denied.

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 305-8309 or (703)-308-9390 #112

DORSEY & WHITNEY, LLP
INTELLECTUAL PROPERTY DEPARTMENT
370 SEVENTEENTH STREET
SUITE 4700
DENVER CO 80202-5647

LMN

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/05/08

TO SPE OF : ART UNIT 3612

SUBJECT : Request for Certificate of Correction for Appl. No.: 10993038 Patent No.: 7188889 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: THE ORIGINAL DECLARATION IDENTIFIES "SCOTT W. THOMPSON" AS AN INVENTOR. A PETITION UNDER 37 CFR 1.324 TO CORRECT INVENTORSHIP MUST BE FILED, WITH AN AMENDED DECLARATION.

SPE 3612

SPE 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

DEC 0 1 2009

In re Patent No. WAGNER ET AL.
Issue Date: March 13, 2007
Appl No.: 10/993,038
Filed: November 19, 2004
For: RETRACTABLE CLEANABLE COVER FOR SLIDE-OUT UNIT

DECISION GRANTING PETITION
37 CFR 1.324

This is a decision on the petition filed December 22, 2008 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.

D. Glenn Dayoan
Supervisory Patent Examiner
Art Unit 3612
Technology Center 3600

DORSEY & WHITNEY, LLP
INTELLECTUAL PROPERTY DEPARTMENT
370 SEVENTEENTH STREET
SUITE 4700
DENVER, CO 80202-5647

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LAW FIRM OF DAN SHIFRIN
6208 DEVINNEY CIRCLE
ARVADA CO 80004

MAILED

OCT 03 2009

OFFICE OF PETITIONS

In re Application of :
Budaya et al. :
Application No. 10/993,048 : DECISION ON PETITION
Filed: November 18, 2004 :
Attorney Docket No. TUC920040174US1 :

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**.

This application became abandoned for failure to reply in a proper and timely manner to the final Office action mailed October 20, 2008. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on January 21, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00 and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This matter is being referred to Technology Center 2168 for processing of the Request for Continued Examination under 37 CFR 1.114 filed filed with the instant petition.

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LAW FIRM OF DAN SHIFRIN
6208 Devinney Circle
ARVADA CO 80004

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SEP 26 2008

In re Application of :
James A. Springer, et al. :
Application No. 10/993,092 : ON PETITION
Filed: November 18, 2004 :
Attorney Docket No. TUC920040171US1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 29, 2008, to revive the above-identified application.

The petition is **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 9, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is November 10, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 2168 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Chris Bottorff
Petitions Examiner
Office of Petitions

cc: **Dan Shifrin**
Law Office of Dan Shirfin, PC
14081 West 59th Avenue
Arvada, CO 80004

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
(Attorney Docket No. 006435.00006)

In the Application of:

Franklin Leroy Stebbing

Serial No.: ~~TBA~~ 10/993,096

Filed: November 19, 2004

For: STRESS FREE STEEL AND RAPID PRODUCTION OF SAME

Group Art Unit: (~~TBA~~) 1742

Examiner: (TBA) Yee, D

PETITION TO MAKE SPECIAL

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313

Sir:

The Applicant respectfully petitions to make the above-cited application special for advancement of examination pursuant to 37 CFR 1.102(c) and MPEP 708.02 (IV). The Applicant is over 65 years old as evidenced by the attached declaration and therefore qualifies for accelerated examination of the application. 37 CFR 1.102(c).

No fee is believed owed with this submission, pursuant to 37 CFR 1.102(c).

In view of the foregoing, the Applicant respectfully requests that the Petition to Make Special be granted and that the application be advanced for examination.

BANNER & WITCOFF, LTD.
TEN SOUTH WACKER DRIVE
SUITE 3000
CHICAGO, ILLINOIS 60606
TELEPHONE (312) 463-5000

PETITION GRANTED

William Krynski,
Special Program Examiner
Technology Center 1700
APR 13 2006

PAGE 2/5 * RCVD AT 3/24/2006 1:43:11 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-3/0 * DNIS:2731244 * CSID:13124

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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SAWYER LAW GROUP LLP
P O BOX 51418
PALO ALTO CA 94303

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APR 16 2007

OFFICE OF PETITIONS

In re Application of
Ramin Shirani
Application No. 10/993,107
Filed: November 18, 2004
Attorney Docket Number: 3018P
Title of Invention: Low-Power Low-Voltage Multi-Level Variable-Resistor Line Driver

ON PETITION

This is a decision on the petition filed March 23, 2007, under 37 CFR 1.137(b) to revive the above-identified application.

This application became abandoned for failure to timely submit the issue and publication fees, as required by the Notice of Allowance and Fee (s) Due which was mailed November 30, 2006. The Notice of Allowance and Fee (s) Due set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on March 1, 2006. A Notice of Abandonment was mailed on March 29, 2007.

The requirements for a grantable petition under 37 CFR 1.137(b) have been met. This petition is hereby **Granted**.

This application is being forwarded to the Office of Patent Publication for processing into a patent.

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

Paper No. 8

LERNER AND GREENBERG, P.A.
Post Office Box 2480
Hollywood FL 33022-2480

AUG 18 2003

COPY MAILED

AUG 15 2003

OFFICE OF PETITIONS

In re Application of
Halik, Schmid & Davis
Application No. 10/281,828
Filed: October 28, 2002
Attorney Docket No. MUH-12375
For: DIOXABORINES AS ORGANIC N-SEMICONDUCTORS, PROCESS FOR THE PRODUCTION OF SEMICONDUCTORS UTILIZING DIOXABORINES, AND SEMICONDUCTOR COMPONENT, FIELD EFFECT TRANSISTOR, AND DIODE HAVING A DIOXABORINE

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the reconsideration petition under 37 CFR 1.47(a), filed August 1, 2003 (certificate of mailing date July 30, 2003).

The petition is granted.

Petitioners have shown that the non-signing inventor, Lisa Davis, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration/statement of facts of Dieter Kottmann and accompanying exhibits establish that the inventor was mailed the application papers, including the specification, claims and drawings, but failed to respond to the request that she sign the declaration. Petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

renewed pet
on July 30

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

AUG 18 2003

LISA DAVIS
13 GRANTON AVENUE CLIFTON
NOTTINGHAM NG11 9AL
GREAT BRITAIN

COPY MAILED

AUG 15 2003

OFFICE OF PETITIONS

In re Application of
Halik, Schmid & Davis
Application No. 10/281,828
Filed: October 28, 2002
Attorney Docket No. MUH-12375
For: DIOXABORINES AS ORGANIC N-SEMICONDUCTORS, PROCESS FOR THE PRODUCTION OF SEMICONDUCTORS UTILIZING DIOXABORINES, AND SEMICONDUCTOR COMPONENT, FIELD EFFECT TRANSISTOR, AND DIODE HAVING A DIOXABORINE

LETTER

Dear Mrs. Davis:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: LERNER AND GREENBERG, P.A.
Post Office Box 2480
Hollywood FL 33022-2480

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

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

Mail Date: 04/20/2010

Applicant	: Johan Marie Camiel Moreels	: DECISION ON REQUEST FOR
Patent Number	: 7583616	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/993,121	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/22/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1193** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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EDWARD J TIMMER
PO BOX 770
RICHLAND MI 49083

COPY MAILED
SEP 26 2008

In re Application of :
Nelson, et al. :
Application No. 10/993,133 : DECISION ON PETITION
Filed: November 19, 2004 :
Attorney Docket No. PU3122 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed August 15, 2008.

The petition is **GRANTED**.

The above-identified application was held abandoned for failure to timely file a response to the non-final Office action mailed November 23, 2007. A Notice of Abandonment was mailed on May 29, 2008.

A review of the application file reveals the presence of an amendment filed on May 27, 2008. The Amendment was made timely by including a Certificate of Mailing dated May 21, 2008, and by including a three month extension of time (Certificate of Mailing dated May 22, 2008). A review of Office finance records reveals that the Office did in fact receive the fee for the three month extension. Accordingly, it is obvious that the Notice of Abandonment was mailed in error.

In view thereof, **the holding of abandonment is withdrawn.**

The matter is being forwarded to Group Art Unit 3742 for consideration of the amendment filed May 27, 2008 (Certificate of Mailing dated May 21, 2008).

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NIXON PEABODY, LLP
300 S. Riverside Plaza, 16th Floor
CHICAGO, IL 60606-6613

Mail Date: 04/21/2010

Applicant	: David Kirk	: DECISION ON REQUEST FOR
Patent Number	: 7620030	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/993,138	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/19/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1308** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 04/21/2010

Applicant	: Bob Greene	: DECISION ON REQUEST FOR
Patent Number	: 7587766	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/993,140	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/18/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1174** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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HONEYWELL/FOGG
Patent Services
101 Columbia Road
P.O Box 2245
Morristown, NJ 07962-2245

Mail Date: 04/20/2010

Applicant	: Brendan Hall	: DECISION ON REQUEST FOR
Patent Number	: 7668204	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/993,164	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/19/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1493** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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DAVID L. TERRELL
GARMIN LTD.
1200 EAST 151ST STREET
OLATHE, KS 66062

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APR 11 2006
OFFICE OF PETITIONS

In re Application of :
Jay Dee Krull et al :
Application No. 10/993,174 : DECISION GRANTING PETITION
Filed: November 19, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 702.385 :

This is a decision on the petition, filed April 10, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 24, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 3661 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\Apr9\993174.wpd

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission), which includes the following language thereon: "The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee in the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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JUN 11 2009

OFFICE OF PETITIONS

DAVID & BUJOLD,
P.L.L.C.
112 PLEASANT STREET
CONCORD NH 03301

In re Application of :
Detlef Plath et al :
Application No. 10/993,211 : DECISION GRANTING PETITION
Filed: November 19, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. ZAHFRI P698US :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 18, 2009 and supplemented on June 10, 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 May 7, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 3656 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the currently filed amendment.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

1/5/09

Patent No. :7454552
Inventor(s) :Stewart et al.
Issued : 11/18/2008
Title : SWITCH WITH TRANSPARENT AND NON-TRANSPARENT PORTS
Atty.doc./File No.

Request for Certificates of Correction

Consideration has been given to your request for the issuance of a Certificate of Correction, for the above – identified patent under the provisions of CFR 1.322.

Inspection of the application for the patent reveals SPE has stated that these corrections is printed in accordance with the record. Therefore being no fault on the Patent and Trademark Office, It has no authority to issue a certificate of correction under the provision of 1.322.

In view of the forgoing, your request in this matter, is hereby denied.

Future written correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Henry Randall
Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext. 108

SoCaL IP Law Group LLP
310 N. Westlake Blvd. Suite 120
Westlake Village, CA 91362

HR/MD

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090113

DATE : January 13, 2009

TO SPE OF : ART UNIT 2111

SUBJECT : Request for Certificate of Correction on Patent No.: 7,454,552

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☐ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☒ **Denied** State the reasons for denial below.

Comments:

The changes sought to be made are not of a clerical nature, of a typographical nature, or a mistake of minor character. Furthermore, the changes seek to remove material which is necessary to show one of ordinary skill in the art how the method step 330 is implemented and its equivalents.

/MARK RINEHART/
Supervisory Patent Examiner.Art Unit 2111

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IBM CORPORATION
IPLAW SHCB/40-3
1701 NORTH STREET
ENDICOTT NY 13760

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JUN 20 2008

OFFICE OF PETITIONS

In re Application of
Dinesh Gupta et al.
Application No. 10/993,305
Filed: November 19, 2004
Attorney Docket No.: **END920000028US2**

ON PETITION

This is a decision on the petition filed June 22, 2007 under 37 CFR 1.181 to withdraw the holding of abandonment for the above-identified application.

The petition is **GRANTED**.

Petitioner asserts that in a telephone conversation with the Examiner of Record, the Examiner agreed to withdraw the Office Action mailed April 3, 2006 and to send another Office Action. This application was held abandoned on May 4, 2006 and a Notice of Abandonment was mailed June 15, 2007 for the applicant's failure to file a proper reply to the Restriction Requirement mailed April 3, 2006.

While no response was filed to the April 3, 2006 within the longer of 30 days or one month, in a telephonic interview held June 20, 2007, an agreement was reached between the Examiner and the parties that the April 3, 2006 was to be withdrawn. The Interview Summary is of record but the Office Action was not withdrawn prior to the abandonment of the application. However, in view of the Examiner having agreed to withdraw the April 3, 2006 office action, the abandonment is hereby withdrawn. No petition fee is due and none has been charged.

This matter will be referred to Technology Center 2818 for further examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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WALLENSTEIN & WAGNER, LTD.
311 SOUTH WACKER DRIVE
53RD FLOOR
CHICAGO IL 60606

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DEC 0 8 2006

OFFICE OF PETITIONS

In re Application of :
MILLS, et al. :
Application No. 10/993,317 : DECISION ON PETITION
Filed: November 19, 2004 : TO WITHDRAW
Attorney Docket No. 3873 P 048 : FROM RECORD
:

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 18, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The 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). While the reasons may be provided by referencing a specific portion of 37 CFR 10.40, the reasons must deal with actions by the client. The reasons set forth in the request, "The reason for this request is that we no longer represent the Assignee," are not appropriate since it is not clear that the client initiated the transfer, or that the client knowingly or freely assents to the transfer to new counsel.

All future communications from the Office will continue to be directed to the above-listed address 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: DR. A MATEEM AHMED
C/O NEW WORLD MEDICAL, INC.
10763 EDISON COURT
RANCHO CUCAMONGA, CA 91730

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BRIAN C. KUNZLER
8 EAST BROADWAY
SUITE 600
SALT LAKE CITY, UT 84111

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APR 25 2006

OFFICE OF PETITIONS

In re Application of	:	
Danny Clay et al	:	DECISION ON PETITION
Application No. 10/993,330	:	TO WITHDRAW
Filed: November 19, 2004	:	FROM RECORD
Attorney Docket No. 2040.2.2	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 30, 2005.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because the stated reason for the request is "...no longer represents Danny Clay,...." This statement does not satisfy one of the valid reasons for withdrawal under 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicants.

This application is being referred to Technology Center AU 3624.

Telephone inquiries concerning this decision should be directed to Wan Laymon at 571-272-3220.

David Bucci
Petitions Examiner
Office of Petitions

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SUITE 600
SALT LAKE CITY, UT 84111

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APR 25 2006
OFFICE OF PETITIONS

In re Application of
Danny Clay et al
Application No. 10/993,330
Filed: November 19, 2004
Attorney Docket No. 2040.2.2

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 June 30, 2005.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because the stated reason for the request is "...no longer represents Danny Clay,...." This statement does not satisfy one of the valid reasons for withdrawal under 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicants.

This application is being referred to Technology Center AU 3624.

Telephone inquiries concerning this decision should be directed to Wan Laymon at 571-272-3220.

David Bucci
Petitions Examiner
Office of Petitions

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BARNES & THORNBURG LLP
11 SOUTH MERIDIAN
INDIANAPOLIS IN 46204

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AUG 26 2009

OFFICE OF PETITIONS

In re Application of

GRINDEL, Douglas A. et al.
Application No. 10/993,372
Filed: November 19, 2004
Attorney Docket No. **29299-76315**

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 17, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by James Sweeney, II on behalf of all attorneys of record who are associated with customer No. 23643. All attorneys/agents associated with the Customer Number 23643 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 Douglas Grindel at the address indicated below. There is an outstanding Office action mailed April 16, 2009 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **DOUGLAS A. GRINDEL**
11217 SILVER PHEASANT DRIVE
OSCEOLA IN 46561

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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RYAN, MASON & LEWIS, LLP
1300 POST ROAD
SUITE 205
FAIRFIELD, CT 06824

In re Application of	:	
Min Liang, et al.	:	
Application No. 10/993,378	:	DECISION ON PETITION
Filed: November 19, 2004	:	
Attorney Docket No. Liang 2-15	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 8, 2009, to revive the above-identified application.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

The application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment (Notice), mailed April 25, 2008 , which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 26, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to undersigned at (571)272-1642. All other inquiries concerning this application examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2611 for appropriate action by the Examiner in the normal course of business on the reply received July 8, 2009.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

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FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

Mail Date: 06/02/2010

Applicant	: Donald Blackden	: DECISION ON REQUEST FOR
Patent Number	: 7670969	: RECALCULATION of PATENT
Issue Date	: 03/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/993,381	: OF WYETH
Filed	: 11/19/2004	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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MHKKG/Oracle (Sun)
P.O. BOX 398
AUSTIN, TX 78767

Mail Date: 04/20/2010

Applicant	: Emrys Williams	: DECISION ON REQUEST FOR
Patent Number	: 7631230	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/993,387	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/19/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1034** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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APR 20 2006

MCKEE, VOORHEES & SEASE, P.L.C.
ATTN: PIONEER HI-BRED
801 GRAND AVENUE, SUITE 3200
DES MOINES IA 50309-2721

In re Application of	:	
Lori Carrigan	:	
Serial No.: 10/993,389	:	SUSPENSION OF ACTION
Filed: November 19, 2004	:	
Attorney Docket No.: P06309US02-PHI 1473C	:	

This is in reply to the petition under 37 CFR 1.103 to suspend action on this application at applicant's request for a period of six months, filed March 30, 2006.

A review of the file history shows that this is an unexamined application. Applicant requests that action on this application be suspended for six months in view of the fact that the claims in this case are substantially similar to claims in cases currently on appeal with the same Assignee.

§ 1.103 Suspension of action by the Office.

(a) Suspension for cause . On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension not exceeding six months. Any petition for suspension of action under this paragraph must also include:
(1) A showing of good and sufficient cause for suspension of action; and
(2) The fee set forth in § 1.17(g), unless such cause is the fault of the Office.

Applicant's petition requests suspension in view of the fact that the claims in this case are substantially similar to claims in cases currently on appeal with the same Assignee. No indication is given as to when these cases were filed, their status or approximate date of decision or resolution, nor how any decision would affect prosecution or patentability in this application. Also, in the instant case, no issues have as yet been developed and the issues ultimately developed may not be the same as those at the Board of Appeals. Further, it is not the general practice of the Office to suspend prosecution in unexamined applications except in extraordinary circumstances. None have been set forth in the petition. In summary, no showing of good or sufficient cause has been made.

In view of the above reason the petition is **DENIED**.

The application will be forwarded to the examiner for initial examination in turn.

Should there be any questions with respect to this action, please contact Marianne C. Seidel, by mail addressed to: Director, Technology Center 1600, P. O. BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile transmission at the Office general facsimile number, 571-273-8300.

George C Elliott

George Elliott
Director, Technology Center 1600

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M.H.K.K.G., P.C. / ADOBE SYSTEMS INCORPORATED
P.O. BOX 398
AUSTIN, TX 78767-0398

Mail Date: 04/20/2010

Applicant	: Brett M. Error	: DECISION ON REQUEST FOR
Patent Number	: 7603373	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/993,397	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/18/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **346** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 18 2007

OFFICE OF PETITIONS

FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

In re Application of :
Mark C. Nicely et al. :
Application No. 10/993,402 : DECISION ON PETITION
Filed: November 18, 2004 : TO WITHDRAW
Attorney Docket No. 14522-007001 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 26, 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.

J. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **BELL, BOYD & LLOYD LLP**
P.O. BOX 1135
CHICAGO, IL 60690

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

07 DEC 2006

Matthew Burr
Lake Austin Marina
Suite 200
2219 Westlake Drive
Austin TX 78746

In re Application of:
GRANNAN, Michael, F., et al.
U.S. Application No.: 10/993,404
Filing Date: November 19, 2004
Atty Docket No.: 19862.05
For: TOOL AND METHOD FOR MANAGED SUPPORT SERVICES FOR PCS AND OTHER NETWORKED DEVICES

DECISION ON PETITION
(37 CFR 1.10(e))

This decision is issued in response to the "Petition To Consider Correspondence Filed In The Office On The USPS Deposit Date Under 37 CFR 1.10(e)" filed August 28, 2006. No petition fee is required.

BACKGROUND

On November 19, 2004, applicants filed materials to initiate a U.S. non-provisional application, including a "Utility Patent Application Transmittal Letter" (Form PTO/SB05), 22 pages of specification, 10 pages of claims, 4 pages of drawings, and a one-page abstract. The materials were assigned U.S. application number 10/993,404.

On December 22, 2004, the USPTO mailed a "Notice To File Missing Parts" requiring submission of an oath or declaration and fees.

On February 22, 2004, applicants filed an executed declaration and the required fee payment.

On November 18, 2005, applicants filed, in a single "Express Mail" envelope, a copy of all the materials filed or issued in the present U.S. application (i.e., the description, claims, drawings, and abstract; the filing receipts, the Notice To File Missing Parts, the declaration, the fee transmittal letter, the assignment, and the Form PTO/SB05 transmittal letter), accompanied by a three-page PCT Request (Form PCT/RO/101). These materials specifically referenced U.S. application number 10/993,404; accordingly, the materials were placed in the present application file, 10/993,404.

On August 28, 2006, applicants filed the petition considered herein. The petition requests confirmation of the November 18, 2005 filing of the materials listed above. The petition also

appears to desire establishment of a separate PCT application based on the November 18, 2005 filing. The petition includes, among other materials, copies of the papers filed November 18, 2005.

DISCUSSION

Pursuant to 37 CFR 1.10(e), an applicant may petition the USPTO to treat materials filed via "Express Mail" that are not received by the USPTO as properly filed on the date of deposit with the USPS. However, in the present case, all the materials filed by applicants on November 18, 2005 have been received by the USPTO and accorded the filing date of November 18, 2005, the date of deposit with the USPS claimed in the present petition. The petition under 37 CFR 1.10(e) seeking the acceptance of these documents with a November 18, 2005 filing date is therefore moot.

With respect to the treatment of the November 18, 2005 filing, applicant apparently seeks to have these materials treated as a separate PCT application claiming priority to the present U.S. non-provisional application and having an international filing date of November 18, 2005. However, as noted above, the materials filed on November 18, 2005 included, among other materials, both a PCT Request form (intended for use with a new international applications) and a Form PTO/SB05 transmittal letter (intended for use with a new U.S. application under 37 CFR 1.53(b)). The submission therefore included conflicting instructions.

In order for any of the materials filed by applicants on November 18, 2005 to be treated as a separate PCT application filed on such date, applicants must first file a grantable petition under 37 CFR 1.182, with required petition fee, adequately demonstrating that the November 18, 2005 filing should properly be treated as a separate PCT international application filed on such date.

CONCLUSION

Applicants' petition under 37 CFR 1.10(e) to confirm the November 18, 2005 is **DISMISSED** as moot. The materials filed November 18, 2005 remain in the present U.S. application file.

As discussed above, in order for any of the materials contained in the November 18, 2005 submission to be treated as a separate international application filed on such date, a grantable petition under 37 CFR 1.182 must be submitted which adequately resolves the conflicting instructions contained in the November 18, 2005 submission and demonstrates that the materials filed are properly treated as an international application.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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Kang S. Lim
3494 Camino Tassajara Road, #436
Danville CA 94506

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APR 2 8 2005

OFFICE OF PETITIONS

In re Application of
Sarkar, et al.
Application No. 10/993,412
Filed: November 18, 2004
Attorney Docket No. VN 0408
For: METHODS AND SYSTEMS FOR MAKING PRICING DECISIONS IN A PRICE MANAGEMENT SYSTEM

: DECISION REFUSING
: STATUS UNDER
: 37 CFR 1.47(a)

This decision is in response to the petition under 37 CFR 1.47(a), filed March 28, 2005 (certificate of mailing date March 25, 2005).

The petition is dismissed.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on November 18, 2004 without an executed oath or declaration. Accordingly, on December 27, 2004, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration, filing fees, and a surcharge for their late filing.

In response, petitioners filed request for a 1 month extension of time and required fee, a declaration executed by three of four joint inventors, the surcharge, the petition fee, and the instant petition on March 28, 2005 (certificate of mailing date March 25, 2005).[1] Attorney Kang Lim signed the petition. Attorney Lim states that Andre Marais, the legal representative of non-

[1] Regarding finances, pursuant to petitioners' authorization, deposit account no. 50-2766 will be charged a $200.00 Rule 47 petition fee and a $120.00 one month extension of time fee. The check for $910.00 submitted with the instant petition was applied towards the $790.00 basic filing fee and the $130.00 late declaration/filing fee surcharge, leaving a balance of $10.00, which was charged to deposit account no. 50-2766 on March 29, 2005.

signing inventor, Hannes Marais, stated that his client "wants to avoid being exposed to confidential ...information, hence his reluctance to review the documents." The e-mail exhibits to the petition clearly establish that the non-signing inventor was provided opportunities to review the application papers, but refused to do so.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration;
(2) an acceptable oath or declaration;
(3) the petition fee of $200;
(4) a statement of the last known address of the non-signing inventor;

Applicants lack items (2) and (4) set forth above.

With respect to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. See MPEP 409.03(a). The declaration does not contain all required information for non-signing inventor Hannes Marais.

MPEP 605.03 states that, "Applicant's mailing address means that address at which he or she customarily receives his or her mail. Either applicant's home or business address is acceptable as the mailing address.... In situations where an inventor does not execute the oath or declaration and the inventor is not deceased, such as in an application filed under 37 CFR 1.47, the inventor's most recent home address must be given...."

As listing the citizenship for each inventor is a statutory requirement under 35 U.S.C. 115, it cannot be waived. An oath or declaration in compliance with 37 CFR 1.63 and1.64 signed by the Rule 1.47 applicants on behalf of the non-signing inventor is REQUIRED. See MPEP 409.03(a).

The signing inventors must execute a new declaration that lists complete identifying information for all inventors, including Hannes Marais.

With respect to item (4), a statement of the last known address of the non-signing inventor is missing and required.

Further correspondence with respect to this matter should be addressed as follows:

By mail:
Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand:
U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX:
(703) 872-9306 – ATTN: Office of Petitions

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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Kang S. Lim
3494 Camino Tassajara Road, #436
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OFFICE OF PETITIONS

In re Application of	:
Sarkar, et al.	: DECISION ACCORDING
Application No. 10/993,412	: STATUS UNDER
Filed: November 18, 2004	: 37 CFR 1.47(a)
Attorney Docket No. VN 0408	:
For: METHODS AND SYSTEMS FOR MAKING PRICING DECISIONS IN A PRICE MANAGEMENT SYSTEM	:

This decision is in response to the reconsideration petition under 37 CFR 1.47(a), filed June 20, 2005 (certificate of mailing date June 17, 2005).

The petition is granted.

Petitioners have shown that the non-signing inventor, Hannes Marais, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the petition signed by Attorney Kang Lim states that Andre Marais, the legal representative of non-signing inventor, Hannes Marais, stated that his client "wants to avoid being exposed to confidential ...information, hence his reluctance to review the documents." The e-mail exhibits to the petition clearly establish that the non-signing inventor was provided opportunities to review the application papers, but refused to do so. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

Regarding fees, petitioners have been charged twice for the instant Rule 47 petition. In addition, Office records show a $400.00 fee was charged to petitioners' deposit account on June 21, 2005. There appears to be no explanation as to why the $400.00 fee was charged in this application. Accordingly, petitioners' deposit account will be credited one of the two $200.00 petition fees and the $400.00 charged on June 21, 2005.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be forwarded Technology Center GAU 3625 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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HANNES L. MARAIS
2167 ROCK STREET
MOUNTAIN VIEW, CA 94043

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JUL 0 7 2005

OFFICE OF PETITIONS

In re Application of
Sarkar, et al.

Application No. 10/993,412 : LETTER
Filed: November 18, 2004
Attorney Docket No. VN 0408

For: METHODS AND SYSTEMS FOR MAKING PRICING DECISIONS IN A PRICE MANAGEMENT SYSTEM

Dear Mr. Marais:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: Kang S. Lim
3494 Camino Tassajara Road, #436
Danville CA 94506

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/993,453	11/19/2004	Andrew D. Christian	200316632-1	3793

7590 04/14/2008

HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER	
NEWAY, SAMUEL G	

ART UNIT	PAPER NUMBER
2626	

NOTIFICATION DATE	DELIVERY MODE
04/14/2008	ELECTRONIC

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

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OFFICE OF PETITIONS

3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL MN 55133-3427

In re Application of :
Larry D. Boardman et al :
Application No. 10/993,460 : ON PETITION
Filed: November 18, 2004 :
Attorney Docket No. 60158US002 :

This is a decision on the petition, filed May 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 March 2, 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 2818 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).

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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3M INNOVATIVE PROPERTIES COMPANY
P O BOX 33427
ST. PAUL, MN 55133-3427

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OFFICE OF PETITIONS

In re Application of :
Larry D. Boardman et al :
Application No. 10/993,460 : DECISION GRANTING PETITION
Filed: November 18, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 60158US002 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 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 December 29, 2006, as required by the Notice of Allowance and Fee(s) Due mailed September 29, 2005. A Notice of Abandonment was mailed on January 16, 2007, subsequent to the filing of the present petition to revive.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the issue and publication fees ($1,400 and $300, respectively); (2) the $1,500 petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue and publication fees are accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

The application file is being referred to Publishing Division.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CALFEE HALTER & GRISWOLD, LLP
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND, OH 44114

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SEP 19 2005

OFFICE OF PETITIONS

In re Application of :
Robert Lyons :
Application No. 10/993,463 : ON PETITION
Filed: November 19, 2004 :
Attorney Docket No. **06821/06635** :

This is a decision on the petition under 37 CFR 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority of the prior-filed provisional application set forth in the amendment filed concurrently with the instant petition.

The petition under 37 CFR 1.78(a)(6) is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(6) is only applicable to those applications filed on, or after, November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(5)(ii). In addition, the petition under 37 CFR 1.78(a)(6) must be accompanied by:

1. the reference required by 35 U.S.C 119(e) and paragraph (a)(5)(i) of this section to the prior-filed provisional application, unless previously submitted.

2. the surcharge set forth in 1.17(t), and

3. a statement that the entire delay between the date the claim was due under paragraph (a)(5)(ii) of this section and the date the claim was filed was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional application is submitted after the expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Also, the reference to the prior-filed provisional application, found in the amendment to the specification, was submitted during the pendency of the instant nonprovisional application for which the claim for benefit of priority is sought. See 35 U.S.C. § 119(e). Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for benefit of priority under 35 U.S.C. § 119(e) to the prior-filed provisional application satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C.§ 119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed

as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

This matter is being referred to Technology Center 3700, Art Unit 3752 for further processing, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C.§ 119(e) to the prior-filed provisional application.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

Enclosure: Corrected Filing Receipt

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P.O. BOX 1450
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MAR 16 2005

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

In re Application of	:	
John C. Seed	:	
Serial No.: 10/993,496	:	PETITION TO MAKE SPECIAL
Filed: November 18, 2004	:	
Attorney Docket No. 021319-001310US	:	

This is in response to applicant's petition filed on November 18, 2004, to make the above-identified application special under the provisions 37 CFR 1,102(c), based on the age of applicant. No fee is required for this petition.

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 by any questions with regard to this letter please contact William Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 572-272-0519 or by facsimile transmission to the general Office facsimile number.

William 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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SMART AND BIGGAR
438 UNIVERSITY AVENUE
SUITE 1500 BOX 111
TORONTO ON M5G2K-8 CA
CANADA

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JUL 29 2005

OFFICE OF PETITIONS

In re Application of	:
Poustchi, et al.	: DECISION GRANTING STATUS
Application No. 10/993,519	: UNDER 37 CFR 1.47(a)
Filed: November 22, 2004	:
Atty. Dkt. No.: 93598-4	:
For: BACK UP OF NETWORK DEVICES	:

This decision is in response to the petition under 37 CFR 1.47(a) filed April 7, 2005.

The petition under 37 CFR 1.47(a) is **GRANTED**.

Petitioners have shown that inventor Natalie Ann Gagnon has refused to execute the declaration for the above-identified application after having been presented with the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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NATALIE ANN GAGNON
165 SPRUCE CRESCENT, RR#1
CARLETON PLACE, ONTARIO
Canada K7C 3P1

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JUL 29 2005

OFFICE OF PETITIONS

In re Application of :
Poustchi, et al. :
Application No. 10/993,519 : LETTER
Filed: November 22, 2004 :
Atty. Dkt. No.: 93598-4 :
For: BACK UP OF NETWORK DEVICES :

Dear Madam:

You are named as an inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3205. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this matter should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/21/07

TO SPE OF : ART UNIT 2823

SUBJECT : Request for Certificate of Correction on Patent No.: 7157300

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:

Approved

SPE

2823
Art Unit

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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LANDO & ANASTASI, LLP
ONE MAIN STREET, SUITE 1100
CAMBRIDGE, MA 02142

Mail Date: 04/20/2010

Applicant	: Daniel T. Dransfield	: DECISION ON REQUEST FOR
Patent Number	: 7514534	: RECALCULATION of PATENT
Issue Date	: 04/07/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/993,543	: OF WYETH
Filed	: 11/19/2004	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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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
10/993,563	11/18/2004	2823	790	299002049102	11	4	1

CONFIRMATION NO. 3656

25226
MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

CORRECTED FILING RECEIPT

OC000000015474582

Date Mailed: 03/23/2005

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)

Kunihiro Takatani, Yamatotakada-shi, JAPAN;

Assignment For Published Patent Application

SHARP KABUSHIKI KAISHA, Abeno-ku, JAPAN

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of 10/465,164 06/18/2003 PAT 6,855,570
which is a CON of 09/402,135 09/27/1999 PAT 6,597,716
which is a 371 of PCT/JP98/01308 03/25/1998

Foreign Applications

JAPAN JP9-074779 03/27/1997
JAPAN 09-074779 03/27/1997

If Required, Foreign Filing License Granted: 02/09/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/993,563

Projected Publication Date: 06/23/2005

Non-Publication Request: No

Early Publication Request: No

Title

Compound semiconductor laser

Preliminary Class

372

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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SPRINT
6391 SPRINT PARKWAY
KSOPHT0101-Z2100
OVERLAND PARK, KS 66251-2100

Mail Date: 04/21/2010

Applicant	: Scott D. Boxberger	: DECISION ON REQUEST FOR
Patent Number	: 7643936	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/993,594	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/19/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **924** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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RADER, FISHMAN & GRAUER PLLC
10653 SOUTH RIVER FRONT PARKWAY
SUITE 150
SOUTH JORDAN UT 84095

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JAN 31 2007

OFFICE OF PETITIONS

In re Application of :
Rubin :
Application No. 10/993,599 : ON PETITION
Filed: November 19, 2004 :
Attorney Docket No. 40331-0002 :
Title of Invention: Compressed Growing Medium :

This is a decision on the petition under 37 CFR §1.181 filed September 6, 2006 to withdraw the holding of abandonment.

The petition filed under 37 CFR 1.181 is **Granted**.

This above-identified application was held abandoned for failure to timely reply to the restriction requirement mailed February 1, 2006. The Restriction Requirement set a one (1) month shortened statutory period for reply. A reply was not received. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application was held abandoned on March 2, 2006. A Notice of Abandonment was mailed on August 25, 2006.

Petitioner maintains that a response to the Restriction Requirement was transmitted via facsimile on February 27, 2006. In support of petitioner's contention that a response was timely submitted to the Office Action, petitioner has submitted a copy of a the Auto-Reply receipt, and a copy of the response which contains a certificate of transmission pursuant to 37 CFR 1.8.

A review of the evidence presented shows that the transmittal letter contained the incorrect application number. The correct application number is 10/993,599, not 11/993,599. The amendment did contain the correct application number, art unit, and attorney docket number.

Correspondence directed to the Patent and Trademark Office concerning a previously filed

application for a patent must identify the application number and filing date assigned to that application by the Office. See, 37 CFR 1.5(a). In the above-referenced application, applicant failed to correctly identify the application by citing an incorrect application number in the correspondence. The Office elects, in this instance, to treat applicant's transposition of numbers as a correctable minor error as permitted under MPEP 502. However, applicant is reminded that minor errors, such as occurred in the instant application, are to be avoided in the future by the careful review of correspondence prior to submission to the Office.

The response submitted February 27, 2006 has been located in the Office. Based on the facts stated in the instant petition and the corroborative evidence provided, it is concluded that the holding of abandonment was improperly imposed.

The requirements for a grantable petition under 37 CFR §1.181 have been met. This petition is hereby **Granted**.

This application is being forwarded to the Technology Center 3644 for further processing of the response to the restriction requirement.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Petition Attorney

Office of Petitions

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GROSSMAN, TUCKER, PERREAULT & PFLEGER, PLLC
55 SOUTH COMMERICAL STREET
MANCHESTER, NH 03101

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MAR 24 2006

OFFICE OF PETITIONS

In re Application of :
Warner, et al. :
Application No. 10/993,612 : ON PETITION
Filed: November 19, 2004 :
Attorney Docket No. TRM :
TR990014/TR000049CON :

This is a decision on the petition under 37 CFR 1.137(b), filed February 23, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed January 19, 2005. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 20, 2005. A Notice of Abandonment was mailed on September 26, 2005.

The file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
Office of the Deputy Commissioner
for Patent Examination Policy

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WILSON, SONSINI, GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO, CA 94304-1050

Mail Date: 04/21/2010

Applicant	: Fei Mao	: DECISION ON REQUEST FOR
Patent Number	: 7667024	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/993,625	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/19/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **229** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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.
10/993,629	11/19/2004	Michael Xie	2831.008US1	2062

21186 7590 10/07/2009

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

EXAMINER	
NGUYEN, PHUOC H	
ART UNIT	**PAPER NUMBER**
2443	

NOTIFICATION DATE	DELIVERY MODE
10/07/2009	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):

uspto@slwip.com
request@slwip.com

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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

In re Application of: XIE, Michael
Application No. 10/993629
Filed: November 19, 2004
For: SYSTEMS AND METHODS FOR CATEGORIZING NETWORK TRAFFIC CONTENT

DECISION SUA SPONTE TO ISSUE A CERTIFICATE OF CORRECTION

This is a decision, *sua sponte*, to issue a Certificate of Correction for the above-identified application.

A review of the file record indicates an Examiner's Amendment communication of March 11, 2009, prior to the payment of issue fee. However, the Examiner's Amendment communication was not mailed until September 21, 2009, after the issuance of the patent for the instant application.

In view of the fact that the patent has already issued, the certificate of correction under 37 CFR 1.322 is generated.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate of correction.

/Kim Huynh/

Kim Huynh, Quality Assurance Specialist
Technology Center 2400
571-272-4147

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. : 7,565,445

APPLICATION NO.: 10/993,629

ISSUE DATE : 7/21/2009

INVENTOR(S) : Xie, Michael

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 12, Line 64, "categorizing the network traffic content based" should read -- categorizing the network traffic content, in a computer processor, based --.
Column 13, Lines 31-32, "a computer-readable medium, the computer-readable medium having" should read -- a computer-readable storage medium, the computer-readable storage medium having --.
Column 14, Line 36, "comprises a processor;" should read -- comprises a processor to execute instructions stored in a memory; --.
Column 15
Line 9, "associating each of the" should read -- processing in a computer processor to associate each of the --.
Lines 2-3, "a computer-readable medium, the computer-readable medium having" should read -- a computer-readable storage medium, the computer-readable storage medium having --.
Column 16
Lines 9-10, "Web pane" should read -- Web page --.
Line 15, "comprises a processor;" should read -- comprises a processor to execute instructions stored in a memory; --.
Line 46, "categorizing network traffic content based" should read -- categorizing network traffic content, in a computer processor, based --.
Column 17
Lines 18-19, "a computer-readable medium, the computer-readable medium having" should read -- a computer-readable storage medium, the computer-readable storage medium having --.
Line 61,"comprises a processor;" should read -- comprises a processor to execute instructions stored in a memory; --.
Column 18, Line 35, "categorizing the network traffic content based" should read -- categorizing the network traffic content, in a computer processsor, based --.
Column 19, Lines 3-4, "comprises a processor;" should read -- comprises a processor to execute instructions stored in a memory; --.
Column 20, Lines 1-2, "a computer-readable medium, the computer-readable medium having" should read -- a computer-readable storage medium, the computer-readable storage medium having --.

MAILING ADDRESS OF SENDER (Please do not use customer number below):

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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FISH & RICHARDSON, P.C.
PO BOX 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 04/20/2010

Applicant	: Christian Lieske	: DECISION ON REQUEST FOR
Patent Number	: 7624092	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/993,630	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/19/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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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Paper No. None

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INDIANO, VAUGHN & ROBERTS
1 NORTH PENNSYLVANIA AVENUE #850
INDIANAPOLIS IN 46204

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JUN 16 2005

OFFICE OF PETITIONS

In re Application of :
Michael E. Daniels, Robert A. Hodorek, John E. Meyers, John E. Pendleton, Rohit K. Somani, and Gary J. Zello :
Application No. 10/993,661 :
Filed: November 19, 2004 :
Attorney Docket No. 4001-0039 (ZM0666 ZM0602) :
Title: TIBIAL IMPLANT WITH A BROAD KEEL AND A THROUGH POST :

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 April 29, 2005.

On November 19, 2004, the application was deposited, identifying Michael E. Daniels, Robert A. Hodorek, John E. Meyers, John E. Pendleton, Rohit K. Somani, and Gary J. Zello as joint inventors. No oath or declaration was included on filing. On December 27, 2004, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" (Notice) was mailed, indicating that a fully executed oath or declaration and the associated surcharge were required. 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.

With the instant petition, Petitioner has also submitted the petition fee, the associated surcharge, a declaration which has been executed by each of the inventors save Mr. Daniels, the last known address of the same, copies of various e-mails, and a statement of facts. Petitioner has further included a two-month extension of time to make timely this response.

Petitioner has met each of the 5 requirements above.

The petition is **GRANTED** and this application is hereby accorded Rule §1.47(a) status.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Michael E. Daniels
2551 South Paxton Drive
Warsaw, IN 46580

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JUN 16 2005

OFFICE OF PETITIONS

In re Application of :

Michael E. Daniels, Robert A. Hodorek, John E. Meyers, John E. Pendleton, Rohit K. Somani, and Gary J. Zello :
Application No. 10/993,661 :
Filed: November 19, 2004 :
Attorney Docket No. 4001-0039 (ZM0666 ZM0602) :
Title: TIBIAL IMPLANT WITH A BROAD KEEL AND A THROUGH POST :

DECISION ON PETITION
UNDER 37 C.F.R. §1.47(a)

Dear Mr. Daniels

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, the attorney of record 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) 272-3225. 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).

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

cc: ZIMMER TECHNOLOGY - ROBERTS
INDIANO, VAUGHN & ROBERTS
1 NORTH PENNSYLVANIA AVENUE #850
INDIANAPOLIS IN 46204

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

Mail Date: 04/20/2010

Applicant	: Earl B. Manchester	: DECISION ON REQUEST FOR
Patent Number	: 7636358	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/993,677	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/19/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **843** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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DIW Apr-05

MORGAN & FINNEGAN, L.L.P.
3 WORLD FINANCIAL CENTER
NEW YORK NY 10281-2101

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APR 20 2005

OFFICE OF PETITIONS

In re Application of	:	
Norihito Takeuchi	:	
Application No. 10/993,678	:	ON PETITION
Filed: 19 November, 2004	:	
Atty Docket No. 5000-5221	:	

This is a decision on the papers filed on 14 March, 2005, which are treated as a petition under 37 CFR 1.53 requesting that the Notice of Incomplete Nonprovisional Application, mailed on 23 February, 2005, be withdrawn.

On 19 November, 2004, the above-identified application was filed.

On 23 February, 2005, Initial Patent Examination Division mailed a Notice of Incomplete Nonprovisional Application, stating that the application had not been accorded a filing date because the specification was missing and did not include at least one claim.

In response, on 14 March, 2005, the present petition, and, *inter alia*, 35 pages of specification (31 pages of written description and 4 pages containing claims) and one (1) page of abstract were filed. Petitioner argues that the specification, including the claims, and abstract were filed with the other application papers on 19 November, 2004, and that the specification, including the claims, and abstract were misplaced in the U.S. Patent and Trademark Office (Office). In support of the petition, a copy of petitioner's postcard receipt was supplied. The postcard receipt shows an Office-date stamp of "111904", the above-identified application number, identifies the application by attorney docket number, and acknowledges receipt of, *inter alia*, 31 pages of "specification" (written description), 4 pages of claims, and one (1) page of abstract. Petitioner requests that the application, including the specification (written description and claims), be accorded a filing date of 19 November, 2004.

Application No. 10/993,678

Upon review of the record, no pages of specification or sheets of drawings deposited on 19 November, 2004, have been located among the application papers. However, the evidence is convincing that the application papers deposited on 19 November, 2004, included 35 pages of specification (31 pages of written description and 4 pages containing claims), as well as one (1) page of abstract, which were subsequently misplaced in the USPTO. Therefore, the application, including the 35 pages of specification and one (1) page of abstract, was complete on filing and entitled to a filing date of 19 November, 2004.

In view of the above, the petition is granted.

The Notice of Incomplete Nonprovisional Application mailed on 23 February, 2005, is withdrawn. No petition fee is due and none has been charged.

The application will be processed and examined using the 35 pages of specification (31 pages of written description and 4 pages containing claims), and one (1) page of abstract supplied on 14 March, 2005.

The application is being returned to Initial Patent Examination Division for processing with a filing date of 19 November, 2004, using the application papers filed on that date, and the 31 pages of written description, 4 pages containing claims, and one (1) page of abstract supplied with the present petition.

Telephone inquiries specific to this matter should be directed to the undersigned at 571 272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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KRIEGER INTELLECTUAL PROPERTY, INC.
P.O. BOX 1073
CAMAS WA 98607

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JUN 26 2007

OFFICE OF PETITIONS

In re Application of	:	
Dolan et al.	:	DECISION ON PETITION
Application No. 10/993680	:	
Filed: 11/19/2004	:	
Attorney Docket Number:	:	
SCK7146.0240/SLA1664	:	

This is a decision in reference to the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT," filed on 27 April, 2007.

The petition is **GRANTED**.

The application became abandoned on 14 March, 2007, for failure to timely submit the issue and publication fees in response to the Notice of Allowance and Fee(s) Due mailed on 13 December, 2006, which set a three (3) month statutory period for reply. Notice of Abandonment was mailed on 10 April, 2007.

Petitioners assert that the Notice of Allowance and Fee(s) Due was not received because it was mailed to an incorrect address.

A review of the official record reveals that a revocation and power of attorney and change of correspondence address was filed on 30 April, 2005, specifying Customer Number 52,894 as the correspondence address of record. However, the Notice mailed on 13 December, 2006, was mailed to the address associated with Customer Number 52,594. As such, the Notice on 13 December, 2006, was not mailed to the correct correspondence address, but rather to an incorrect address as a result of an Office error.

As the error in mailing is due to an Office error, it is appropriate to remail the Office action to the correct correspondence address.

As such, there is no abandonment in fact. The holding of abandonment is withdrawn, and the Notice of Abandonment is vacated.

The correspondence address has been corrected in Office records.

The Office apologizes for any inconvenience to petitioner.

The application is referred to the Technology Center Technical Support Staff for remailing of the Notice of Allowance and Fee(s) Due mailed on 13 December, 2006. The time period for reply to the Office action will be reset to run from the date the Notice is remailed.

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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CAMAS WA 98607

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OFFICE OF PETITIONS

In re Application of	:	
Dolan et al.	:	DECISION ON PETITION TO
Application Number: 10/993680	:	WITHDRAW HOLDING OF
Filing Date: 11/19/2004	:	ABANDONMENT
Attorney Docket Number:	:	
SCK7146.0240/SLA1664	:	

This is a decision on the petition filed on February 5, 2008, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to timely submit the issue and publication fees in response to the Corrected Notice of Allowance and Fee(s) Due mailed on August 23, 2007, which set a three (3) month statutory period for reply. Notice of Abandonment was mailed on December 20, 2007.

Petitioner asserts that the Corrected Notice of Allowance and Fee(s) Due mailed on August 23, 2007, was never received.

In the absence of any irregularity in the mailing of the Corrected Notice of Allowance and Fee(s) Due ("the Notice"), there is a strong presumption that the Notice was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. 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 Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

A review of the record indicates that the Notice was properly mailed to petitioner at the correspondence address of record at the time of mailing. Thus, there was no irregularity in mailing the Notice on the part of the United States Patent and Trademark Office.

In support of the petition, the petitioners' counsel, registered patent practitioner, Scott C. Krieger, asserts that he reviewed the file jacket, docket and correspondence records and found no record of receiving a Notice of Allowance for this application. A copy of counsel's correspondence log where the Notice would have been docketed and entered had it been received has been provided and has been referenced in the practitioner's statement.

The petitioner has made a sufficient showing of nonreceipt of the Notice. 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 the Technology Center Art Unit 2624 for remailing of the Notice mailed on August 23, 2007. 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.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Dolan et al.	:	DECISION ON PETITION TO
Application Number: 10/993680	:	WITHDRAW HOLDING OF
Filing Date: 11/19/2004	:	ABANDONMENT
Attorney Docket Number:	:	
SCK7146.0240/SLA1664	:	

This is a decision on the petition filed on February 5, 2008, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to timely submit the issue and publication fees in response to the Corrected Notice of Allowance and Fee(s) Due mailed on August 23, 2007, which set a three (3) month statutory period for reply. Notice of Abandonment was mailed on December 20, 2007.

Petitioner asserts that the Corrected Notice of Allowance and Fee(s) Due mailed on August 23, 2007, was never received.

In the absence of any irregularity in the mailing of the Corrected Notice of Allowance and Fee(s) Due ("the Notice"), there is a strong presumption that the Notice was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached

to and referenced in practitioner's statement. 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 Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

A review of the record indicates that the Notice was properly mailed to petitioner at the correspondence address of record at the time of mailing. Thus, there was no irregularity in mailing the Notice on the part of the United States Patent and Trademark Office.

In support of the petition, the petitioners' counsel, registered patent practitioner, Scott C. Krieger, asserts that he reviewed the file jacket, docket and correspondence records and found no record of receiving a Notice of Allowance for this application. A copy of counsel's correspondence log where the Notice would have been docketed and entered had it been received has been provided and has been referenced in the practitioner's statement.

The petitioner has made a sufficient showing of nonreceipt of the Notice. Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The address in the petition is different than the correspondence address. A courtesy copy of this decision is being mailed to the address in the petition. All future correspondence, however, will be mailed solely to the address of record. A change of correspondence address should be filed if the correspondence address needs to be updated.

The petition is **GRANTED.**

The application file is being referred to the Technology Center Art Unit 2624 for remailing of the Notice mailed on August 23, 2007. 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.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Cc:

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PERKINS COIE LLP/MSFT
P. O. BOX 1247
SEATTLE WA 98111-1247

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FEB 11 2009

OFFICE OF PETITIONS

In re Application of :
Koti et al. :
Application No. 10/993,688 : ON APPLICATION FOR
Filed: 11/19/2004 : PATENT TERM ADJUSTMENT
Atty Docket No. 418268089US :

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT RECONSIDERATION UNDER 37 C.F.R. §1.705(B)" filed January 9, 2009. Applicant requests that the determination of patent term adjustment be increased by 363 days to 1190 days assuming the patent issues on June 23, 2009. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within three years. See 37 CFR § 1.703(b).

Applicant is given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within three years. A copy of this decision should accompany

the request. Applicant may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of 37 CFR 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney, Christina Tartera Donnell, at (571) 272-3211.

Kery A. Fries

Kery A. Fries
Senior Legal Advisor
Office Patent Legal Administration

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JUL 13 2005

In re Application of	:	
Michael Powell	:	
Serial No. 10/993,689	:	DECISION ON PETITION
Filed: November 19, 2004	:	
For: IMPROVED DUST COLLECTION FOR PANEL SAW	:	

This is a decision on the petition to make special filed on November 19, 2004. The petition is submitted pursuant to the practice established in MPEP § 708.02(II) "Infringement." The $130.00 petition fee has been received.

The petition is granted.

A review of the petition shows that petitioners have satisfied all of the requirements of the above-cited MPEP section. Accordingly, the examiner will treat this application as special throughout its prosecution. Prior to the first action on the merits, the examiner will conduct a rigorous search for potentially interfering applications. The interference search will be brought up to date prior to each successive action.

The Supervisory Patent Examiner of Patent Examining Art Unit 3724 will be notified of this decision, and will inform the assigned examiner to take action not inconsistent with this decision.

PETITION GRANTED.

Frederick R. Schmidt, Director
Technology Center 3700

Mark D. Bowen, Esq.
Stearns Weaver Miller Weissler Alhadeff
& Sitterson, PA
200 E. Broward Blvd., Suite 1900
Fort Lauderdale, FL 33301

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P.O. BOX 581009
MINNEAPOLIS MN 55458-1009

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NOV 26 2008

OFFICE OF PETITIONS

In re Application of	:	
Petro Estakhri, et al.	:	
Application No. 10/993,692	:	DECISION ON PETITION
Filed: November 19, 2004	:	
Attorney Docket No. 400.573US01	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 4, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, January 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 April 10, 2008. The Notice of Abandonment was mailed July 24, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

Telephone inquiries concerning this decision should be directed to Terri William at (571)272-2991.

This application is being referred to Technology Center AU 2187 for appropriate action by the Examiner in the normal course of business on the reply received

Chris Bottorff
Petitions Examiner
Office of Petitions

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LEFFERT JAY & POLGLAZE, P.A.
P.O. BOX 581009
MINNEAPOLIS, MN 55458-1009

Mail Date: 04/20/2010

Applicant	: Petro Estakhri	: DECISION ON REQUEST FOR
Patent Number	: 7594063	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/993,692	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/19/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **532** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 :
Kenneth P. Hoyme et al :
Application No. 10/993,699 : ON PETITION
Filed: November 19, 2004 :
Attorney Docket No. 279.B48US1

This is a decision on the petition, filed May 6, 2008 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 8, 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 3762 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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Armstrong Teasdale LLP (12553 - 1000)
Patrick W. Rasche
ONE METROPOLITAN SQUARE, SUITE 2600
ST. LOUIS, MO 63102-2740

Mail Date: 04/20/2010

Applicant	: Jerome Stephen Arenson	: DECISION ON REQUEST FOR
Patent Number	: 7649974	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/993,705	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/18/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1462** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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.
10/993,745	11/19/2004	Kahren Tevosyan	14917.519US01	3068

27488 7590 01/27/2008
MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

EXAMINER	
BARRON JR, GILBERTO	

ART UNIT	PAPER NUMBER
2132	

MAIL DATE	DELIVERY MODE
01/27/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Gregory D. Leibold
Merchant & Gould (Microsoft)
P.O. Box 2903
Minneapolis, MN 55402-0903

MAILED

JAN 28 2008

TECHNOLOGY CENTER 2100

In re Application of:
Kahren TEVOSYAN et al.
Appl. No.: 10/993,745
Filed: November 19, 2004
For: DATA TRANSFER USING HYPER-TEXT TRANSFER PROTOCOL (HTTP) QUERY STRINGS

DECISION ON PETITION
UNDER 37 CFR § 1.59

This is a decision on the petition under 37 CFR § 1.59(b), filed on 15 January 2008, to expunge information submitted pursuant to MPEP § 724.05.

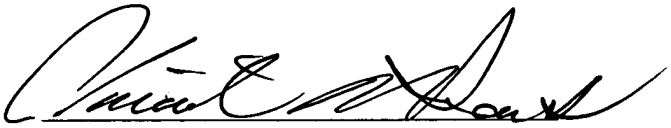
The petition is **DISMISSED**.

Petitioner requests that the information submitted on 15 January 2008 be expunged from the record if found not to be important to a reasonable examiner in deciding whether to allow the application to issue as a patent. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The petition is premature because the application has not been allowed or abandoned. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material," with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the petition to expunge must be dismissed at this time.

During prosecution on the merits, the examiner will determine whether or not the information submitted on 15 January 2008 is considered to be "material." Once prosecution on the merits is closed, applicant may re-submit a petition to expunge the information. No further fee is required for such a second submission of a petition under 37 CFR § 1.59 to expunge information. If the information is not considered by the examiner to be material, the information will be expunged from the application and may be returned to applicant.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.



Vincent N. Trans, SPRE/QAS
Technology Center 2100
Computer Architecture, Software, and
Information Security

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.
10/993,745	11/19/2004	Kahren Tevosyan	14917.519US01	3068

27488 7590 03/08/2010

MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

EXAMINER	
MCNALLY, MICHAEL S	
ART UNIT	**PAPER NUMBER**
2436	

MAIL DATE	DELIVERY MODE
03/08/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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MAR 08 2010

DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

Rene A. Pereya
MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

In re Application of: TEVOSYAN, K., et. al.
Application No. **10/993,745**
Filed: November 18, 2004
Atty Docket No.: 14917.519US01
Title of Invention: DATA TRANSFER USING HYPER-TEXT TRANSFER PROTOCOL (HTTP) QUERY STRINGS

DECISION ON PETITION FOR EXPUNGING INFORMATION UNDER UNDER 37 CFR § 1.59

This is a decision on the renew petition under 37 CFR § 1.59(b), filed on February 09, 2010, to expunge information from the above identified application.

The petition is **GRANTED**.

Petitioner requests that the information listed in Exhibit A, submitted on January 15 2008, be expunged from the record. Petitioner states that the information contains proprietary material and/or material that is subjected to a protective order which has not been made public. The petition fee set forth in 37 CFR 1.17(g) has been paid.

The information in question has been determined by the undersigned to not be material to the examination of the instant application. Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application. The expunged material has been destroyed, the artifact folder closed and therefore the material will not be returned.

Any inquiry regarding this decision should be directed the undersigned whose telephone number is (571) 272-3902.

/Beatriz Prieto/

Beatriz Prieto, Quality Assurance Specialist
Technology Center 2400
Network, Multiplexing, Cable and Security

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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FULWIDER PATTON LLP
HOWARD HUGHES
6060 CENTER DRIVE, TENTH FLOOR
LOS ANGELES, CA 90045

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FEB 2 2 2008

OFFICE OF PETITIONS

In re Application of	:	
Charles COHEN, et al	:	
Application No. 10/993,749	:	DECISION ON PETITION
Filed: November 19, 2004	:	TO WITHDRAW
Attorney Docket No. FACIL-68468	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed June 18, 2007.

The request is **NOT APPROVED**.

A review of the file record indicates that Ronald E. Perez 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 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: JEAN-PIERRE MURRAY
9595 WILSHIRE BOULEVARD
SUITE 502
BEVERLY HILLS, CA 90212

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www. uspto. gov

DAVID AKER
23 SOUTHERN ROAD
HARTSDALE, NY 10530

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MAY 22 2008

OFFICE OF PETITIONS

In re Application of :
Charles Cohen et al :
Application No. 10/993,749 : ON PETITION
Filed: November 19, 2004 :
Attorney Docket No. FACIL-68468 :

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 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.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2876 for further processing.

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 NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/993,749	11/19/2004	Charles Cohen	FACIL-68468

CONFIRMATION NO. 3064

DAVID AKER
23 SOUTHERN ROAD
HARTSDALE, NY 10530

POA ACCEPTANCE LETTER

OC00000030070782

Date Mailed: 05/21/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/11/2008.

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.

/idingle/

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

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Kenneth P. Glynn
GlynnTech, Inc.
24 Mine Street
Flemington NJ 08822

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JAN 0 4 2008

OFFICE OF PETITIONS

In re Application of :
Glynn, et al. :
Application No. 10/993,764 : ON PETITION
Filed: November 19, 2004 :
Attorney Docket No. GTI-107A

This is a decision on the petition under 37 CFR 1.137(a), filed December 13, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration or petition under 37 CFR 1.137(b) must be submitted within TWO (2) MONTHS from the mail date of this decision. Extension 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 above-identified application became abandoned for failure to reply to the Notice of Allowance and Issue Fee Due mailed May 31, 2007, which set a statutory period for reply of three (3) months from its mailing date. No response was received within the allowable period, and the application became abandoned on September 1, 2007. A Notice of Abandonment was mailed on September 26, 2007.

A grantable petition under 37 CFR 1.137(a)[1] must be accompanied by: (1) the required reply,[2] unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(1); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due

[1]As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

[2] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer required by 37 CFR 1.137(c).

The instant petition lacks item (1).

The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard.

"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. The Commissioner's interpretation of those provisions is entitled to considerable deference."[3]

"[T]he Commissioner's discretion cannot remain wholly uncontrolled, if the facts **clearly** demonstrate that the applicant's delay in prosecuting the application was unavoidable, and that the Commissioner's adverse determination lacked **any** basis in reason or common sense."[4]

"The court's review of a Commissioner's decision is 'limited, however, to a determination of whether the agency finding was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.'"[5]
"The scope of review under the arbitrary and capricious standard is narrow and a court is not to substitute its judgment for that of the agency."[6]

The standard

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[7]

---

[3]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, 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 Defence 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.")

[4]Commissariat A L'Energie Atomique et al. v. Watson, 274 F.2d 594, 597, 124 U.S.P.Q. (BNA) 126 (D.C. Cir. 1960) (emphasis added).

[5]Haines v. Quigg, 673 F. Supp. 314, 316, 5 U.S.P.Q.2d (BNA) 1130 (N.D. Ind. 1987) (citing Camp v. Pitts, 411 U.S. 138, 93 S. Ct.1241, 1244 (1973) (citing 5 U.S.C. §706 (2)(A)); Beerly v. Dept. of Treasury, 768 F.2d 942, 945 (7th Cir. 1985); Smith v. Mossinghoff, 217 U.S. App. D.C. 27, 671 F.2d 533, 538 (D.C. Cir.1982)).

[6]Ray v. Lehman, 55 F.3d 606, 608, 34 U.S.P.Q2d (BNA) 1786 (Fed. Cir. 1995) (citing Motor Vehicles Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 77 L.Ed.2d 443, 103 S. Ct. 2856 (1983)).

[7]Id.

The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[8] Nonawarness of a PTO rule will not constitute unavoidable delay.[9]

Application of the standard to the current facts and circumstances

In the instant petition, petitioner maintains that the circumstances leading to the abandonment of the application meet the aforementioned unavoidable standard and, therefore, petitioner qualifies for relief under 37 CFR 1.137(a). In support thereof, petitioner asserts that the prosecution of the application was reopened by the examiner after the mailing of the Notice of Allowance and Issue Fee Due effectively nullifying the Notice of Allowance and Issue Fee Due.

With regard to item (1) above, a successful petition under 37 CFR 1.137 requires that a proper response to the outstanding Office action accompany the petition. In this case, a proper response to the outstanding Office action would be payment of the issue and publication fees and the filing of Form PTOL-85(b)—the issue fee transmittal. It is noted that the prosecution in the application was reopened because the examiner determined that a double patenting rejection existed relative to U.S. Patent No. 7,222,755. It is further noted that the terminal disclaimer to overcome the double patenting rejection filed July 12, 2007, was approved on August 1, 2007. The undersigned contacted the examiner for further clarification as to whether the Notice of Allowance and Issue Fee Due should have been withdrawn. Examiner Jacyna appears to indicate that the Notice of Allowance and Issue Fee should have been withdrawn. Notwithstanding, the petition under 37 CFR 1.137(a) cannot be granted without a proper response to the Notice of Allowance and Issue Fee Due. The petition is dismissed, accordingly.

Before filing a renewed petition, petitioner should contact Examiner Jacyna to determine whether it is the intention of the Office to withdraw the Notice of Allowance and Issue Fee Due. If the it is determined that the Notice of Allowance and Issue Fee should be withdrawn, the most appropriate course of action would be to file a petition to withdraw the holding of abandonment under 37 CFR 1.181 based on the withdrawal of the Notice of Allowance and Issue Fee Due. If the Notice of Allowance and Issue Fee Due is not to be withdrawn, petitioner may file a renewed petition under 37 CFR 1.137(a) along with payment of the issue fee and publication fee.

Further correspondence with respect to this matter should be addressed as follows:

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[8]See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).

[9]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 nonawarness of PTO rules does not constitute "unavoidable" delay)). Although court decisions have only addressed the issue of lack of knowledge of an attorney, there is no reason to expect a different result due to lack of knowledge on the part of a pro se (one who prosecutes on his own) applicant. It would be inequitable for a court to determine that a client who spends his hard earned money on an attorney who happens not to know a specific rule should be held to a higher standard than a pro se applicant who makes (or is forced to make) the decision to file the application without the assistance of counsel.

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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FEB 28 2008

Kenneth P. Glynn
GlynnTech, Inc.
24 Mine Street
Flemington, NJ 08822

In re Application of :
Glynn, et al. :
Application No. 10/993,764 : ON PETITION
Filed: November 19, 2004 :
Attorney Docket No. GTI-107A

This is a decision on the renewed petition under 37 CFR 1.137(a), filed February 4, 2008, to revive the above-identified application.

The renewed petition is **GRANTED.**

The above-identified application became abandoned for failure to reply to the Notice of Allowance and Issue Fee Due mailed May 31, 2007, which set a statutory period for reply of three (3) months from its mailing date. No response was received within the allowable period, and the application became abandoned on September 1, 2007. A Notice of Abandonment was mailed on September 26, 2007. A petition under 37 CFR 1.137(a) was first filed on December 13, 2007, and dismissed by a decision mailed January 4, 2008.

The issue fee payment, publication fee, and Form PTOL-85b were received on February 4, 2008.

The file is now being forwarded to the Office of Patent Publications for further processing

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE - 10TH FLOOR
NEW YORK NY 10151

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AUG 30 2005

OFFICE OF PETITIONS

In re Application of :
Masao Katsumata et al :
Application No. 10/993,766 : ON PETITION
Filed: November 19, 2004 :
Attorney Docket No. 450100-04199.1 :

This is a decision on the petition, filed August 23, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 12, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2872 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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YOUNG & BASILE, P.C.
3001 WEST BIG BEAVER ROAD
SUITE 624
TROY, MI 48084

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JUL 06 2007

OFFICE OF PETITIONS

In re Application of :
Donald Staelens, et. al. :
Application No. 10/993,788 : ON PETITION
Filed: November 20, 2004 :
Attorney Docket No. BLI-100-A :

This is a decision on the petition under 37 CFR 1.137(b), filed on June 11, 2007, to revive the above-identified application.

The above application became abandoned for failure to file a proper reply to the final Office action mailed May 9, 2006. A Notice of Abandonment was mailed on January 12, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114, with the $395 filing fee and an amendment; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application is being revived for consideration of the RCE filed on June 11, 2007.

The Power of Attorney filed on June 11, 2007, has been accepted and made of record.

The application file is being referred to Technology Center Art Unit 3643.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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
10/993,788	11/20/2004	Donald Staelens	

CONFIRMATION NO. 2187

OC000000024685711

48980
YOUNG & BASILE, P.C.
3001 WEST BIG BEAVER ROAD
SUITE 624
TROY, MI 48084

Date Mailed: 07/05/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/11/2007.

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.

for Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
ATTORNEY/APPLICANT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Michael J. Bastian, Ph.D.
Lahive & Cockfield, LLP
28 State Street
Boston, Massachusetts 02109

MAILED

SEP 1 2 2005

Director's Office
Group 3700

In re Application of :
Edward Vincent Fabrizio :
Serial No. 10/993,795 : DECISION ON PETITION
Filed: November 19, 2004 : TO MAKE SPECIAL

For: ELECTRICAL TANKLESS WATER HEATER

Applicant's petition, filed November 19, 2004, 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/

Richard A. Bertsch
Technology Center 3700
571-272-3750

rt/ 9/8/05

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

ARTHUR J. YERMAN
436 MAHON DRIVE
VENICE, FL 34285

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JUL 11 2006
OFFICE OF PETITIONS

In re Application of :
Yerman, Arthur James :
Application No. 10/993,808 : ON PETITION
Filed: November 20, 2004 :
Title: ANTI-ACCIDENTAL, INJECTABLE DEVICE STICKS, NEEDLE SHIELD (ANTI-AIDS NEEDLE SHIELD) :

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 20, 2004, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes a statement from the applicant, Arthur J. Yerman. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3206. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 3763 for action on the merits commensurate with this decision.

Liana Chase
Petitions Examiner
Office of Petitions

OIPE
MAY 25 2005
JC101
PATENT & TRADEMARK OFFICE

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

May 20, 2005

In re the application of:

Pieter Schouten	Docket No. 502 P 021
Filed: 11/20/2004	Art Unit: N/A
Ser. No. 10/993,809	Examiner: N/A
For: Multifunctional Cleaning Device Having a Collapsible Handle	Confirmation No. 1459

PETITION TO MAKE SPECIAL

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The Applicant of the above reference application for patent respectfully petitions that the application receive advancement of examination pursuant to 37 C.F.R. 1.102(c) and MPEP 708.02 (II) by reason of infringement.

Applicant hereby affirms that:

(a) There is an infringing device actually on the market;

(b) A rigid comparison of the alleged infringing device with the claims of the application has been made and, in Applicants' opinion, some of the claims are unquestionably infringed; and

(c) Applicant has made a careful and thorough search of the prior art.

05/26/2005 AWONDAF1 00000026 10993809
01 FC:1464 130.00 OP

PETITION GRANTED

Richard Crispino
Special Program Examiner
Technology Center 1700
MAY 31 2005

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

MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

Mail Date: 04/21/2010

Applicant	: Sandip Ray	: DECISION ON REQUEST FOR
Patent Number	: 7598049	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/993,813	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/19/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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SEP 22 2009

OFFICE OF PETITIONS

In re Application of	:	
Zelig et al.	:	
Application No. 10/993,882	:	ON PETITION
Filed: November 19, 2004	:	
Attorney Docket No. 085738-000500US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 3, 2009, to revive the above-identified application.

The petition is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.34, the signature of Mr. Darin J. Gibby appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 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)(II)(A)(2). In view of the 3-month extension of time filed June 8, 2009, the date of abandonment of this application is June 11, 2009. A Notice of Abandonment was mailed July 21, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405, (2) the petition fee of $810, and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

This application is being referred to Technology Center AU 2419 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

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KATHY MANKE
AVAGO TECHNOLOGIES LIMITED
4380 ZIEGLER ROAD
FORT COLLINS CO 80525

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Kendra Gallup et al :
Application No. 10/993,894 :
Filed: November 18, 2004 :
Attorney Docket No. 10030807-5 :

This is a decision on the petition, filed August 2, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 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) 272-3208.

The examiner of Technology Center AU 2812 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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KATHY MANKE
AVAGO TECHNOLOGIES LIMITED
4380 ZIEGLER ROAD
FORT COLLINS CO 80525

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APR 1 8 2008

OFFICE OF PETITIONS

In re Application of	:	
Kendra Gallup et al	:	
Application No. 10/993,894	:	DECISION DISMISSING PETITION
Filed: November 18, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 10030807-5	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 14, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED AS MOOT**.

Unfortunately, the petition was not referred to the appropriate deciding official for decision until after the issuance of this application into a patent. However, petitioner's attention is directed to 37 CFR 1.313(d), which states:

> A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**. (Emphasis added)

In this case, the petition was not received in the Office of Petitions for consideration until April 16, 2008. Therefore, as the case has now issued, the petition to withdraw from issue cannot be granted.

The request for continued examination (RCE) filed concurrently with the petition is improper in view of the issuance of this application into a patent and will not be processed. Accordingly, the $810 filing fee and the $130 petition fee submitted are unnecessary and will be refunded in due course.

The Information Disclosure Statement has been made of record in the file of the above-identified application without further consideration. *See* 37 CFR 1.97(i).

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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PROTEUS PATENT PRACTICE LLC
P.O. BOX 1867
NEW HAVEN, CT 06508

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OFFICE OF PETITIONS

In re Application of Blander et al. :
Application No. 10/993,903 : Decision on Petition
Filing Date: November 19, 2004 :
Attorney Docket No. 417-01B :

This is a decision on the petition under 37 CFR 1.137(b), filed August 6, 2008 to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a proper manner to the final Office action mailed November 15, 2007, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on February 16, 2008. A Notice of Abandonment was mailed on July 10, 2008.

The instant petition requests revival of the application.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

(1) the reply required to the outstanding Office action or notice, unless previously filed,
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Petitioner has submitted a reply to the final Office in the form of a Request for Continued Examination and submission. Petitioner has submitted the required petition fee of $1,540. Petitioner has stated the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

Technology Center Art Unit 1633 will be informed of the instant decision and the application will be further examined in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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MAY 10 2010

OFFICE OF PETITIONS

In re Application of	:	
Gil BLANDER, et al.	:	
Application No. 10/993,903	:	DECISION ON PETITION
Filed: November 19, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. **407-01B**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 22, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, July 21, 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 22, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 1633 for appropriate action by the Examiner in the normal course of business on the reply received January 22, 2010.

Thurman K. Page
Petitions Examiner
Office of Petitions

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HONEYWELL/FOGG
Patent Services
101 Columbia Road
P.O Box 2245
Morristown, NJ 07962-2245

Mail Date: 04/20/2010

Applicant	: Philip J. Zumsteg	: DECISION ON REQUEST FOR
Patent Number	: 7630390	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/993,911	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/19/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1279** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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101 Columbia Road
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Morristown, NJ 07962-2245

Mail Date: 04/20/2010

Applicant	: Brendan Hall	: DECISION ON REQUEST FOR
Patent Number	: 7649835	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/993,931	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/19/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1458** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN NJ 07962-2245

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OFFICE OF PETITIONS

In re Application of	:	
Hall et al.	:	DECISION ON APPLICATION
Application No. 10/993,932	:	FOR
Filed: November 19, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. H0009283-1633	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705," filed August 15, 2008. This paper was recently forwarded to the undersigned for consideration. Applicants request that the initial determination of patent term adjustment be corrected from six hundred seventy (670) days to six hundred seventy-eight (678) days.

The request for correction of the initial determination of patent term adjustment (PTA) is **GRANTED**.

The Office has updated the PALM screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is SIX HUNDRED SEVENTY-EIGHT (678) days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On May 16, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 670 days. On August 15, 2008, applicants timely[1] submitted an application for patent term adjustment (with required fee). Applicants dispute the reduction of 8 days associated with a supplemental response filed on April 3, 2008. Applicants contend that the paper was filed on March 12, 2008

[1] The Issue Fee payment was also received on August 15, 2008.

prior to the filing of a response on March 26, 2008, and thus, is not a supplemental response. Accordingly, applicants maintain that the reduction pursuant to 37 CFR 1.704(c)(8) is not warranted.

Applicants state that the above-indicated application is not subject to a terminal disclaimer.

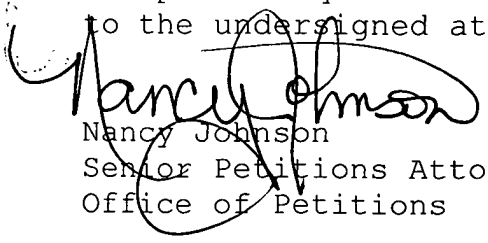
The calculation of patent term adjustment has been reviewed and it has been determined that with respect to the period of reduction of 8 days, applicants are correct. Entry of a period of reduction of 8 days pursuant to 37 CFR 1.704(c)(8), for the filing of a supplemental response on April 3, 2008, is not warranted. Applicants' contention that they did not file the response in this application on April 3, 2008 is not disputed. As no supplemental response was filed on April 3, 2008, the period of reduction of 8 days is being removed.

Given the removal of the period of reduction of 8 days, the correct determination of PTA at the time of the mailing of the notice of allowance is SIX HUNDRED SEVENTY-EIGHT (678) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Office of Data Management for issuance of the application. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of adjusted PALM calculation.

Day : Wednesday

PALM INTRANET

Date: 2/4/2009
Time: 13:59:19

PTA Calculations for Application: 10/993932			
Application Filing Date:	11/19/2004	PTO Delay (PTO):	692
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	22
Post-Issue Petitions:	0	Total PTA (days):	678
PTO Delay Adjustment:	8		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
53	02/04/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	8		
46	05/16/2008	MAIL NOTICE OF ALLOWANCE			
45	05/15/2008	DOCUMENT VERIFICATION			
44	05/15/2008	ISSUE REVISION COMPLETED			
43	05/15/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
42	05/12/2008	NOTICE OF ALLOWABILITY			
35	02/20/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
34	04/17/2008	DATE FORWARDED TO EXAMINER			
33	04/03/2008	SUPPLEMENTAL RESPONSE		8	31
32	04/17/2008	DATE FORWARDED TO EXAMINER			
31	03/26/2008	RESPONSE AFTER NON-FINAL ACTION		14	26
30	03/26/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
29	02/20/2008	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
28	02/20/2008	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
27	02/20/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
26	12/12/2007	MAIL NON-FINAL REJECTION	692		-1
25	12/10/2007	NON-FINAL REJECTION			
23	08/15/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
22	10/16/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
21	10/16/2007	ELECTRONIC INFORMATION DISCLOSURE			

		STATEMENT			
20	10/16/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	10/04/2007	CASE DOCKETED TO EXAMINER IN GAU			
18	08/13/2007	CASE DOCKETED TO EXAMINER IN GAU			
17	06/26/2007	CASE DOCKETED TO EXAMINER IN GAU			
16	03/22/2006	CASE DOCKETED TO EXAMINER IN GAU			
15	01/26/2006	CASE DOCKETED TO EXAMINER IN GAU			
14	08/15/2005	REFERENCE CAPTURE ON IDS			
13.7	08/15/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	08/15/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	07/01/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
11	07/01/2005	CASE DOCKETED TO EXAMINER IN GAU			
10	03/07/2005	APPLICATION RETURN FROM OIPE			
9	03/07/2005	APPLICATION RETURN TO OIPE			
8	03/07/2005	APPLICATION DISPATCHED FROM OIPE			
7	03/07/2005	APPLICATION IS NOW COMPLETE			
6	02/25/2005	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
5	02/25/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
3	12/16/2004	CLEARED BY OIPE CSR			
2	12/10/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	11/19/2004	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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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	: Brendan Hall	: DECISION ON REQUEST FOR
Patent Number	: 7606179	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/993,933	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/19/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1244** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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CHRISTENSEN O'CONNOR JOHNSON KINDNESS PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE WA 98101-2347

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AUG 27 2007

OFFICE OF PETITIONS

In re Application of	:
Sukigara, et al.	:
Application No. 10/993,934	:DECISION DISMISSING PETITION
Filed: November 19, 2004	:UNDER § 1.183
Attorney Docket No. SYIP124028	:

This is a combined decision on the "PETITION UNDER 37 C.F.R. § 1.183", filed December 28, 2006, to "waive the rules regarding correction of inventorship (37 C.F.R. § 1.48)".

The petition under 37 CFR 1.183 is **DISMISSED**.

Petitioner 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 Petitions Under 37 CFR 1.48(a) and 37 CFR 1.183" and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on November 19, 2004, without an oath or declaration or an ADS listing the inventors. On December 23, 2004, the Office mailed a Notice to File Missing Parts, requiring an executed oath or declaration. On March 23, 2005, applicants filed a declaration, listing two inventors. On May 9, 2005, applicants filed a Request for Corrected Filing Receipt, together with a new declaration, this time listing four inventors. The Office mailed a Response to Request for Corrected Filing Receipt, stating that the new declaration would not be entered because change of inventorship requires a petition under 37 CFR 1.183.

37 CFR 1.48(a) requires:

> (1) A request to correct the inventorship that sets forth the desired inventorship change;
>
> (2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the inventorship error occurred without deceptive intention on his or her part;
>
> (3) An oath or declaration by the actual inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43, or § 1.47;
>
> (4) The processing fee set forth in § 1.17(i); and
>
> (5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

Under 37 CFR 1.183, any requirement of the regulations, which is not a requirement of the statutes, may be waived by the Commissioner's designee in an extraordinary situation, when justice so requires. Waiver of the requirement is not yet appropriate in this instance. Petitioner has not provided a showing of why this is an extraordinary situation where justice requires waiver of the rules. Specifically, petitioner has not explained why he does not just file a petition under 37 CFR 1.48. Is one of the inventors unavailable to sign the statement required by 37 CFR 1.48(a)(2)?

Petitioner submitted $130 towards the petition under 37 CFR 1.183. Effective December 8, 2005, the fee for a petition under 37 CFR 1.183 was increased from $130 to $400. Accordingly, the $270 difference has been charged to Deposit Account No. 03-1740, as authorized.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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CHRISTENSEN O'CONNOR JOHNSON KINDNESS PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE WA 98101-2347

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OFFICE OF PETITIONS

In re Application of	:
Sukigara, et al.	:
Application No. 10/993,934	:DECISION DISMISSING PETITION
Filed: November 19, 2004	:UNDER § 1.183
Attorney Docket No. SYIP124028	:

This is a decision on "REQUEST FOR RECONSIDERATION OF PETITIONS UNDER 37 C.F.R. 1.48(a) AND 37 C.F.R. 1.183", filed September 6, 2007.

The petition under 37 CFR 1.183 is **DISMISSED** as moot.

The above-identified application was filed on November 19, 2004, without an oath or declaration or an ADS listing the inventors. On December 23, 2004, the Office mailed a Notice to File Missing Parts, requiring an executed oath or declaration. On March 23, 2005, applicants filed a declaration, listing two inventors. On May 9, 2005, applicants filed a Request for Corrected Filing Receipt, together with a new declaration, this time listing four inventors. On May 16, 2005, the Office mailed a Response to Request for Corrected Filing Receipt, stating that the new declaration would not be entered because change of inventorship requires a petition under 37 CFR 1.48. Applicants filed a petition under 37 CFR 1.183 on December 28, 2006. However, the petition was dismissed in a decision mailed on August 27, 2007. The decision explained that a petition under 37 CFR 1.183 was not appropriate, because applicants had a remedy - filing a petition under 37 CFR 1.48. Applicants had in fact filed a petition under 37 CFR 1.48 between the filing of 1.183 petition and the mailing of the decision, on June 19, 2007. The application subsequently issued into Patent No. 7,303,344 on December 4, 2007, listing the four inventors as requested in the Rule 48 petition.

As such, no further consideration is necessary.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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MAR 16 2006

SHELDON & MAK, INC
225 SOUTH LAKE AVENUE
9TH FLOOR
PASADENA CA 91101

In re Application of :
Harvey L. Deutsch :
Serial No.: 10/993,940 : DECISION ON PETITION
Filed: November 19, 2004 :
For: Method and Device for Cavity Obliteration

This is in response to the petition applicant filed on February 16, 2006 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 Frederick R. Schmidt by letter addressed to the Director, Technology Center 3700, P.O. Box 1450 Alexandria, VA 22313-1450, or by telephone at (571) 272-2975 or by facsimile transmission at (571) 273-8300.

Frederick R. Schmidt, Director
Technology Center 3700

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SCHLUMBERGER
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SUGAR LAND, TX 77478

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DEC 0 9 2009

OFFICE OF PETITIONS

In re Application of
Martin P. W. Jones, et al.
Application No. 10/993,952
Filed: November 19, 2004
Attorney Docket No.: I11.001

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed October 2, 2009.

The petition is GRANTED.

This application became abandoned for failure to timely pay the issue and publication fees on or before August 14, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed May 14, 2009. A Notice of Abandonment was mailed on September 9, 2009. In response, on October 2, 2009, the present petition was filed.

The petition is not signed by a registered attorney or agent of record. However, in accordance with 37 CFR 1.34(a), the signature of Mr. Stanislaus Aksman, appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the $1,510 issue fee and $300 publication fee, (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay[1].

The application is being referred to the Office of Data Management to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

UNITED STATES PATENT AND TRADEMARK OFFICE

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INTEL CORPORATION
C/O CPA GLOBAL
P.O. BOX 52050
MINNEAPOLIS, MN 55402

MAILED

MAR 30 2009

OFFICE OF PETITIONS

In re Application of	:	
Brandon Carl SMITH, et al	:	
Application No. 10/993,957	:	DECISION ON PETITION
Filed: March 16, 2005	:	
Attorney Docket No. 58268.00448	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 12, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before April 17, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed January 17, 2008, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on April 18, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the Issue Fee of $1510 and Publication Fee of $300; (2) the petition fee of $1620; and (3) the required statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

The application is being referred to the Office of Data Management for processing into a patent.

Thurman Page
Petitions Examiner
Office of Petitions

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MAR 12 2010

OFFICE OF PETITIONS

LIFE TECHNOLOGIES CORPORATION
C/O INTELLEVATE
P.O. BOX 52050
MINNEAPOLIS MN 55402

In re Application of :
Lori K. Hennessy et al. :
Application No. 10/993,960 : DECISION ON PETITION
Filed: November 19, 2004 :
Attorney Docket No. **BP0203-US** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 02, 2009, and supplemented on February 22, 2010, 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 April 28, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is July 29, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office Action of April 28, 2009 is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178

(October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

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 November 02, 2009 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being referred to Technology Center AU 1637 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: **VICTOR REPKIN**
5791 VAN ALLEN WAY
CARLSBAD CA 92008

UNITED STATES PATENT AND TRADEMARK OFFICE

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STEPHEN MICHAEL PATTON
P O BOX 381454
GERMANTOWN, TN 38183

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MAY 24 2006
OFFICE OF PETITIONS

In re Application of	:	
Michele A. Cash	:	
Application No. 10/993,992	:	DECISION ON PETITION
Filed: November 19, 2004	:	TO WITHDRAW
Attorney Docket No. 17722	:	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 17, 2006.

The request is **APPROVED**.

A review of the file record indicates that Stephen Michael Patton: (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, Stephen Michael Patton 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 correspondence address is not affected by the withdrawal of attorney of Stephen Michael Patton and the power of attorney in this application remains with Customer Number 37414. Accordingly, all future correspondence regarding this matter will continue to be held with the below-listed address of record.

A review of the file record discloses that an Office action (restriction requirement) was mailed on March 17, 2006 and a reply thereto was received on April 17, 2006. Accordingly, Technology Center AU 3612 will take appropriate action on the reply in the normal course of business.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

CNH America LLC
Intellectual Property Law Department
P O Box 1895, MS 641
New Holland, PA 17557

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1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

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APR 25 2008

OFFICE OF PETITIONS

In re Application of :
Dmitri E. NIKONOV et al :
Application No. 10/994,021 : DECISION ON PETITION
Filed: 11/19/2004 :
Attorney Docket No. 042390.P13380C :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed 12/28/2007, 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 6/22/2007, as required by the Notice of Allowance and Fee(s) Due, mailed 3/22/2007. Accordingly, the date of abandonment of this application is 6/23/2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1440 and the publication fee of $300, (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Quyen Leung at (571) 272-6051 or, in her absence, the undersigned at (571) 272-7099.

This application is being referred to Publishing Division for processing into a patent.

David A. Bucci
Petitions Examiner
Office of Petitions

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MEREDITH & KEYHANI, PLLC
330 MADISON AVE.
6TH FLOOR
NEW YORK NY 10017

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DEC 19 2007

OFFICE OF PETITIONS

In re Application of :

Ferdinand Gustaff Christiaan et al. :
Application No. 10/994,032 : DECISION ON PETITION
Filed: November 17, 2004 : TO WITHDRAW
Attorney Docket No. 273-001 : 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 July 18, 2007.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because there remain less than 30 (thirty days) between the date of this decision and the maximum extendable time period for filing a response to the Office action mailed on July 2, 2007.

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, ***a new representative has been appointed***, do not meet any the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272- 2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Mr. Dr. J.L.van der Veer**
c/o Philips Intellectual Property & Standards
Prof. Holstlaan 6
building WAH
Eindhoven, 5656 AA
The Netherlands

PTO/SB/130 (03-08)
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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number

PETITION TO MAKE SPECIAL BASED ON AGE FOR ADVANCEMENT OF EXAMINATION UNDER 37 CFR 1.102(c)(1)

Application Information

Application Number	10/994,054	Confirmation Number	2155	Filing Date	2004-11-18
Attorney Docket Number (optional)	5828-1	Art Unit	3714	Examiner	MOSSER, Robert E
First Named Inventor	Sheldon F. Goldberg				
Title of Invention	NETWORK GAMING SYSTEM				

Attention: Office of Petitions

An application may be made special for advancement of examination upon filing of a petition showing that the applicant is 65 years of age, or more. No fee is required with such a petition. See 37 CFR 1.102(c)(1) and MPEP 708.02 (IV).

APPLICANT HEREBY PETITIONS TO MAKE SPECIAL FOR ADVANCEMENT OF EXAMINATION IN THIS APPLICATION UNDER 37 CFR 1.102(c)(1) and MPEP 708.02 (IV) ON THE BASIS OF THE APPLICANT'S AGE.

A grantable petition requires one of the following items:
(1) Statement by one named inventor in the application that he/she is 65 years of age, or more; or
(2) Certification by a registered attorney/agent having evidence such as a birth certificate, passport, driver's license, etc. showing one named inventor in the application is 65 years of age, or more.

Name of Inventor who is 65 years of age, or older

Given Name	Middle Name	Family Name	Suffix
Sheldon	F.	Goldberg	

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18.
Please see 37 CFR 1.4(d) for the format of the signature.

Select (1) or (2) :

○ (1) I am an inventor in this application and I am 65 years of age, or more.

◉ (2) I am an attorney or agent registered to practice before the Patent and Trademark Office, and I certify that I am in possession of evidence, and will retain such in the application file record, showing that the inventor listed above is 65 years of age, or more.

Signature	/Dennis J. Dupray/	Date (YYYY-MM-DD)	2008-03-06
Name	Dennis J. Dupray	Registration Number	46299

PTO/SB/130 (03-08)
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 contains a valid OMB control number

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 Fr eedom 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 indivi duals.

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 AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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In re Application of
Sheldon F. Goldberg

Application No. 10994054

Filed: November 18,2004

Attorney Docket No. 5828-1

:DECISION ON PETITION TO MAKE SPECIAL
:UNDER 37 CFR 1.102(c)(1)

This is a decision on the electronic petition under 37 CFR 1.102 (c)(1) ,filed 06-MAR-2008 to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1), MPEP § 708.02, Section IV: Applicant's Age must include a statement by applicant or a registered practitioner having evidence that applicant is at least 65 years of age. No fee is required.

Accordingly, the above-identified application has been accorded “special” status and will be taken up for action by the examiner upon the completion of all pre-examination processing.

Telephone inquires concerning this electronic decision should be directed to the Electronic Business Center at 866-217-9197.

All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Wilson Daniel Swayze, Jr.
3804 Clearwater Ct
Plano TX 75025

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JUN 29 2009

OFFICE OF PETITIONS

In re Application of	:	
Robert Indech.	:	
Application No. 10/994,121	:	ON PETITION
Filed: November 19, 2004	:	
Attorney Docket No. WDS-270	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 30, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed June 9, 2008, which set a shortened statutory period for reply of one (1) month. No extensions of time under provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 10, 2008.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an election; (2) the petition fee of $810; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Restriction/Election of June 9, 2008 is accepted as having been unintentionally delayed.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

Telephone inquiries concerning this decision should be directed to Ron Abelson at (571) 272- or in his absence, the undersigned at (571) 272-7099.

Application No. 10994121

The application file is being referred to Technology Center AU 1792 for appropriate action on the concurrently filed amendment.

/David Bucci/
Petitions Examiner
Office of Petitions

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CRYSTAL CENTER 2, SUITE 522
2461 SOUTH CLARK STREET
ARLINGTON, VA 22202-3843

Mail Date: 05/20/2010

Applicant	: Ehud Cohen	: DECISION ON REQUEST FOR
Patent Number	: 7628750	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/994,125	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/19/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1240** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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LAW OFFICES OF KARL HORMANN
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CAMBRIDGE MA 02238-1516

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OFFICE OF PETITIONS

In re Application of
Michels, et al. :
Application No. 10/994,127 : DECISION ON
Filed: November 19, 2004 : PETITION
Attorney Docket No. 040663-US :

This is in response to the papers titled "Petition for Revival of Application under 37 CFR 1.8(b)", filed May 15, 2006, which is being treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181.

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 reply to the non-final Office action mailed May 4, 2005. No response having been received, the above-identified application became abandoned on August 5, 2005. A Notice of Abandonment was mailed on December 13, 2005.

Petitioner has supplied a copy of an Amendment, bearing a Certificate of Transmission under 37 CFR 1.8 dated July 27, 2005.

In view of the above, the holding of abandonment is withdrawn.

Given the basis for granting this petition, no petition fee was required.

The application file is being forwarded to Group Art Unit 1746 for consideration of the Amendment filed May 15, 2006 (Certificate of Mailing dated July 27, 2005), a copy of which has been supplied with the instant petition.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

MANATT PHELPS AND PHILLIPS
ROBERT D. BECKER
1001 PAGE MILL ROAD, BUILDING 2
PALO ALTO CA 94304

In re Application of :

TINSLEY, Jeffrey et al. :
Application No. 10/994,128 : DECISION ON PETITION
Filed: November 19, 2004 : TO WITHDRAW
Attorney Docket No. **26271-030** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 02, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Pamela Merkadeau on behalf of all attorneys of record who are associated. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **JEFFREY TINSLEY**
161 ASHDALE PLACE
LOS ANGELES, CA 90049

cc: **DANIEL M. CISLO**
CISLO & THOMAS LLP
233 WILSHIRE BOULEVARD – SUITE 900
SANTA MONICA, CA 90401-1211

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FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

In re Application of :
Damian Fiolka et al :
Application No. 10/994,141 : ON PETITION
Filed: November 19, 2004 :
Attorney Docket No. 18239-004001/9486.0 :

This is a decision on the petition, filed February 13, 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 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) 272-3208.

The examiner of Technology Center AU 2851 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20081027

DATE : October 27, 2008

TO SPE OF : ART UNIT 2851

SUBJECT : Request for Certificate of Correction on Patent No.: 7,408,622

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:

/DIANE I LEE/
Supervisory Patent Examiner.Art Unit 2851

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Shelby J. Walker
ZymoGenetics, Inc.
1201 Eastlake Avenue East
Seattle WA 98102

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OFFICE OF PETITIONS

In re Application of :
November 19, 2004 :
Application No. 10/994,151 : DECISION ON PETITION
Filed: November 19, 2004 :
Attorney Docket No. 04-17 :

This is a decision on the petition, filed June 3, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely submit a reply to the final Office action on or before December 20, 2007 as required by the final Office action, mailed September 20, 2007.

Petitioner asserts that the Office action dated September 20, 2007 was not received.

A review of the written record indicates no irregularity in the mailing of the Notice, and, in the absence of any irregularity, there is a strong presumption that the Notice was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. In this regard, the showing required to establish the failure to receive the Notice must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner. The statement should also describe the system used for recording an Office action received at the correspondence address of record and establish that the docketing system was sufficiently reliable;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the master docket for the firm docket record where the nonreceived Office action would have been entered had it been received must be attached to and referenced in the practitioner's statement. If no master docket exists, the practitioner should so state and provide other evidence such, as but not limited: to the application

file jacket, incoming mail log; calendar; reminder system or individual docket record for the application in question.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).
The petition 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.

The $130.00 petition fee is being refunded.

This application is being referred to the Technology Center technical support staff of Art Unit 1647 for re-mailing the Office action of September 20, 2007. The period for reply will run from the mailing date of the Office action.

Charlema Grant
Petitions Attorney
Office of Petitions

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HOWISON & ARNOTT, L.L.P
P.O. BOX 741715
DALLAS, TX 75374-1715

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JUL 30 2008

In re Application of
James D. Jones
Application No. 10/994,160
Filed: November 20, 2004
Attorney Docket No. GSAS-26,972

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 18, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by John J. Arnott on behalf of all attorneys of record who are associated with this application .

All attorneys/agents associated with this application have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There are no pending 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: JAMES D. JONES
2702 HILLCREST DRIVE
BAY CITY, TX 77414

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/994,160	11/20/2004	James D. Jones	GSAS-26,972

CONFIRMATION NO. 1941

POWER OF ATTORNEY NOTICE

25883
HOWISON & ARNOTT, L.L.P
P.O. BOX 741715
DALLAS, TX 75374-1715

OC000000031218589

Date Mailed: 07/28/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/18/2008.

- 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.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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OFFICE OF PETITIONS

In re Application	:	
Gunnerman, et al.	:	
Application No. 10/994,166	:	DECISION ON APPLICATION
Filed: November 18, 2004	:	FOR PATENT TERM ADJUSTMENT
Atty Docket No. 020839-001400US	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT CORRECTION (37 CFR 1.705)", filed July 5, 2007. Applicants requests that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from one hundred twenty-three (123) days to one hundred fifty-four (154) 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 **one hundred fifty-four (154) days.** A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On April 4, 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 one hundred twenty-three (123) days. On July 5, 2007, Applicants 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 one hundred fifty-four (154) days.

[1] Applicants filed the application for patent term adjustment together with payment of the issue fee. July 4, 2007 was a federal holiday. See 37 CFR 1.7(a).

Applicants assert entitlement to a patent term adjustment of one hundred fifty-four (154) days on the basis that the PTO improperly assessed Applicants a delay of thirty-one (31) days for filing a supplemental reply on November 16, 2006. Applicants assert that they did not file a supplemental reply on that date.

Applicants state that the patent issuing from the application is not subject to a terminal disclaimer.

The Office initially determined a patent term adjustment of one hundred twenty-three (123) days based on an adjustment for PTO delay of one hundred fifty-four (154) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by Applicants' delay of thirty-one (31) days pursuant to 35 U.S.C. 154(b)(2)(C)(i) and 37 C.F.R. § 1.704(c)(8). The adjustment of thirty-one (31) days is at issue.

The adjustment of thirty-one (31) days has been found to be incorrect. A review of the file reveals that no terminal disclaimer was filed on November 16, 2006. Rather, the terminal disclaimer was filed with the response to the Office action on October 16, 2006. Accordingly, applicants should not have been assessed applicant delay of thirty-one (31) days for filing a supplemental response pursuant to 37 C.F.R. § 1.704(c)(8).

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **one hundred fifty-four (154)** days (154 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.

The matter is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this decision 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

PTA Calculations for Application: 10/994166			
Application Filing Date:	11/18/2004	PTO Delay (PTO):	154
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	31
Post-Issue Petitions:	0	Total PTA (days):	154
PTO Delay Adjustment:	31		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
42	08/24/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	31		
35	04/04/2007	MAIL NOTICE OF ALLOWANCE			
34	04/02/2007	ISSUE REVISION COMPLETED			
33	04/02/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
32	03/29/2007	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
31	03/29/2007	DOCUMENT VERIFICATION			
30	03/28/2007	NOTICE OF ALLOWABILITY			
29	02/26/2007	DATE FORWARDED TO EXAMINER			
28	02/05/2007	RESPONSE AFTER NON-FINAL ACTION			
27	01/17/2007	MAIL NON-FINAL REJECTION			
26	01/08/2007	NON-FINAL REJECTION			
25	11/22/2006	PARALEGAL TD ACCEPTED			
24	11/16/2006	TERMINAL DISCLAIMER FILED		31	22
23	11/01/2006	DATE FORWARDED TO EXAMINER			
22	10/16/2006	RESPONSE AFTER NON-FINAL ACTION			
21	09/26/2006	MAIL NON-FINAL REJECTION			
20	09/18/2006	NON-FINAL REJECTION			
19	07/07/2006	DATE FORWARDED TO EXAMINER			
18	06/30/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
17	06/21/2006	MAIL RESTRICTION REQUIREMENT	154		-1
16	06/19/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
15	04/14/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
14	07/05/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			

13	07/05/2005	CASE DOCKETED TO EXAMINER IN GAU			
12	04/14/2005	REFERENCE CAPTURE ON IDS			
11	04/14/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	04/04/2005	APPLICATION DISPATCHED FROM OIPE			
9	04/04/2005	APPLICATION IS NOW COMPLETE			
8	03/25/2005	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
7	03/25/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
4	03/10/2005	CLEARED BY L&R (LARS)			
3	12/17/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
2	12/05/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	11/18/2004	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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OFFICE OF PETITIONS

In re Application of :
Alberto Manzone et al :
Application No. 10/994,184 : DECISION ON PETITION
Filed: November 22, 2004 : TO WITHDRAW
Attorney Docket No. 4235.421 : FROM RECORD
:

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).

Thomas P. Liniak has been withdrawn as attorney or agent of record; all other attorneys remain of record.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

David Bucci
Petitions Examiner
Office of Petitions

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GARRETT & DUNNER, LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

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OFFICE OF PETITIONS

In re Application of :
Claude Leclerc, et al. :
Application No. 10/994,191 : DECISION ON PETITION
Filed: November 22, 2004 : TO WITHDRAW
Attorney Docket No. 03495.0326-00 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed September 24, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Deborah Katz on behalf of herself.

All other attorney/agents remain of record.

The correspondence address of record remains unchanged.

There are no pending 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

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WEINGARTEN, SCHURGIN, GAGNEBIN & LEBOVICI LLP
TEN POST OFFICE SQUARE
BOSTON, MA 02109

Mail Date: 04/26/2010

Applicant	: Laurent Soulie	: DECISION ON REQUEST FOR
Patent Number	: 7658062	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/994,192	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/19/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **831** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OFFICE OF PETITIONS

In re Patent No. 7293615 :
Issue Date: 11/13/2007 :
Application Number: 10/994200 : NOTICE
Filing or 371(c) Date: 11/22/2004 :
Attorney Docket Number: 64385/14 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3231.

DWood

Douglas I. Wood
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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FINNEGAN HENDERSON FARABOW GARRETT & DUNNER, LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

COPY MAILED

MAR 28 2008

OFFICE OF PETITIONS

In re Application of :
DADAGLIO, et al. :
Application No. 10/994,204 : DECISION ON PETITION
Filed: November 22, 2004 : TO WITHDRAW
Attorney Docket No. **03495.0327-00000** : FROM RECORD
:

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 24, 2007.

The request is **APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Deborah Katz. Deborah Katz 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 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, VA 22313-1450
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WilmerHale/Columbia University
399 PARK AVENUE
NEW YORK NY 10022

MAILED

NOV 10 2009

OFFICE OF PETITIONS

In re Application of	:	
Im et al.	:	ON APPLICATION FOR
Application No. 10/994205	:	PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 11/18/2004	:	AND REQUEST FOR
Attorney Docket Number: 0019240.00293US1	:	RECONSIDERATION

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT AND REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §§ 1.702-1.705, filed July 30, 2009. Applicant submits that the correct patent term adjustment to be indicated on the patent is 451 days, not 184 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file a request for reconsideration of patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

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 file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

The 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.

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

Telephone inquiries specific to this decision should be directed to Attorney Derek Woods at (571) 272-3232.

/ALESIA M. BROWN/

Alesia Brown
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

CC: Larissa Park
WILMER CUTLER PICKERING HALE AND DORR LLP
60 State Street
Boston, Massachusetts 02109

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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www.uspto.gov

WilmerHale/Columbia University
399 PARK AVENUE
NEW YORK, NY 10022

Mail Date: 05/12/2010

Applicant	: James S. Im	: DECISION ON REQUEST FOR
Patent Number	: 7645337	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/994,205	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/18/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **346** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ____

DATE 2/23/09

TO SPE OF : ART UNIT 3634

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/994210 Patent No.: 7179038B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the COCIN document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
703-308-9390 ext. 113
571 270 9892

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: Col 7 lines 50 and 55 - approved
Col 8 line 24 - approved

Katherine Mitchell 3634
SPE Art Unit

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

PTOL-306 (REV. 7/03)

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OFFICE OF PETITIONS

HARNESS, DICKEY & PIERCE
P.O. BOX 828
BLOOMFIELD HILLS MI 48303

In re Application of :
Tatsuo Nishimaki :
Application No. 10/994,214 : ON PETITION
Filed: November 19, 2004 :
Attorney Docket No. 9319S-000918 :

This is a decision on the petition, filed August 1, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 21, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2821 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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Paper No. _____

Date : August 2, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Tatsuo Nishimaki
Application No. :10/994,214
Filed :November 19, 2004

The above-identified application has been assigned Patent No. 7,092,264 and an issue date of August 15, 2006.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of August 15, 2006:

"All reference to Patent No. 7,092,264 to Tatsuo Nishimaki of Japan for POWER SOURCE DEVICE appearing in the Official Gazette of August 15, 2006 should be deleted since no patent was granted."

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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SHAWN HUNTER
P.O Box 270110
HOUSTON,TX 77277-0110

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MAR 31 2005

OFFICE OF PETITIONS

In re Application of :
Hamilton, et al. : DECISION REFUSING STATUS
Application No. 10/994,219 : UNDER 37 CFR 1.47(a)
Filed: November 19, 2004 :
Atty. Dkt. No.: 284-22499-USR :
For: MULTI-PURPOSE INJECTION :
AND PRODUCTION WELL SYSTEM :

This decision is in response to the petition under 37 CFR 1.47(a), filed March 1, 2005.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed November 19, 2004 without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed December 8, 2004 requiring, *inter alia*, an executed oath or declaration and a surcharge.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The instant petition fails to satisfy items (1), (2), and (4) set forth above.

As to item (1), petitioners allege that Kjell Revheim cannot be reached or located.

Petitioners have failed to establish that inventor Kjell Revheim cannot be reached or located. Petitioners state that the inventor is no longer employed by assignee. The extent of efforts to locate the non-signing inventor seem have been limited to querying employees of assignee who do not seem to know the current whereabouts of the non-signing inventor.

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).

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, 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 item (2), petitioners have failed to present a declaration in accordance with 37 CFR 1.63. The declaration presented with the instant petition is unacceptable. The declaration does not indicate the residence of each inventor. Robert Smith has failed to indicate his date of execution. Additionally, the declaration fails to identify the last known address of the non-signing inventor. Any renewed petition must be accompanied by a proper oath or declaration in full compliance with 37 CFR 1.63 and 37 CFR 1.64 or 37 CFR 1.76.

As to item (4), the petition fails to set forth the last known address of the non-signing inventor as required under 37 CFR 1.47.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 872-9306
By hand:	U.S. Patent and Trademark Office Customer Service Window Mail Stop Petition Randolph Building 401 Dulaney 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
ALEXANDRIA, VA 22313-1450
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OFFICE OF PETITIONS

SHAWN HUNTER
P.O Box 270110
HOUSTON,TX 77277-0110

In re Application of
Hamilton, et al.
Application No. 10/994,219
Filed: November 19, 2004
Atty. Dkt. No.: 284-22499-USR
For: MULTI-PURPOSE INJECTION AND PRODUCTION WELL SYSTEM

: DECISION DISMISSING STATUS
: UNDER 37 CFR 1.47(a)

This decision is in response to the renewed petition under 37 CFR 1.47(a) filed May 24, 2005.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed November 19, 2004 without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed December 8, 2004 requiring, *inter alia*, an executed oath or declaration and a surcharge. A petition under 37 CFR 1.47(a) was filed March 1, 2005 and dismissed March 31, 2005.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration 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 items (2) and (4) set forth above.

As to item (2), petitioners have failed to present a declaration in accordance with 37 CFR 1.63. The declaration presented with the instant petition is unacceptable. The declaration does not indicate the mailing address and residence of the non-signing inventor and there is no indication that this information has been submitted in the form of an application data sheet. Any renewed petition must be accompanied by a proper oath or declaration in full compliance with 37 CFR 1.63 and 37 CFR 1.64 or 37 CFR 1.76.

As to item (4), the petition fails to set forth the last known address of the non-signing inventor as required under 37 CFR 1.47.

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 Service Window Mail Stop Petition Randolph Building 401 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

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AUG 10 2005

OFFICE OF PETITIONS

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

In re Application of :
Li, et al. : DECISION DISMISSING STATUS
Application No. 10/994,219 : UNDER 37 CFR 1.47(a)
Filed: November 23, 2004 :
Atty. Dkt. No.: 9692-000032COA :
For: LITERATURE PIPELINE :

This decision is in response to the petition under 37 CFR 1.47(a) filed June 30, 2005.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed November 23, 2004 without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed December 30, 2004 requiring, *inter alia*, an executed oath or declaration and a surcharge.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The instant petition fails to satisfy items (1) and (2) set forth above.

As to item (1), petitioners have failed to establish that the each non-signing inventor received a complete copy of the

application papers (specification including claims, drawings, and oath or declaration) for U.S. App. No. 10/994,219, and thereafter refused to execute the declaration.

The petition references providing the non-signing inventors with a declaration and power of attorney.

Petitioners are reminded that before a refusal to sign an oath or declaration can be alleged, it must be demonstrated that a *bona fide* effort has been made to present a complete copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor at the non-signing inventor's last known address, typically a residential address.

Any renewed petition must establish that the non-signing inventor was presented with a complete copy of the application papers and thereafter refused to execute the oath or declaration.

The instant petition fails to satisfy (2) set forth above. Petitioners have failed to present a declaration in accordance with 37 CFR 1.63. The declaration presented with the instant petition is unacceptable as it contains alterations that have not been initialed. *See*, 37 CFR 1.52(c). Any renewed petition must be accompanied by a proper oath or declaration in full compliance with 37 CFR 1.63 and 37 CFR 1.64.

Further correspondence with respect to this matter should be addressed as follows:

By mail:
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile:
(571) 273-8300

By hand:
U.S. Patent and Trademark Office
Customer Service Window
Mail Stop Petition
Randolph Building
401 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

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OFFICE OF PETITIONS

SHAWN HUNTER
P.O Box 270110
HOUSTON,TX 77277-0110

In re Application of :
Hamilton, et al. : DECISION GRANTING STATUS
Application No. 10/994,219 : UNDER 37 CFR 1.47(a)
Filed: November 19, 2004 :
Atty. Dkt. No.: 284-22499-USR :
For: MULTI-PURPOSE INJECTION AND :
PRODUCTION WELL SYSTEM :

This decision is in response to the renewed petition under 37 CFR 1.47(a) filed August 15, 2005.

The petition is **GRANTED**.

Petitioner has shown that inventor Kjeli Einar Revheim either cannot be reached or located to execute the declaration or has refused to sign the declaration after having been presented with the application papers.

Thus, the above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Kjeli Einar Revheim
Hjerting Standvej 123
DK-6710 Esbjerg, Denmark

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SEP 09 2005

OFFICE OF PETITIONS

In re Application of :
Hamilton, et al. :
Application No. 10/994,219 : LETTER
Filed: November 19, 2004 :
Atty. Dkt. No.: 284-22499-USR :
For: MULTI-PURPOSE INJECTION AND :
PRODUCTION WELL SYSTEM :

Dear Sir:

You are named as an inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3205. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this matter should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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PO BOX 747
FALLS CHURCH VA 22040-0747

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SEP 22 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Kouichi SHIRAKAWA, et al.
Application Serial No.: 10/994,225
Filed: November 23, 2004
For: **DISK MEDIA, AND METHOD OF AND DEVICE FOR RECORDING AND PLAYING BACK INFORMATION ON OR FROM A DISK MEDIA**

DECISION
ON PETITION

This is a decision on the petition, filed on August 10, 2005 under 37 C.F.R. §1.181 requesting an expedited action on the merits. This petition has been considered a request to affirm that this application is under "special" status in accordance with 37 CFR 1.102.

Applicant states that the instant application has an effective pendency of more than five years inasmuch as it is a divisional of Application No. 10/011,284 (filed December 11, 2001), which is a divisional of Application No. 09/327,953 (filed June 8, 1999), which is a divisional of Application No. 08/887,929 (filed July 3, 1997), which is a divisional of Application No. 08/539,339 (filed October 4, 1995).

708.01 [R-2] List of Special Cases, states in part:
(I) Applications pending more than 5 years, including those which, by relation to a prior United States application, have an effective pendency of more than 5 years. See MPEP § 707.02. [emphasis added]

In accordance with MPEP section 708.01(I), applications pending over 5 years, including those which by relation to a prior United States application, should be considered special. This application by virtue of its prolonged pendency is already considered special in accordance with PTO policy.

Accordingly, the petition is **DISMISSED AS MOOT**.

The application is being forwarded to the examiner for expedited action in due course.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/20/08

TO SPE OF : ART UNIT 3671

SUBJECT : Request for Certificate of Correction on Patent No.: 7293376

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:

Applicant alleges that the amendment dated 10/20/06 has deleted lines 25-33 in column 3. However, it is clearly seen in this amendment that it fail to delete these lines (see line 13 of first page of amendments to the specification).

The change in column 7, line 48 has been approved.

Thomas B. Will
Supervisory Patent Examiner
Group 3600
SPE

3671
Art Unit

DO NOT ENTER.
/TAB/

In Column 3, Lines 25-33, after "assembly 106." delete "may extend between the swing frame 113 and the stick member 116. The stick member 116 may extend from the boom member 114 to the work implement 118. The work implement 118 may be connected to an end of the stick member 116. The work implement 118 may be, for example, a bucket or shovel for picking up and moving dirt and soil, but may be any other implement, as would be apparent to one skilled in the relevant art.".
(AMENDMENTS TO THE SPECIFICATION DATED OCTOBER 20, 2006, PAGE 2, LINE 14)

OK TO ENTER>
/TAB/

In Column 7, Line 48, delete "around" and insert - - ground - -, therefor.
(AMENDMENTS TO THE SPECIFICATION DATED OCTOBER 20, 2006, PAGE 3, LINE 14)

Publication
MAY 2 3 2008

22154 U.S. PTO
10/994235
112304

PATENT
1254-0263PUS1

IN THE U.S. PATENT AND TRADEMARK OFFICE

Applicant:	Taishi UMEZAWA, et al.	Conf.:
Appl. No.:	NEW	Group:
Filed:	November 23, 2004	Examiner:
For:	PLANT HAVING TOLERANCE TO ENVIRONMENTAL STRESS	

PETITION UNDER 37 C.F.R § 1.84(a)(2)
TO ACCEPT COLOR DRAWINGS AND/OR PHOTOGRAPHS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

November 23, 2004

Sir:

Applicant hereby petitions that color drawings under 37 C.F.R. § 1.84(a)(2) be accepted in the above-identified application.

OK
VHuynh
02/15/2006

Color drawings are necessary as they are the only practical medium by which the subject matter of the present application can be disclosed.

1. Fee Payment *(37 C.F.R. § 1.17(h))*:

   ☒ A check in the amount of $130.00 is enclosed.

   ☐ Please charge Deposit Account No. 02-2448 in the amount of $0.00. This form is submitted in triplicate.

2. Color Drawings

   Three (3) sets of color drawings are provided, and are believed to be of sufficient quality that all details

11/26/2004 HMARZI1 00000006 10994235
03 FC:1464 130.00 OP

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

SEP 14 2005

In re Application of		:	
Sheng-Chien Wang		:	
Serial No.	10/994,237	:	DECISION ON PETITION
Filed:	November 23, 2004	:	
For:	INFLATABLE DECORATIVE DEVICE	:	

This is a decision on the petition to make special filed on August 30, 2005. The petition is submitted pursuant to the practice established in MPEP § 708.02(II) "Infringement." The $130.00 petition fee has been received.

The petition is granted.

A review of the petition shows that petitioners have satisfied all of the requirements of the above-cited MPEP section. Accordingly, the examiner will treat this application as special throughout its prosecution. Prior to the first action on the merits, the examiner will conduct a rigorous search for potentially interfering applications. The interference search will be brought up to date prior to each successive action.

The Supervisory Patent Examiner of Patent Examining Art Unit 3725 will be notified of this decision, and will inform the assigned examiner to take action not inconsistent with this decision.

PETITION GRANTED.

Frederick R. Schmidt, Director
Technology Center 3700

Stuart I. Smith
Venable LLP
P.O. Box 34385
Washington, DC 20043-9998

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United States Patent and Trademark Office
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NOV 02 2006
OFFICE OF PETITIONS

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

In re Application of
Iori
Application No.10/994,252
Filed: November 23, 2004
Title of Invention: Alkylated Porphyrins as Pesticides Acting Both in the Presence and Absence of Light

ON PETITION

This is a decision on the petition filed August 31, 2006 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 application became abandoned for failure to timely submit a response to the non-final Office Action mailed September 7, 2005. The Notice set an extendable 3 month period for reply. No extensions of time pursuant to 37 CFR 1.136(a) were obtained. Accordingly, this application was held abandoned on December 8, 2005. A Notice of Abandonment was mailed on May 3, 2006.

Petitioner contends the unexpected blocking of Applicant's bank funds at HSBC bank resulted in the unavoidable abandonment of the above-identified application. Petitioner contends the inability to withdraw money from the HSBC account resulted in not being

able to pay for fees incurred during the prosecution of the application. To support petitioner's argument, petitioner has supplied a letter from HSBC. Although the account at HSBC remains blocked, applicant was able to gather funds to pay fees.

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 Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable, and

(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

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).

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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.

Petitioner's argument has been considered but it is deemed insufficient to establish unavoidable delay. A showing of unavoidable delay based upon financial difficulty must establish that petitioner lacked the financial resources to timely pay the fee at issue and to file a petition to revive. Such showing must establish that the financial condition of the petitioner during the entire period of the delay was such as to excuse the delay.[2] Petitioners should provide a showing of the responsible party's financial condition at the time, including income, expenses, assets, credit and obligations, which made the delay in submitting an amendment and petition unavoidable. The letter from HSBC alone is not sufficient. The Office questions whether applicant maintained employment during the time period in question.

A review of the record shows that this application was abandoned for failure to submit a response to the non-final office action. No additional fees were required for the submission of an amendment. To the extent applicant is referring to attorney fees, applicant's lack of fees to pay his attorney does not equate to unavoidable delay. Applicant can always prosecute an application *Pro Se.*

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]

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:

By mail: Mail Stop Petition

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[2] See Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (Comm'r Pat. 1891).

[3] See MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 873-8300

By delivery service: U.S. Patent and Trademark Office
(FedEx, UPS, DHL, etc.) Customer Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

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JAN 0 4 2007

OFFICE OF PETITIONS

In re Application of
Iori
Application No.10/994,252
Filed: November 23, 2004
Title of Invention: Alkylated Porphyrins as Pesticides Acting Both in the Presence and Absence of Light

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 28, 2006, to revive the above-identified application.

This application became abandoned for failure to timely submit a response to the non-final Office Action mailed September 7, 2005. The Notice set an extendable 3 month period for reply. No extensions of time pursuant to 37 CFR 1.136(a) were obtained. Accordingly, this application was held abandoned on December 8, 2005. A Notice of Abandonment was mailed on May 3, 2006. A petition filed under 37 CFR 1.181 was dismissed on November 2, 2006.

This petition is hereby **GRANTED**.

The Office hereby acknowledges the receipt of the amendment.

This application is being forwarded to Technology Center 1600 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

OIPE MAIL NOV 28 2006 PATENT & TRADEMARK OFFICE

PTO/SB/64 (09-06)
Approved for use through 03/31/2007. 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.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)	Docket Number (Optional) 4953-0105PUS2

First named inventor: Giuli IORI

Application No: 10/994,252-Conf. #5033 Art Unit: 1616

Filed: November 23, 2004 Examiner: A. N. Pryor

Title: ALKYLATED PORPHYRINS AS PESTICIDES ACTING BOTH IN THE PRESENCE AND ABSENCE OF LIGHT

MS Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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 any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee – required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity – fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☒ Other than small entity – fee $ 1,500.00 (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.

11/29/2006 MAHXED1 00000139 10994252
01 FC:1453 1500.00 OP

OIPE
NOV 28 2006
PATENT & TRADEMARK OFFICE

PTO/SB/64 (09-06)
Approved for use through 03/31/2007. 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.

3. Terminal disclaimer with disclaimer fee

[x] 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))]. **Additional Comments are attached.**

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.

James T. Eller, Jr.
Signature

NOV 28 2006
Date

James T. Eller, Jr.
Typed or printed name

39,538
Registration Number, if applicable

BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road
Suite 100 East
P.O. Box 747
Falls Church, Virginia 22040-0747
Address

(703) 205-8000
Telephone Number

Enclosures:
[x] Fee Payment
[x] Reply
[ ] Terminal Disclaimer Form
[x] Additional sheets containing statements establishing unintentional delay
[ ] Other: _____

OIPE MAP47 NOV 28 2006 PATENT AND TRADEMARK OFFICE

DAC

PTO/SB/17 (07-06)
Approved for use through 01/31/2007. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no person are required to respond to a collection of information unless it displays a valid OMB control number.

Effective on 12/08/2004.
Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

FEE TRANSMITTAL
For FY 2006

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT ($) 1,500.00

Complete if Known	
Application Number	10/994,252-Conf. #5033
Filing Date	November 23, 2004
First Named Inventor	Giuli IORI
Examiner Name	A. N. Pryor
Art Unit	1616
Attorney Docket No.	4953-0105PUS2

METHOD OF PAYMENT (check all that apply)

☒ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): _____

☐ Deposit Account Deposit Account Number: 02-2448 Deposit Account Name: Birch, Stewart, Kolasch & Birch, LLP

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, **except for the filing fee**

☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☒ Credit any overpayments

FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

	FILING FEES		SEARCH FEES		EXAMINATION FEES		
Application Type	Fee ($)	Small Entity Fee ($)	Fee ($)	Small Entity Fee ($)	Fee ($)	Small Entity Fee ($)	Fees Paid ($)
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description	Fee ($)	Small Entity Fee ($)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180

Total Claims	Extra Claims	Fee ($)	Fee Paid ($)
9	- 25 = _____	x _____	= _____

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims	Extra Claims	Fee ($)	Fee Paid ($)
2	- 3 = _____	x _____	= _____

HP = highest number of independent claims paid for, if greater than 3.

Multiple Dependent Claims	
Fee ($)	Fee Paid ($)

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is $250 ($125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee ($)	Fee Paid ($)
_____ - 100 =	_____ /50	_____ (round up to a whole number) x	_____	= _____

4. OTHER FEE(S) Fees Paid ($)

Non-English Specification, $130 fee (no small entity discount)

Other (e.g., late filing surcharge): 1453 Petition to revive unintentionally abandoned ... 1,500.00

SUBMITTED BY

Signature	James T. Eller Jr.	Registration No. (Attorney/Agent)	39,538	Telephone	(703) 205-8000
Name (Print/Type)	James T. Eller, Jr.			Date	NOV 28 2006

JTE/CAM/kj

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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

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JUN 0 6 2008

OFFICE OF PETITIONS

In re Application of :
Michael S. Battaglia et al. :
Application No. 10/994,271 : DECISION ON PETITION
Filed: November 23, 2004 : TO WITHFRAW
Attorney Docket No. 317900US6 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR 1.36(b) filed October 31, 2007.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to the firm of Nixon & Vanderhye, PC has been revoked by the assignee of the patent application on March 21, 2008. Accordingly, the request to withdraw under 37 CFR 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Carl Friedman at 571-272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

Cc: OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 2/14/08

Paper No.: —

TO SPE OF : ART UNIT 2852

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/994297 Patent No: 7190915B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☐ **Approved**	All changes apply.
☒ **Approved in Part**	Specify below which changes do not apply.
☐ **Denied**	State the reasons for denial below.

Comments: The correction to "column 17: line 34, '750'" should be -- column 17: line 37, "750" --. As to "column 20: line 9, 'desribe'", it does not exist in line 9 nor in the paragraph that contains line 9.

Susan S. Lee for
DAVE GRAY SPE

2852
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

Mail Date: 04/20/2010

Applicant	: Beatrice Martin	: DECISION ON REQUEST FOR
Patent Number	: 7583691	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/994,305	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/23/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1315** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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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APR 10 2007

OFFICE OF PETITIONS

HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET, NY 11791

In re Application of :
Larry R. Stevens :
Application No. 10/994,328 : ON PETITION
Filed: November 23, 2004 :
Attorney Docket No. 669-144 :

This is a decision in response to the petition, filed October 16, 2006, 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 November 30, 2005. A Notice of Abandonment was mailed on July 14, 2006. In response, on October 16, 2006, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,500; and (3) the requisite statement of unintentional delay.

The application is being referred to Technology Center AU 3711 for consideration of the amendment filed October 16, 2006.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : **March 31, 2008**

TO SPE OF : ART UNIT **1795**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/994344** Patent No.: **7229727 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
[redacted]

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [x] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: 1/5

SPE

1795
Art Unit

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

Ryan, Patrick

From: Newsome, Lamonte
Sent: Wednesday, June 10, 2009 3:40 PM
To: Siddiquee, Muhammad
Cc: Ryan, Patrick
Subject: 10994345

Paper No.: _____

DATE : 6/10/09

TO SPE OF : ART UNIT 1795

SUBJECT : Request for Certificate of Correction for Appl. No.: 10994345 Patent No.: 7531266 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME

Certificates of Correction Branch

703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [X] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

SPE

1795
Art Unit

6/15/2009

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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LOUIS TESSIER
60 BALFOUR
T.M.R. QC H3P 1L6 CA CANADA

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AUG 3 1 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of
Denis Gagne
Application No. 10/994,347
Filed: November 23, 2004
Attorney Docket No.: **GagneDenis**

This is a decision on the petition filed April 17, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed March 28, 2005. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned June 29, 2005. Accordingly, the Notice of Abandonment was mailed October 19, 2005.

The petition fee in the amount of $750.00 has been applied.

This matter is being referred to Technology Center 3671 for appropriate action on the amendment filed April 17, 2006.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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ROBERT W. KOCHER
4828 3RD STREET NORTH
ARLINGTON, VA 22203

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FEB 28 2006

OFFICE OF PETITIONS

In re Application of	:	
Robert William Kocher et al	:	
Application No. 10/994,355	:	DECISION ON PETITION
Filed: November 23, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No.	:	37 CFR 1.102(c)(2)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(2)(iii), filed January 26, 2006, to make the above-identified application special based on the invention materially contributing to countering terrorism as set forth in M.P.E.P. § 708.02, Section XI.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(2)(iii) and MPEP § 708.02, Section XI: Inventions for Countering Terrorism, should state that special status is sought because the invention materially contributes to countering terrorism. International terrorism as defined in 18 U.S.C. 2331 includes:

> activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping...

If the disclosure it not clear on its face that the claimed invention is materially directed to countering terrorism, the petition must be accompanied by a statement by the applicant, assignee or a registered attorney/agent explaining how the materiality standard is met. The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems. No fee is required.

The USPTO's final rule amending 37 CFR 1.102(c)(2) states:

> The materially standard does not permit an applicant to speculate as to how a hypothetical end-user might specially apply the invention in a manner that could counter terrorism. Nor does such

> standard permit an applicant to enjoy the benefit of advance examination merely because some minor aspect of the claimed invention may be directed to countering terrorism...[Response to Comment 65] applicants should not expect to have their petitions granted without a clear demonstration that the claimed invention is materially related to countering terrorism. 69 Fed. Reg. 56511 (Sept. 21, 2004)

The instant petition fails to meet the criteria of "materially" contributing to countering terrorism as set forth above. The invention relates to the general art of wearing apparel, and to the particular field of protective body armor. While the invention may be beneficial to body armor protection, there is no "material" evidence that the invention actually "counters" terrorism as defined in 18 U.S.C. 2331 (repeated above). The petition to make special does not show that the invention materially contributes to countering terrorism. Therefore the petition does not rise to the level intended by the Rule.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to Irvin Dingle at 571-272-3210.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3765 for action in its regular turn.

David Bucci
Petitions Examiner
Office of Petitions

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Robert W. Kocher
4828 N. 3rd Street
Arlington, VA 22203

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In re Application of	:	
Robert William Kocher et al.	:	
Application No. 10/994,355	:	DECISION ON PETITION
Filed: November 23, 2004	:	
Attorney Docket No.	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 4, 2007, to revive the above-identified application.

The petition is **DISMISSED AS MOOT**.

A review of the record shows that the amendment filed on February 20, 2007, along with a two month extension of time, was filed within the maximum extendable time period of the non-final rejection mailed on August 18, 2006. Since this application is not considered abandoned, the petition is unnecessary.

Petitioner should note that the petition fee of $750 will be refunded by check.

This application is being referred to Technology Center Art Unit 3765 for mailing of a notice of Non-Compliant Amendment, since the amendment filed on February 20, 2007 is signed by only one of the two co-inventors.

Telephone inquiries concerning this decision should be directed to the Kimberly Inabinet at (571) 272-4618.

Carl Friedman
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON, DC 20004-2128

Mail Date: 04/26/2010

Applicant	: Shunpei Yamazaki	: DECISION ON REQUEST FOR
Patent Number	: 7605534	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/994,371	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/23/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **523** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Ronald D. Trice
PMB 138
2101 Crystal Plaza Arcade
Arlington, VA 22202-4600

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AUG 2 1 2006

OFFICE OF PETITIONS

In re Application of :
Stephen M. Kelly et al. :
Application No. 10/994,434 : DECISION ON PETITION
Filed: November 23, 2004 : TO WITHDRAW
Attorney Docket No. ZLX-HUL-004CIP : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 13, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Ronald D. Trice the sole attorney of record.

Ronald D. Trice has been withdrawn as attorney or agent of record.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor or the assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant.

There is no outstanding Office action at this time.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

David Bucci
Petitions Examiner
Office of Petitions

cc: Stephen M. Kelly
25 Richmond Way
Beverley, HU17 8XA
United Kingdom

cc: McKee, Voorhees & Sease
801 Grand Avenue
Suite 3200
Des Moines, IA 50309-2721

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POSZ LAW GROUP, PLC
12040 SOUTH LAKES DRIVE
SUITE 101
RESTON VA 20191

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OCT 2 9 2008

OFFICE OF PETITIONS

In re Application of :

BEZILLA, Daniel B. :
Application No. 10/994,484 :
Filed: November 23, 2004 :
Attorney Docket No. **57T-007** :

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 10, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Cynthia Nicholson on behalf of all attorneys of record who are associated with customer No. 23400. All attorneys/agents associated with the Customer Number 23400 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 at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **DANIEL B. BEZILLA**
144 STONE RIDGE ROAD
PHILIPSBURG PA 16866

cc: **SECURE ELEMENTS, INC.**
198 VAN BUREN STREET, SUITE 110
HERDON VA 20170

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F. CHAU & ASSOCIATES, LLC
130 WOODBURY ROAD
WOODBURY NY 11797

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MAR 1 4 2008

OFFICE OF PETITIONS

In re Application of
BURRELL, et al.
Application No. 10/994,494
Filed: November 20, 2004
Attorney Docket No. YOR920040211US1 (8728-696)

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 13, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 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) 272-7253.

This application is being referred to Technology Center AU 2823 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed 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.*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080410

DATE : April 10, 2008

TO SPE OF : ART UNIT 2117

SUBJECT : Request for Certificate of Correction on Patent No.: 7,237,165

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:

OK to insert the inventor on the title page of Patent No. 7,237,165.

SPE: /J.L.J./ Art Unit 2117

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
ATLANTA GA 30309

In re Application of	:
Helton et al.	: DECISION ON REQUEST FOR
Application No. 10/994,547	: RECONSIDERATION OF
Filed: November 22, 2004	: PATENT TERM ADJUSTMENT
Atty. Dkt. No. 52985-303683	:

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR 1.705(b)," filed on May 5, 2008. Applicants request that the initial determination of patent term adjustment be corrected from three hundred seventy-six (376) days to six hundred five (605) 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 SIX HUNDRED FIVE (605) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On February 13, 2008, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. Applicant was advised that the patent term adjustment to date was 376 days. The period of adjustment was 376 days of PTO delay and 0 days of applicant delay.

On May 5, 2008, the issue fee was paid. The subject petition was filed concurrently with the issue fee, and was therefore timely filed.

Applicants state that the subject application is not subject to a terminal disclaimer.

Applicants assert entitlement to additional patent term adjustment for office delay because the Office action mailed on February 2, 2007 was subsequently vacated, the holding of abandonment withdrawn, and a new Office action mailed on September 19, 2007.

Upon review, applicants' assertion is correct. The Office action mailed on September 19, 2007, states that the previous Office action is withdrawn because it was mailed in error. Further, the Office action states that the Office action mailed on February 2, 2007, was incorrect in that it appears that this Office action was directed to a different application and the application number on the Office action was in error. As such, this Office action did not reflect examination of this application. Under the circumstances, the period of adjustment under 35 U.S.C. § 154(b)(1)(A)(i) and 37 CFR 1.703(a)(1) is the period beginning 14 months after the date the application was filed on November 22, 2004, and ending on the date of mailing of the Office action mailed on September 19, 2007, or 605 days.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is SIX HUNDRED FIVE (605) days (605 days of PTO delay, reduced by 0 days of Applicant delay).

The $200.00 fee set forth in 37 CFR 1.18(e) has been received. This fee is required and will not be waived.

The Office of Patent Publication has been advised of this decision. The application is thereby forwarded to the Office of Patent Publication for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and if applicable, for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries regarding this matter should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Encl: Revised PAIR Calculation

PTA Calculations for Application: 10/994547			
Application Filing Date:	11/22/2004	PTO Delay (PTO):	376
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	605
PTO Delay Adjustment:	229		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
51	02/09/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	605		
50	02/09/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		376	
42	02/13/2008	MAIL NOTICE OF ALLOWANCE			
41	02/11/2008	ISSUE REVISION COMPLETED			
40	02/11/2008	DOCUMENT VERIFICATION			
39	02/11/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
38	02/11/2008	NOTICE OF ALLOWABILITY			
24	01/25/2008	DATE FORWARDED TO EXAMINER			
23	12/18/2007	RESPONSE AFTER NON-FINAL ACTION			
22	09/19/2007	MAIL SUPPLEMENTAL NON-FINAL ACTION			
21	09/14/2007	SUPPLEMENTAL NON-FINAL ACTION			
20	09/17/2007	MAIL NOTICE OF RESCINDED ABANDONMENT			
19	09/14/2007	NOTICE OF RESCINDED ABANDONMENT IN TCS			
18	08/27/2007	MAIL ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
17	08/24/2007	ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
16	02/02/2007	MAIL NON-FINAL REJECTION	376		-1
15	02/01/2007	NON-FINAL REJECTION			
14	02/16/2006	PRELIMINARY AMENDMENT			
13	02/16/2006	NEW OR ADDITIONAL DRAWING FILED			
12	04/21/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
11	04/21/2005	CASE DOCKETED TO EXAMINER IN GAU			
10	02/10/2005	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			

9	02/24/2005	APPLICATION RETURN FROM OIPE			
8	02/24/2005	APPLICATION RETURN TO OIPE			
7	02/24/2005	APPLICATION DISPATCHED FROM OIPE			
6	02/24/2005	APPLICATION IS NOW COMPLETE			
5	02/10/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
4	12/29/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	12/18/2004	CLEARED BY OIPE CSR			
2	12/03/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	11/22/2004	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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ATLANTA GA 30309

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OFFICE OF PETITIONS

In re Application of :
Helton et al. : DECISION ON REQUEST FOR
Application No. 10/994,547 : RECONSIDERATION OF
Filed: November 22, 2004 : PATENT TERM ADJUSTMENT
Atty. Dkt. No. 52985-303683 :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR 1.705(b)," filed on May 5, 2008. Applicants request that the initial determination of patent term adjustment be corrected from three hundred seventy-six (376) days to six hundred five (605) 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 SIX HUNDRED FIVE (605) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On February 13, 2008, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. Applicant was advised that the patent term adjustment to date was 376 days. The period of adjustment was 376 days of PTO delay and 0 days of applicant delay.

On May 5, 2008, the issue fee was paid. The subject petition was filed concurrently with the issue fee, and was therefore timely filed.

Applicants state that the subject application is not subject to a terminal disclaimer.

Applicants assert entitlement to additional patent term adjustment for office delay because the Office action mailed on February 2, 2007 was subsequently vacated, the holding of abandonment withdrawn, and a new Office action mailed on September 19, 2007.

Upon review, applicants' assertion is correct. The Office action mailed on September 19, 2007, states that the previous Office action is withdrawn because it was mailed in error. Further, the Office action states that the Office action mailed on February 2, 2007, was incorrect in that it appears that this Office action was directed to a different application and the application number on the Office action was in error. As such, this Office action did not reflect examination of this application. Under the circumstances, the period of adjustment under 35 U.S.C. § 154(b)(1)(A)(i) and 37 CFR 1.703(a)(1) is the period beginning 14 months after the date the application was filed on November 22, 2004, and ending on the date of mailing of the Office action mailed on September 19, 2007, or 605 days.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is SIX HUNDRED FIVE (605) days (605 days of PTO delay, reduced by 0 days of Applicant delay).

The $200.00 fee set forth in 37 CFR 1.18(e) has been received. This fee is required and will not be waived.

The Office of Patent Publication has been advised of this decision. The application is thereby forwarded to the Office of Patent Publication for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and if applicable, for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries regarding this matter should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Encl: Revised PAIR Calculation

PTA Calculations for Application: 10/994547			
Application Filing Date:	11/22/2004	PTO Delay (PTO):	376
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	605
PTO Delay Adjustment:	229		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
51	02/09/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	605		
50	02/09/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		376	
42	02/13/2008	MAIL NOTICE OF ALLOWANCE			
41	02/11/2008	ISSUE REVISION COMPLETED			
40	02/11/2008	DOCUMENT VERIFICATION			
39	02/11/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
38	02/11/2008	NOTICE OF ALLOWABILITY			
24	01/25/2008	DATE FORWARDED TO EXAMINER			
23	12/18/2007	RESPONSE AFTER NON-FINAL ACTION			
22	09/19/2007	MAIL SUPPLEMENTAL NON-FINAL ACTION			
21	09/14/2007	SUPPLEMENTAL NON-FINAL ACTION			
20	09/17/2007	MAIL NOTICE OF RESCINDED ABANDONMENT			
19	09/14/2007	NOTICE OF RESCINDED ABANDONMENT IN TCS			
18	08/27/2007	MAIL ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
17	08/24/2007	ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
16	02/02/2007	MAIL NON-FINAL REJECTION	376		-1
15	02/01/2007	NON-FINAL REJECTION			
14	02/16/2006	PRELIMINARY AMENDMENT			
13	02/16/2006	NEW OR ADDITIONAL DRAWING FILED			
12	04/21/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
11	04/21/2005	CASE DOCKETED TO EXAMINER IN GAU			
10	02/10/2005	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			

9	02/24/2005	APPLICATION RETURN FROM OIPE			
8	02/24/2005	APPLICATION RETURN TO OIPE			
7	02/24/2005	APPLICATION DISPATCHED FROM OIPE			
6	02/24/2005	APPLICATION IS NOW COMPLETE			
5	02/10/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
4	12/29/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	12/18/2004	CLEARED BY OIPE CSR			
2	12/03/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	11/22/2004	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to OASIS | Home page

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United States Patent and Trademark Office
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WALTER W. DUFT
SUITE 2
8616 MAIN STREET
WILLIAMSVILLE, NY 14221

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DEC 0 7 2006

OFFICE OF PETITIONS

In re Application of :
Wilson Greatbatch et al :
Application No. 10/994,565 : DECISION ON PETITION
Filed: November 22, 2004 : TO MAKE SPECIAL UNDER
Attorney Docket No. 1599-9 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 24, 2004, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement from Inventor Wilson Greatbatch stating 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 1745 for action on the merits commensurate with this decision.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Townsend and Townsend and Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

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MAY 12 2008

In re Application of :
James F. Zucherman et al. :
Application No. 10/994,595 : DECISION ON PETITION
Filed: November 22, 2004 : TO WITHDRAW
Attorney Docket No. 19433A-007310US : FROM RECORD
:

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 10, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Mark D. Barrish and all attorneys/agents associated with customer number 20350 has been revoked by the assignee of the patent application on January 14, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272- 4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Haynes and Boone, LLP
901 Main Street
Suite 3100
Dallas, TX 75202

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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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HUMAN GENOME SCIENCES INC.
INTELLECTUAL PROPERTY DEPT.
14200 SHADY GROVE ROAD
ROCKVILLE MD 20850

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AUG 0 1 2008

Applicant: Rosen
Appl. No.: 10/994,608
Filing Date: November 23, 2004
Title: HUMAN SECRETED PROTEINS
Attorney Docket No.: PS950D1
Pub. No.: 2007/0048297 A1
Pub. Date: March 1, 2007

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), received on May 1, 2007, 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 several tables have been omitted and there are errors in the continuity data.

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 in the publication with respect to the omitted table may be an Office mistake, but it is not a material mistake as required by 37 CFR 1.221(b). The error in the omitted table in the publication is not a material mistake because the application is a Division of U.S. Application 10/105,299 filed March 26, 2002, now U.S. Patent 7,368,527 and U.S. Patent Application Publication 2007/0032413 A1. Since, the parent application is published and contains the information printed correctly and additionally since this application is abandoned, the error does not affect the public's ability to appreciate the technical disclosure of the patent application

[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).

publication, to determine the scope of the patent application publication or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. The error also does not affect the use of the patent application publication as a prior art reference, because the continuity data is correctly published and the earlier publication has the best date as a reference. Furthermore, this is not a material error since the Image File Wrapper (IFW) for this application is available to the public, as of its publication date.

With respect to the errors in the benefit claim, it would greatly benefit the Office if applicant pointed out where the error occurs in the publication and where the correct text or drawing is found in the application papers. Marked up relevant copies of the applications papers and the pre-grant publication may facilitate processing of the request, where it is not readily apparent where the error occurs.

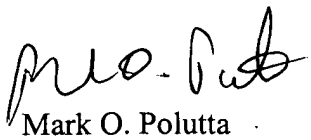
The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the 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, as a "Pre-Grant Publication" and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.



Mark O. Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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Commissioner for Patents
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DAVID J. DEVEAU
130 ELIZABETH AVE
WESTFIELD, MA 01085

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SEP 15 2008

OFFICE OF PETITIONS

In re Application of	:	
David J. DEVEAU	:	
Application No. 10/994,645	:	ON PETITION
Filed: November 23, 2004	:	
Attorney Docket No. DEVED01-UPA	:	

This is a decision on the petition under the unavoidable provisions of 37 CFR 1.137(a) and the unintentional provisions of 37 CFR 1.137(b), filed February November 26, 2007, to revive the above-identified application.

The petition under 37 CFR 1.137(a) is **DISMISSED as MOOT**.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, January 29, 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 30, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $770; and (3) the required statement of unintentional delay

The $255 unavoidable petition fee filed on November 26, 2007, will be refunded to petitioner by certified check, since the petition was dismissed.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center 3616 for further processing by the Examiner in the normal course of business.

Thurman Page
Petitions Examiner
Office of Petitions

OIPE
NOV 26 2007
PATENT & TRADEMARK OFFICE

PTO/SB/81 (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.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)

Docket Number (Optional)

First Named Inventor: DeVeau, David J.
Art Unit: 3616
Application Number: 10/994,645
Examiner: Wilhelm, Timothy D.
Filed: 11/23/2004
Title: Tethered Occupant Safety Cage For Transportation Vehicles

Adjustment date: 09/15/2008 CKHLOK
11/28/2007 TNGUYEN2 00000010 10994645
02 FC:2452 -255.00 OP

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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 any 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) Adequate showing of the cause of unavoidable delay.

1. Petition fee

☑ Small entity – fee $ 255 (37 CFR 1.17(l)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $_____ (37 CFR 1.17(l)).

2. Reply and/or fee

Refund Key:
09/15/2008 0030061163

A The reply and/or fee to the above-noted Office action in the form of Reply To Office Action (identify the type of reply).

Credit Card Refund Total: $255.00
VISA....: XXXXXXXXXXXX9640

☐ has been filed previously on _____.

☑ is enclosed herewith.

B The issue fee of $ _____

☐ has been filed previously on _____.

☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 8 hours 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.

11/28/2007 TNGUYEN2 00000010 10994645
02 FC:2452 255.00 OP

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)

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. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

David J DeVeau — Signature
11/23/2007 — Date

DAVID J. DEVEAU — Typed or printed name
Registration Number, if applicable

130 ELIZABETH AVE — Address
413-562-8136 — Telephone Number

WESTFIELD, MA 01085 — Address

Enclosure ☑ Fee Payment

☑ Reply

☐ Terminal Disclaimer Form

☑ Additional sheets containing statements establishing unavoidable delay

☐ _____

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.

11/26/2007 — Date

David J DeVeau — Signature

DAVID J. DEVEAU — Typed or printed name of person signing certificate

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 09/12/08

2 Serial/Patent # 10/503,942

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
X	Petition	PET.OP	11/26/07	$ 255.00
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 255.00

8 TO BE REFUNDED BY:

X ~~Treasury Check~~ C. C.

Credit Deposit A/C #:

9 [ ][ ]--[ ][ ][ ][ ]

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

No petition fee due, dismissed

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Diane Goodwyn TITLE: Paralegal

SIGNATURE: /dgoodwyn/ PHONE: 571-272-6735

OFFICE: Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: CKhlok DATE: 9/15/08

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:

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Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

6-17-2010

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Patent No. : 7,721,837 B1
Inventor(s) : DeVeau, David J.
Issued : May 25, 2010
Application No: 10/994,645

Re. Request for Certificate of Correction

Consideration has been given your request under the provisions of Rule 1.323.

Column 6, column 8, lines 62, 21 and 35 is printed in accordance with the record.

In view of the foregoing, your request is hereby denied.

Further correspondence concerning this matter, should be directed to:

U.S. Patent and Trademark Office
Washington, DC 20231
Attn: Decisions & Certificates of Correction Branch

Eva James
For Mary Diggs
Decisions & Certificate
of Correction Branch
(703) 756-1583 or 1580

David J. DeVeau
130 Elizabeth Ave
Westfield, MA 01085-1713

ej

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Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

112007

Robert E. Bushnell
1522 K street N.W., Suite 300
Washington, D.C. 20005

NOV 23 2007

In re Application of:
BYONG-GWON SONG et al.
Application Serial No.: 10/994,667
Filed: November 23, 2004
Title: SUPPORTING SPACERS OF ALL FLAT DISPLAY DEVICE

DECISION ON PETITION

This is a decision on the petition filed on November 17, 2006, which was renewed on May 29, 2007 requesting withdrawal of the requirement to label Figs. 1A – 3 as "Prior Art".

The petition is GRANTED.

A review of the record indicates that there is no indication in the disclosure that the subject matter of Figs. 1A-3 is expressly considered by the Applicant as "Prior Art". Hence, in keeping with the disclosure and petitioner's arguments, the examiner's requirement to label this figure as "Prior Art" is incorrect and withdrawn. **As a result of granting the petition, the drawings submitted on November 17, 2006 are unnecessary and not approved for entry. The drawings filed on November 23, 2004 are approved.**

Summary: The petition is Granted.

Robert Oberleitner, TC Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Robert M. ASHER
BROMBERG & SUNSTEIN LLP
125 Summer street
Boston, MA 02110-1618

MAILED

NOV 16 2006

Technology Center 2100

In re Application of:
J. Ian PERCIVAL
Appl. No.: 10/994,687
Filed: November 22, 2004
For: A METHOD AND SYSTEM FOR COHERENTLY CACHING I/O DEVICES ACROSS NETWORK

DECISION ON PETITION
UNDER 37 CFR 1.59

This is a decision on the petition under 37 CFR 1.59(b), filed on March 17, 2006 to expunge the Information submitted on March 17, 2006.

The petition is **GRANTED**.

Petitioner requests that the documents entitled "Deposition transcript of James Percival", "Technical Description of SuperCache VI.x Functionality", "DishMate Soft Disk Facilities for VAX/VMS, Version 1.0 (Beta)" and "SuperCache Driver – VAX/VMS Data Cacher dated 1992" submitted on March 17, 2006 be expunged from the record. Petitioner states that the information contains materials that are subject to a protective order and the information has not been otherwise made public. The petition fee set forth in 37 CFR 1.17(g) has been paid.

Applicant is required to retain the expunged material(s) for the life of any patent, which issues on the above-identified application.

The expunged material is returned herewith.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 12/11/06

Paper No.: —

TO SPE OF : ART UNIT 2812

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/994703 Patent No.: 7101724B2

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: _____

_____

_____

_____

_____

SPE 2812
SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

MAILED

MAY 06 2009

OFFICE OF PETITIONS

In re Patent No. 7,438,989	:	
KYOUICHI WATANABE	:	
Issue Date: October 21, 2008	:	DECISION ON REQUEST FOR
Application No. 10/944,708	:	RECONSIDERATION OF
Filed: September 21, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. 040302-0415	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705" filed November 11, 2008, requesting that the patent term adjustment determination for the above-identified patent be corrected from seven hundred thirty-six (736) days to one thousand sixty-five (1,605) days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On October 21, 2008, the above-identified application matured into Patent No. 7,438,989 with a patent term adjustment of 736 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).

Patentee requests 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). Patentee asserts 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." 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), 329 of 396 days, does not overlap with the 736-day period of adjustment due to examination delay, pursuant to 37 CFR 1.702(a), as these periods do not occur on

the same days. Thus, patentee requests that the determination of patent term adjustment be increased by 329 days to a total of 1,065 days.

The 396-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on September 21, 2004, and the patent having been issued on October 21, 2008, three years and 396 days later. Patentee asserts that in addition to this 396-day period, patentee is entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a) of 736 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). A nonfinal Office action was mailed November 27, 2007, 14 months and 736 days after the application was filed on September 21, 2004.

Under 37 CFR 1.703(f), patentee is 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 patentee failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, patentee is entitled to the period of Office delay reduced by the period of applicant delay. Patentee does not disagree with the period of reduction of zero (0) days for applicant delay.

Patentee does not dispute that the total period of Office delay is the sum of the period of Three Years Delay (396 days) and the period of Examination Delay (736 days) to the extent that these periods of delay are not overlapping. Patentee contends that 67 days of the period of delay of 736 days for the Office's failure 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 (November 22, 2005 to November 27, 2007) overlaps with the Three Year Delay period (September 22, 2007 to October 21, 2008). Patentee asserts that this overlapping period is the 67 days running from September 22, 2007 to October 21, 2008.

Accordingly, patentee submits that the total period of Office Delay is 1,065 days, which is the sum of the period of Three Year Delay (396 days) and the period of Examination Delay (736 days), reduced by the period of overlap (67 days). Thus,

patentee asserts entitlement to a patent term adjustment of 1,065 days (396 + 736 reduced by 67 overlap - 0 for applicant delay).

The Office agrees that the action detailed above was not taken within the specified time frame, and thus, the entry of period of adjustment of 736 days is correct. At issue is whether patentee should accrue 329 days of patent term adjustment (adjusted for overlap, per patentee's calculations) for the Office taking in excess of three years to issue the patent, as well as 736 days for Office failure to take certain actions within specified time frames (or examination delay).

The Office contends that 396 days overlap. 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).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of applicants. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding § 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than three-year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[1]

As such, the period for over three-year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application. It is incorrect to treat the relevant period as starting on September 21, 2007, the date that is three years after the actual 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

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[1] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

the application was pending before the Office, September 21, 2004, to the date the patent issued on October 21, 2008. Prior to the issuance of the patent, 736 days of patent term adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application. All of the 396 days for Office delay in issuing the patent overlap with the 736 days of Office delay. During that time, the issuance of the patent was delayed by 736 days, not 736 + 369 days.

The Office took 14 months and 736 days to issue a first Office action. Otherwise, the Office took all actions set forth in 37 CFR 1.702(a) within the prescribed time frames. Nonetheless, given the 736 days of Office delay and the 0 days of applicant 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 396 days. The Office did not delay 736 days and then an additional 396 days. Accordingly, 736 days of patent term adjustment (not 736 and 396 days) was properly entered because the period of delay of 396 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 736 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted. Thus, 736 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 396 days over three years to the issuance of the patent.

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment for the Office taking in excess of three years to issue the patent.

In view thereof, no adjustment to the patent term will be made.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paul A. Leipold
Patent Legal Staff
Eastman Kodak Company
343 State Street
Rochester NY 14650-2201

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OFFICE OF PETITIONS

Applicant: Wang et al.
Appl. No.: 10/994,710
Filing Date: November 22, 2004
Title: COVER SHEET COMPRISING AN ADHESION PROMOTING LAYER FOR A POLARIZER AND METHOD OF MAKING THE SAME
Attorney Docket No.: 88460CPK
Pub. No.: US 2006/0108065 A1
Pub. Date: may 25, 2006

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), received on June 29, 2006, for the above-identified application.

The request is granted-in-part.

The requested correction in claim 14 will not be changed as requested. Applicant requested "200" to be changed to "20%." "200" is an Office error; however, the correct reading is "20°". As such, "200" will be corrected to read "20°".

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

Inquiries relating to this matter may be directed to Mark O. Polutta at (571) 272-7709 (voice).

Mark O. Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

Edwin V. Merkel
Nixon Peabody LLP
1100 Clinton Square
Rochester, NY 14604

Mail Date: 07/07/2010

Applicant	: Harold B. Dreyer	: DECISION ON REQUEST FOR
Patent Number	: 7637693	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/994,718	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/22/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1071** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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LEO BYFORD
5244 S IRVINGTON PL
TULSA OK 74135

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MAR 0 5 2007
OFFICE OF PETITIONS

In re Application of :
Leo Byford :
Application No. 10/994,731 : ON PETITION
Filed: November 22, 2004 :
Title: Laura's Mix :

This is a decision on the petition to revive the abandoned application under 37 CFR 1.137(a), filed December 11, 2006.

The petition under 37 CFR 1.137(a) is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)."

The above-identified application became abandoned for failure to timely file a proper reply to the final Office action mailed March 28, 2006. This Office action set a shortened statutory period for reply of three (3) months. Applicant filed a response on April 12, 2006, but by Advisory Action mailed May 17, 2006, the Examiner advised Applicant that the response would not be

entered because it failed to place the application in condition for allowance. No further reply having been received, the above-identified application became abandoned on June 29, 2006. A Notice of Abandonment was mailed on October 4, 2006.

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; (2) the petition fee required by 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)) as required pursuant to 37 CFR 1.137(d). The instant petition lacks items (1) and (3).

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[1]

Moreover, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable."[2]

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[1] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

[2] Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

As to requirement (3), petitioner has not met his burden of establishing that the delay was unavoidable.

37 CFR 1.135(b), the regulation relevant to the abandonment of this application, provides that (A) the admission of, or refusal to admit, any amendment after final rejection, or any related proceedings, will not operate to save the application from abandonment; and (B) the admission of, or refusal to admit, any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment. It is the applicant's responsibility to take the necessary action in an application under a final Office action to provide a complete reply under 37 CFR 1.113. 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.

Applicant should have ensured that the amendment had been entered or applicant should have filed either a Request for Continued Examination (RCE), continuing application, or Notice of Appeal. The last day an RCE, continuing application, or Notice of Appeal could have been filed, with the maximum allowed three month extension of time, would have been September 28, 2006.

As to requirement (1), petitioner has not submitted a reply that *prima facie* places the application in condition for allowance.

On renewed petition, petitioner must submit a proper reply in response to the final Office action mailed March 28, 2006. The proposed reply to a final Office action required for consideration of a petition to revive must be either (1) a Notice of Appeal (and fee required by law); (2) an amendment that *prima facie* places the application in condition for allowance; (3) the filing of a continuing application under 37 CFR 1.53(b) or if applicable, 1.53(d); or (4) a Request for Continued Examination (and fee).

If petitioner can not meet the showing required to establish unavoidable delay, petitioner may seek to revive the application under 37 CFR 1.137(b) - 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 set forth in 37 CFR 1.17(m), currently $750 for a small entity; and (3) a **statement** that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (571)273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: PTO/SB/64 (2 pages)
Privacy Act Statement (1 page)

PTO/SB/64 (09-06)
Approved for use through 03/31/2007. 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.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1.Petition fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

_____ _____
Signature Date

_____ _____
Typed or printed name Registration Number, if applicable

_____ _____
Address Telephone Number

_____
Address

Enclosures: ☐ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other:_____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

_____ _____
Date Signature

_____
Typed or printed name of person signing certificate

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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DEC 13 2007

OFFICE OF PETITIONS

In re Application of :
Nobuo Masuoka et al :
Application No. 10/994,752 : DECISION GRANTING PETITION
Filed: February 4, 2005 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 16869S-052710US :

This is a decision on the petition, filed December 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 October 25, 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 2875 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\dec11\994752.wpd

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment.*

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ALSTON & BIRD, LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

Mail Date: 04/21/2010

Applicant	: John L. Vian	: DECISION ON REQUEST FOR
Patent Number	: 7668632	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/994,773	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/22/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1304** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND WA 98052-6399

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OFFICE OF PETITIONS

In re Application of :
Todor J. Fay et al. :
Application No. 10/994,782 : ON PETITION
Filed: November 22, 2004 :
Attorney Docket No. **MS1-738USC2** :

This is a decision on the petition filed February 20, 2007 under 37 CFR 1.137(b), [1] to revive the above-identified application.

The petition under 37 CFR 1.137 (b) is **GRANTED**.

This application became abandoned December 19, 2006 for failure to timely pay the issue fee on or before December 18, 2006. Accordingly, a Notice of Abandonment was mailed January 24, 2007.

The issue fee, publication fee and petition fee have all been applied.

All other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/994,782	11/22/2004	Todor J. Fay	MS1-738USC2

CONFIRMATION NO. 3418

22971
MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND, WA 98052-6399

OC000000024632764

Date Mailed: 07/02/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/20/2007.

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.

Patricia Faison-Ball

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/994,782	11/22/2004	Todor J. Fay	MS1-738USC2

CONFIRMATION NO. 3418

OC000000024632744

22801
LEE & HAYES PLLC
421 W RIVERSIDE AVENUE SUITE 500
SPOKANE, WA 99201

Date Mailed: 07/02/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/20/2007.

- 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).

Microsoft Corporation
One Microsoft Way
Redmond, WA 98052-6399

Patricia Faison-Ball

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
NEW ATTORNEY/AGENT COPY

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/994,782	11/22/2004	Todor J. Fay	MS1-738USC2

CONFIRMATION NO. 3418

OC000000024632744

22801
LEE & HAYES PLLC
421 W RIVERSIDE AVENUE SUITE 500
SPOKANE, WA 99201

Date Mailed: 07/02/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/20/2007.

- 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).

Patricia Faison-Ball

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
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RICHARD M. KLEIN
FAY, SHARPE, FAGAN,
MINNICH & McKEE
SEVENTH FLOOR
1100 SUPERIOR AVENUE
CLEVELAND, OH 44144-2579

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JUL 13 2005

OFFICE OF PETITIONS

In re Application of	:	
Reinhardt et al.	:	
Application No. 10/994,784	:	DECISION GRANTING
Filed: Nove,mber 22, 2004	:	STATUS UNDER
Attorney Docket No.	:	37 CFR 1.47(a)
A1431-US-NP (XERZ 2 00724	:	

This Decision is in response to a Petition Under 37 CFR 1.47, filed June 13, 2005, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor.

The petition is **granted**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

Petitioner has shown that the non-signing inventor, Erin M. Reinhardt, refuses to join in the application.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the addresses 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 continued processing.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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ERIN M. REINHARDT
851 MAPLE DRIVE
WEBSTER, NY 14580

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JUL 1 3 2005

OFFICE OF PETITIONS

In re Application of :
Reinhardt et al. :
Application No. 10/994,784 : LETTER
Filed: Nove,mber 22, 2004 :
Attorney Docket No. :
A1431-US-NP (XERZ 2 00724 :

Dear Ms. Reinhardt:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3232. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Attorney
Office of Petitions

cc: RICHARD M. KLEIN
FAY, SHARPE, FAGAN,
MINNICH & McKEE
SEVENTH FLOOR
1100 SUPERIOR AVENUE
CLEVELAND, OH 44144-2579

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FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

Mail Date: 04/21/2010

Applicant	: Robert R. Keller JR.	: DECISION ON REQUEST FOR
Patent Number	: 7589615	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/994,786	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/22/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **400** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : June 06, 2008

TO SPE OF : ART UNIT 2874

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/994789 Patent No.: 7280718 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

You can fax the Director's/SPE's response to 571-270-5990

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 2874 Art Unit

PAGE 1/1 * RCVD AT 6/24/2008 2:24:13 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/20 * DNIS:2709990 * CSID:5712730224 * DURATION (mm-ss):01-04

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ARNOLD & FERRERA, L.L.P.
2401 FOUNTAIN VIEW DRIVE
SUITE 630
HOUSTON TX 77057

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MAR 3 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Millheim, Keith	:	DECISION ON PETITION
Application No. 10/994,799	:	TO MAKE SPECIAL
Filed: November 22, 2004	:	37 CFR1.102(D)
Attorney Docket No. A31152US	:	

This is a decision on the petition under 37 CFR 1.102(c) (2)(ii), filed March 2, 2006, to make the above-identified application special based on the invention materially contributing to the development or conservation of energy resources as set forth in M.P.E.P. § 708.02, Section VI.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(ii) and MPEP § 708.02, Section VI: Energy, must state how the invention materially contributes to (A) the discovery or development of energy resources, or (b) the more efficient utilization and conservation of energy resources. If the disclosure is not clear on its face that the claimed invention materially contributes category (A) or (B), the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. Examples of inventions in category (A) would be developments in fossil fuels (natural gas, coal, and petroleum), hydrogen fuel technologies, nuclear energy, solar energy, etc. Category (B) would include inventions relating to the reduction of energy consumption in combustion systems, industrial equipment, household appliances, etc. No fee is required.

The petition states, "The instant application is drawn to methods and means of exploring and producing oil and gas reserves in locations that have previously been inaccessible to exploration and production operators." This statement lacks any specifics about how the claimed invention materially contributes to items (A) or (B), above, and the above statement is inadequate to establish for the record that the invention "materially contributes to the more efficient utilization and conservation of energy resources."

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 Petitions Examiner Liana Chase at 571-272-3206.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 3671 for action in its regular turn.

David Bucci
Petitions Examiner
Office of Petitions

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OCT 09 2007

HOFFMANN-LA ROCHE, INC
PATENT LAW DEPARTMENT
340 KINGSLAND STREET
NUTLEY, NJ 07110

In re Application of :
Thierry Godel et al :
Serial No.: 10/994,823 : PETITION DECISION
Filed: November 22, 2004 :
Attorney Docket No.: 22281 :

This is in response to the petition under 37 CFR 1.144, filed July 5, 2007, requesting withdrawal of an improper part of a restriction requirement.

BACKGROUND

A review of the file history shows that this application was filed under 35 U.S.C. 111 on November 10, 2003, and contained claims 1-32. In a first Office action, mailed April 30, 2007, the examiner set forth a restriction requirement based on the claims, as follows:

Group I – claims 1(in part) and 2-21, drawn to furanone-2-ones;
Group II – claims 1(in part) and 22-2(sic 29), drawn to pyrrol-2-ones;
Group III – claim 30(in part) drawn to a process of making furanon-2-ones;
Group IV – claim 30(in part), drawn to a process of making pyrrol-2-ones;
Group V – claim 31(in part), drawn to pharmaceutical compositions containing furanon-2-ones;
Group VI – claim 31(in part), drawn to pharmaceutical compositions containing pyrrol-2-ones;
Group VII – claim 32(in part), drawn to pharmaceutical methods of using furanon-2-ones; and
Group VIII – claim 32(in part), drawn to pharmaceutical methods of using pyrrol-2-ones.

The examiner pointed out that the compounds shown by the structure of claim 1 have two different cores and would be considered separate and distinct on that basis as well as classification and other reasons. The same reasoning would apply to the methods of making them and compositions containing them as well as methods of use.

Applicants replied on May 24, 2007, electing Group I with traverse. Applicants argued that Groups V and VI should be rejoined with Groups I and II respectively as they are directed to a composition containing the compound and patentability of the composition lies in the compound, *per se,* (a combination/subcombination relationship). Applicants also indicated that they were of the understanding that process claims containing all of the limitations of the elected product claims would be rejoined upon allowance of the product claims.

On June 26, 2007, the examiner mailed an Office action to applicants acknowledging the election and traversal. The examiner responded to the traversal arguments, but maintained the requirement for the reasons as previously set forth and made it Final. Claims 1-5 were then rejected under 35 U.S.C. 102(b) as anticipated by Veronese et al. Claims 6-21 were indicated allowable, but objected to as being dependent on a rejected claim and containing non-elected subject matter.

Applicants filed this petition requesting withdrawal of the improper part of the restriction requirement on July 5, 2007.

DISCUSSION

Applicants' petition only the restriction requirement between Group I and V (and also Group II and VI) on the basis that Group V is a composition containing all of the limitations of the compound of Group I and that a compound and a composition containing the compound should not be subject to a restriction requirement since they are in a combination/subcombination relationship and two-way distinctness cannot be shown.

A review of the two claims, claim 1 and claim 31, shows that they are essentially identical except for the preamble (and one added proviso in claim 31 which does not affect the overall scope). Claim 1 has a preamble claiming a "compound". Claim 31 has a preamble claiming a "pharmaceutical composition comprising a therapeutically effective amount of a compound". Other than identification of an intended use – as a pharmaceutical – the preambles do not distinguish over each other. The only difference between a "compound" and a "composition' is that a composition contains more than one compound. Here, the composition of Claim 31 contains the compound of claim 1 and any other unnamed compounds which may be added to it for an intended use. It is well known that pharmaceutical compositions generally contain a pharmaceutically effective amount of a compound and other inert ingredients which permit ease of dosing, etc. Further, it is Office practice that compounds and compositions containing a compound claimed in this manner are examined together. In view of this the restriction requirement is modified as follows:

> Group I – claims 1(in part), 2-21 and 31(in part), drawn to furanone-2-ones compounds and compositions;
> Group II – claims 1(in part), 22-29 and 31(in part), drawn to pyrrol-2-ones compounds and compositions;
> Group III – claim 30(in part) drawn to a process of making furanon-2-ones;
> Group IV – claim 30(in part), drawn to a process of making pyrrol-2-ones;

Group V – claim 32(in part), drawn to pharmaceutical methods of using furanon-2-ones; and
Group VI – claim 32(in part), drawn to pharmaceutical methods of using pyrrol-2-ones

Group I remains the elected Group and any rejections applicable to claim 1 of Group I also apply to newly added claim 31. Further, as noted by applicants, should the claims of Group I be found allowable, the claims of Group III and Group V may be subject to rejoinder.

DECISION

The petition is **GRANTED.**

Applicants remain under obligation to reply to the Office action mailed June 26, 2007, within the time period set therein, or as extended under 37 CFR 1.136(a).

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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LOUIS J. WILLE
BRISTOL-MYERS SQUIBB COMPANY
PATENT DEPARTMENT
P O BOX 4000
PRINCETON NJ 08543-4000

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OFFICE OF PETITIONS

In re Patent No. 7,279,567 :
Issued: October 9, 2007 :
Application No. 10/994,824 : PATENT TERM ADJUSTMENT
Filed: November 22, 2004 :
Dkt. No.: D0011 DIV :

This is a decision on the "PETITION TO CORRECT PATENT TERM ADJUSTMENT PERIOD IN GRANTED PATENT UNDER 37 CFR 1.702(a)(4) and 37 CFR 1.703(a)(1)," filed November 20, 2007. This matter is being treated as an application for patent term adjustment pursuant to 37 CFR 1.705(d).

The application for patent term adjustment ("PTA") under 37 CFR 1.705(d) is **GRANTED**.

The above-identified application matured into U.S. Patent No. 7,279,567 on October 9, 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 283 days. Patentees argue that the adjustment of 283 days was improperly reduced two days.

The adjustment of 348 days under 37 CFR 1.702(a)(1) is undisputed by patentees. The reduction of 634 days under 37 CFR 1.704(c)(10) is also not disputed by patentees.

A review of the application history, however, does reveal that the adjustment of 348 was errantly reduced an additional two days, as argued by patentees, in connection with the Office communication mailed August 29, 2007. As there was no further failure to engage in reasonable efforts to conclude prosecution subsequent to the declaration submitted June 27, 2007, the additional reduction of two days has been restored.

Accordingly, at the time of issuance, the application was entitled to a patent term adjustment of 285 days as argued by patentee.

Receipt is acknowledged of the required PTA application fee of $200.00.

This application file will be forwarded to the Certificate of Corrections branch for issuance of a certificate of correction to indicate that the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 285 days.

Telephone inquiries specific to this matter may be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Kery A Fries

Kery Fries
Senior Patent Attorney
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	7,279,567 B2
DATED	:	October 9, 2007
INVENTOR(S)	:	Mikesell, 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 283 days

Delete the phrase "by 283 days" and insert – by 285 days--

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF

GLEN MIKESELL ET AL.

PATENT NO. 7,279,567 B2

ISSUED: OCTOBER 9, 2007

FOR: POLYNUCLEOTIDES ENCODING B7-RELATED POLYPEPTIDE, BSL2-L165-35B

Filed Via EFS Web
Mail Stop: Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION TO CORRECT PATENT TERM ADJUSTMENT PERIOD IN GRANTED PATENT UNDER 37 CFR 1.702 (a) (4) and 37 CFR 1.703 (a) (1)

Sir:

Patent Term Adjustment on the above patent is erroneously listed as 283 days. The printout from PAIR lists a 348 day PTO delay for mailing a First Office Action and a 65 day Applicant delay for submitting Correction of Inventorship Papers. The PTA clock started on June 28th with the filing of Correction of Inventorship Papers and the clock stopped on August 30th when the PTO granted the Petition and this resulted in a 63 day Applicant delay. There was no further Applicant delay prior to Issuance of the patent on October 9th, 2007 and the additional 2 day applicant delay was erroneously charged.

Applicant requests that the Patent Term Adjustment in this case be re-adjusted to 285 days which includes a 348 day PTO delay and 63 day Applicant delay.

Applicant states this patent is not subject to a terminal disclaimer.

Applicant believes this error is ascribable to the Patent Office and applicant is requesting re-consideration of the patent term adjustment within two months of the date of the issued patent pursuant to §1.705(d).

Please charge Deposit Account No. 19-3880 in the name of Bristol-Myers Squibb Company in the amount of $200 for payment of the fee under 37 CFR §1.18(e). The Commissioner is hereby authorized to charge any additional fees under 37 CFR §1.17 which

may be required, or credit any overpayment, to Account No. 19-3880 in the name of Bristol-Myers Squibb Company.

Respectfully submitted,

Bristol-Myers Squibb Company
Patent Department
P.O. Box 4000
Princeton, NJ 08543-4000
(609) 252-5289

Stephen D'Amico
Agent for Applicants
Reg. No. 46,652

Date: 11-20-07

Day : Friday
Date: 12/28/2007

PALM INTRANET

Time: 12:02:59

PTA Calculations for Application: 10/994824			
Application Filing Date:	11/22/2004	PTO Delay (PTO):	348
Issue Date of Patent:	10/09/2007	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	65
Post-Issue Petitions:	0	Total PTA (days):	285
PTO Delay Adjustment:	2		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
74	12/28/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	2		
69	10/09/2007	PATENT ISSUE DATE USED IN PTA CALCULATION			
68	09/06/2007	EXPORT TO FINAL DATA CAPTURE			
67	09/05/2007	DISPATCH TO FDC			
66	08/29/2007	SUPPLEMENTAL PAPERS - OATH OR DECLARATION		2	64
65	08/29/2007	APPLICATION IS CONSIDERED READY FOR ISSUE			
64	08/30/2007	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
63	08/23/2007	ISSUE FEE PAYMENT VERIFIED			
62	08/23/2007	ISSUE FEE PAYMENT RECEIVED			
61	08/22/2007	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
60	06/28/2007	RULE 47 / 48 CORRECTION OF INVENTORSHIP PAPERS FILED			
56	06/28/2007	PUBS CASE REMAND TO TC			
55	07/31/2007	FINISHED INITIAL DATA CAPTURE			
53	06/27/2007	SUPPLEMENTAL PAPERS - OATH OR DECLARATION		63	64
52	06/27/2007	WORKFLOW - QUERY REQUEST - FINISH			
51	06/22/2007	TC RETURN TO PUBS			
50	06/13/2007	PUBS CASE REMAND TO TC			
49	06/15/2007	WORKFLOW - QUERY REQUEST - BEGIN			
48	06/13/2007	SEQUENCE FORWARDED TO PUBS ON TAPE			
47	06/08/2007	EXPORT TO INITIAL DATA CAPTURE			
46	05/31/2007	MAIL NOTICE OF ALLOWANCE			

45	05/29/2007	ISSUE REVISION COMPLETED			
44	05/29/2007	DOCUMENT VERIFICATION			
43	05/29/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
42	05/29/2007	NOTICE OF ALLOWABILITY			
41	02/27/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
40	02/27/2007	REFERENCE CAPTURE ON IDS			
39.7	02/27/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	37
39	02/27/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
38	03/16/2007	DATE FORWARDED TO EXAMINER			
37	02/27/2007	RESPONSE AFTER NON-FINAL ACTION			
36	01/05/2007	MAIL NON-FINAL REJECTION	348		-1
35	12/22/2006	NON-FINAL REJECTION			
34	11/22/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
33	11/14/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
32	12/05/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
31	03/06/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
30	05/15/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
29.7	05/15/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
29	05/15/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
28	03/06/2006	REFERENCE CAPTURE ON IDS			
27.7	03/06/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
27	03/06/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
26	01/31/2006	PRELIMINARY AMENDMENT			
25.7	12/05/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
25	12/05/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
24.7	11/14/2005	INFORMATION DISCLOSURE STATEMENT (IDS)			

		FILED			
24	11/14/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
23	07/14/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
22.7	11/22/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	11/22/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	11/22/2004	PRELIMINARY AMENDMENT			
20	07/14/2005	CASE DOCKETED TO EXAMINER IN GAU			
19	06/13/2005	RECEIPT OF ALL ACKNOWLEDGEMENT LETTERS			
18	06/13/2005	RECEIPT OF ACKNOWLEDGMENT LETTER			
17	03/22/2005	APPLICATION RETURN FROM OIPE			
16	03/22/2005	APPLICATION RETURN TO OIPE			
15	03/22/2005	APPLICATION RETURN FROM OIPE			
14	03/23/2005	APPLICATION IS NOW COMPLETE			
13	03/22/2005	APPLICATION RETURN TO OIPE			
12	03/22/2005	APPLICATION RETURN FROM OIPE			
11	03/22/2005	APPLICATION IS NOW COMPLETE			
10	03/22/2005	APPLICATION RETURN TO OIPE			
9	03/22/2005	APPLICATION DISPATCHED FROM OIPE			
8	03/22/2005	APPLICATION IS NOW COMPLETE			
7	03/17/2005	AGENCY REFERRAL LETTER MAILED			
6	03/15/2005	REFERRED BY L&R FOR THIRD-LEVEL SECURITY REVIEW. AGENCY REFERRAL LETTER GENERATED			
5	01/07/2005	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
4	01/04/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
3	12/07/2004	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
2	11/22/2004	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	11/22/2004	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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OFFICE OF PETITIONS

Myers Bigel Sibley & Sajovec
P.O. Box 37428
Raleigh, NC 27627

In re Application of :

Venkataram Krishnan :
Application No. 10/994,838 : DECISION ON PETITION
Filed: November 22, 2004 : TO WITHDRAW
Attorney Docket No. 9349-226CTDV : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 17, 2006.

The request is **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, **termination of client representation for this matter due to transfer of ownership**, do not meet any the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272- 2991.

Terri Williams
for
David Bucci
Petitions Examiner
Office of Petitions

cc: **David S. Bradin**
Womble Carlyle Sandridge & Rice PLLC
Post Office Box 13069
Research Triangle Park, NC 27709

UNITED STATES PATENT AND TRADEMARK OFFICE

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Liniak Berenato Longacre and White
6550 Rock Spring Drive, Suite 240
Bethesda, MD 20817

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AUG 2 2 2006

OFFICE OF PETITIONS

In re Application of :

Gregory **SNYDER**, et al. :
Application No. 10/994,869 : DECISION ON PETITION
Filed: November 22, 2004 : TO WITHDRAW
Attorney Docket No. 112440-703 : 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 5, 2006.

The request is **NOT APPROVED**.

A review of the file record indicates that Thomas P. Liniak 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 Monica A. Graves at 571-272-7253.

Amelia Au
Petitions Examiner
Office of Petitions

cc: **BELL, BOYD & LLOYD LLC**
P.O. BOX 1135
CHICAGO IL 60690-1135

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Stolowitz Ford Cowger LLP
621 SW Morrison St
Suite 600
Portland, OR 97205

Mail Date: 04/21/2010

Applicant	: Robert Dean Bjornson	: DECISION ON REQUEST FOR
Patent Number	: 7634756	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/994,871	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/22/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1393** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Mitchell, Silberberg & Knupp, LLP
11377 West Olympic Boulevard
Los Angeles CA 90064

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OFFICE OF PETITIONS

In re Application of :
Gary LANCET :
Application No. 10/994,907 : DECISION ON PETITION
Filed: November 22, 2004 : TO WITHDRAW
Attorney Docket No. 39229-2 : 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 December 19, 2005.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Joseph G. Swan on behalf of all attorneys of record who are associated with customer No. 24318.

All attorneys/agents associated with the Customer Number 24318 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 Gary Lancet at the address indicated below.

Telephone inquiries concerning this decision should be directed to Monica Graves at 571-272-7253.

David Bucci
Petitions Examiner
Office of Petitions

cc: Gary Lancet
BOOKCHAIR COMPANT LTD.
Bookchair House
119-121 Gloucester Road
Walthanstow, ENG E17 6AF

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/994,907	11/22/2004	Gary Lancet	39229-2

CONFIRMATION NO. 3698

OC000000019815537

24318
Mitchell, Silberberg & Knupp, LLP
11377 West Olympic Boulevard
Los Angeles, CA 90064

Date Mailed: 07/31/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/19/2005.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY